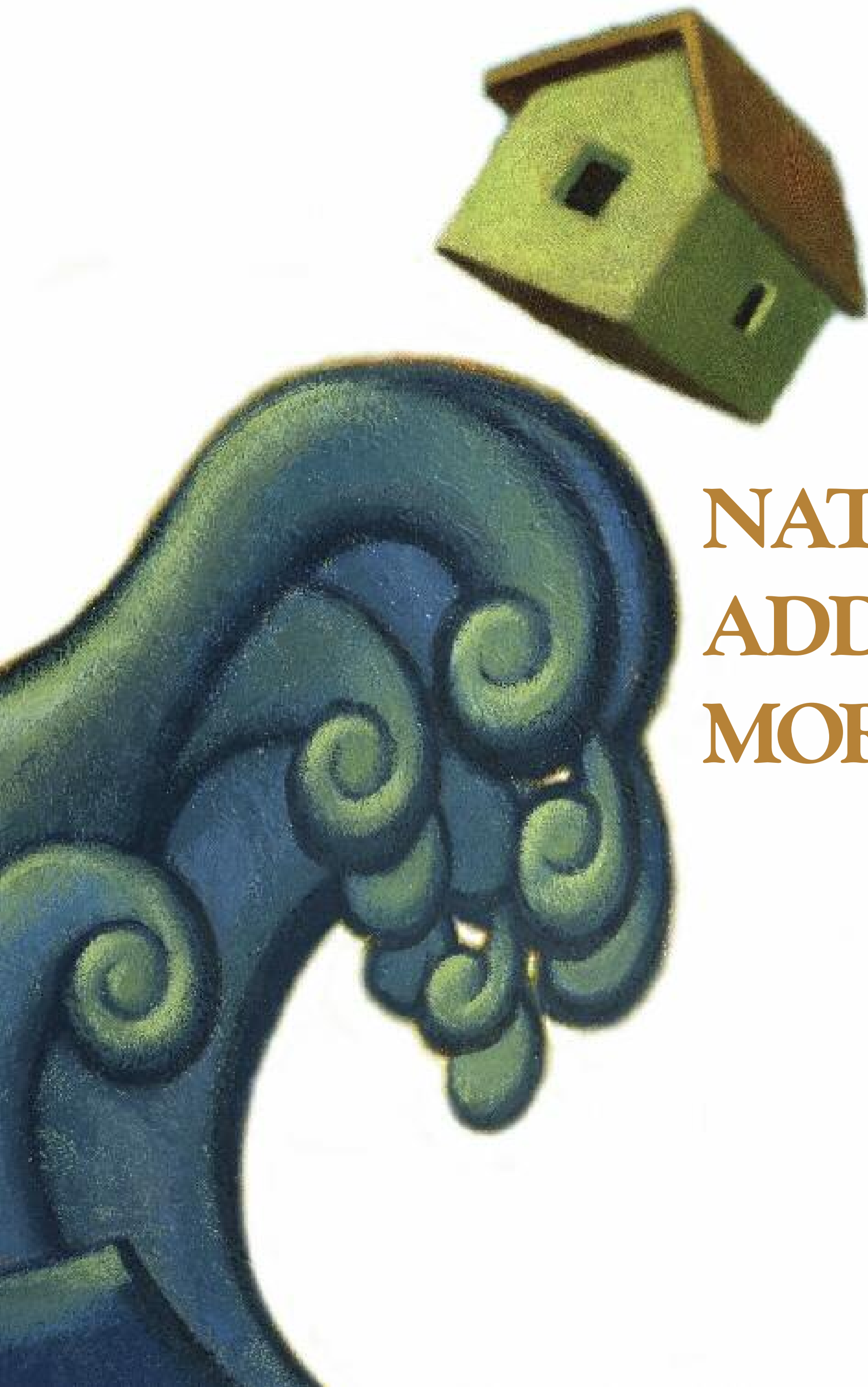

NATIONAL CRISIS HITS HOME: ADDRESSING MISSISSIPPI'S MORTGAGE FORECLOSURES

Mississippi Economic Policy Center

About the Mississippi Economic Policy Center

The Mississippi Economic Policy Center (MEPC) engages in rigorous, accessible and timely analysis to inform the policy debate on issues that affect the economic and social well-being of working families and low-wealth Mississippians. An independent, nonpartisan initiative, MEPC is managed by the Enterprise Corporation of the Delta (ECD), a regional financial institution and community development intermediary dedicated to strengthening communities, building assets and improving lives in economically distressed areas in the Mid South. Key MEPC partners include the Mississippi Center for Justice and other organizations that contribute expertise and otherwise provide important guidance and support.

Mary Elizabeth Evans and Edward Sivak, *National Crisis Hits Home: Addressing Mississippi's Mortgage Foreclosures*, Jackson, MS: Mississippi Economic Policy Center, 2008.

To download a copy of this report, go to www.mepconline.org. To acquire a hard copy of the report, or for other information, contact:

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Acknowledgements

The Mississippi Economic Policy Center (MEPC) is supported by generous grants from the W.K. Kellogg Foundation, the Ford Foundation, the Open Society Institute, the Annie E. Casey Foundation and the Charles Stewart Mott Foundation.

We would like to thank all of our partners who provided valuable expertise as we developed this report. We would especially like to thank Lee Higgins and Donna Tally at NeighborWorks® America for their guidance in conducting the data analysis and their expertise in the area of foreclosure prevention.

In addition, we want to thank Alys Cohen with the National Consumer Law Center and Joe Rich and David Tipson with the Lawyers' Committee for Civil Rights Under Law for their advice on curbing predatory lending in Mississippi. We thank Debbie Bell with the University of Mississippi Law School, David Calder with the law firm of Rutherford and Calder, Jeremy Eisler with the Mississippi Center for Legal Services, and Crystal Utley with Mississippi Center for Justice, who offered their feedback and their legal expertise in analyzing Mississippi's foreclosure system.

Executive Summary

Home mortgage delinquencies and foreclosures across the country have risen significantly in recent months, particularly in the subprime market. According to the Congressional Joint Economic Committee, between 2007 and 2009, approximately 2 million homeowners with subprime mortgages will lose their homes, destroying $71 billion in homeowner equity across the United States.[1] Mississippi is facing an especially harmful situation. The impacts of the state's high rate of subprime lending and Hurricane Katrina are contributing to an elevated rate of mortgage delinquency and causing homeowners across the state to lose their homes to foreclosure. As of the third quarter of 2007, Mississippi had the highest percentage of loans past due (10.6%) and the eighth highest rate of foreclosures started (0.92%) in the country.[2]

Industry experts and analysts attribute the high rate of delinquency and foreclosure in Mississippi to two primary factors:

1. Mississippi has the highest rate of subprime lending in the country. According to Home Mortgage Disclosure Act (HMDA) data, in 2006, 36.9% of all first mortgages originated for owner-occupied single-family homes in the state were subprime.[3] Research shows that subprime lending can result in delinquency and foreclosure rates of up to 10 times the rates associated with prime lending.[4]
2. Hurricane Katrina has left many homeowners unable to keep up with mortgage payments. Delinquencies on the Gulf Coast have soared in the wake of the storm. Since Hurricane Katrina, Mississippi has consistently had one of the highest delinquency rates in the country: an average of 12.04% of all loans have been past due, compared to 4.82% of all loans nationally.[5]

Changes to public policy are needed to protect homeowners and communities from the ongoing effects of foreclosures. The average American family holds 71% of its total wealth in home equity.[6] Thus, foreclosure is devastating to the homeowners who lose their homes as well as to the communities in which these families live. There are several actions that the State of Mississippi should take to prevent foreclosure for Mississippians at risk and to increase opportunities for sustainable homeownership.

These recommendations include:

- Enact strong anti-predatory lending laws and increase support for comprehensive homeowner counseling to protect consumers before they enter into a loan agreement;
- Create a default loan program to assist those in danger of losing their homes;
- Support the default loan program with more rigorous notice requirements and support for foreclosure counseling;
- Require county governments to automate data collection on foreclosures to more closely monitor the effects of foreclosure; and
- Create a statewide task force to identify and pursue foreclosure prevention and reduction policy options.

The above recommendations provide opportunities for policymakers to address Mississippi's high number of delinquencies and foreclosures in a way that strengthens the state's systems for getting its residents into homes for years to come.

The Impact of Foreclosures in Mississippi

Delinquency and Foreclosure Trends in Mississippi

Over the last several years, Mississippi has had a greater percentage of mortgages in delinquency and foreclosure than the national average.[7] According to the Corporation for Enterprise Development's *2005 Assets and Opportunity Scorecard*, even before Hurricane Katrina, Mississippi had the third highest foreclosure rate in the country.[8] The Mortgage Bankers Association's *National Delinquency Survey* showed that as of September 30, 2007, Mississippi had the highest percentage of loans past due in the country and the eighth highest rate of foreclosures started during the quarter.[9]

Definitions

Delinquency occurs when a homeowner misses a mortgage payment. The delinquency rate is the percentage of loans that are past due. Delinquency is typically measured in 30-day intervals: 30-day, 60-day, and 90-day delinquency. In Mississippi, lenders usually do not begin the foreclosure process until a loan is at least 60 days delinquent.

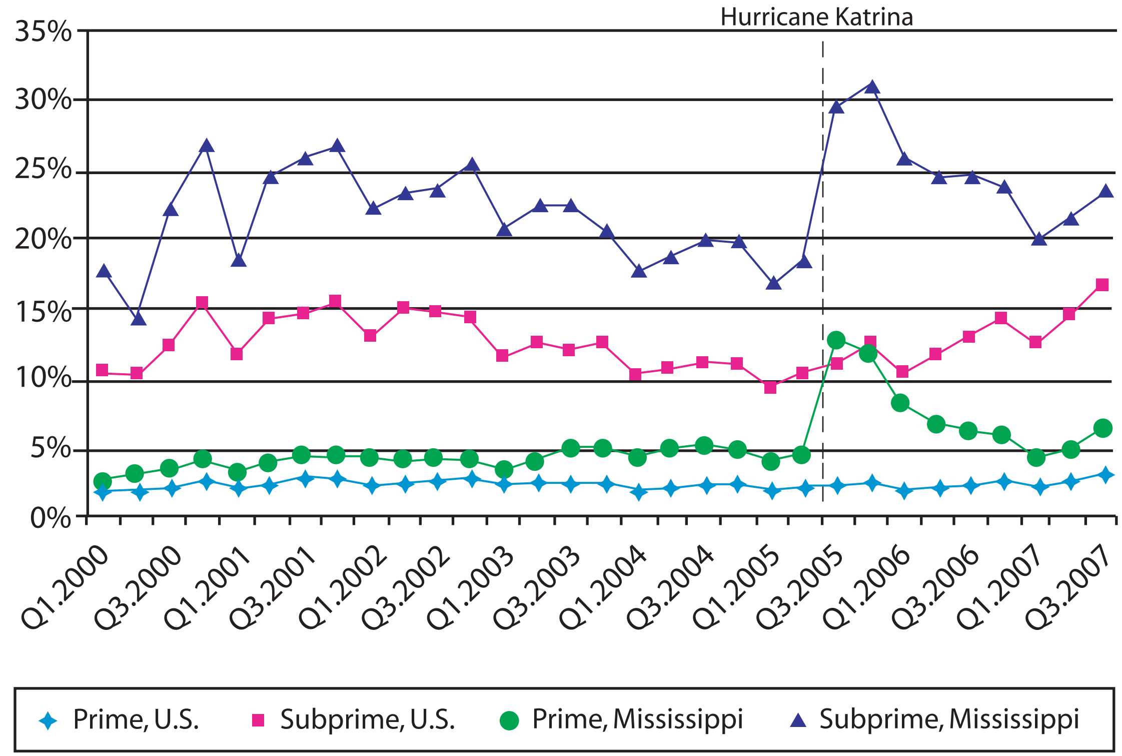
Foreclosure: A property is in foreclosure when the lender is taking steps to act on its legal right to take possession of the property under state law. In Mississippi, typically the foreclosure is complete when the property is auctioned to the highest bidder and a trustee's deed is filed in the County Chancery Clerk's office.

Subprime lending is lending to borrowers with "elevated credit risks". Credit risks may be elevated due to weak borrower credit histories or low down payment capacity. Subprime loans often carry high interest rates and other features, such as prepayment penalties, that increase the cost of the loan for borrowers.

Delinquency Rates

Immediately following Hurricane Katrina, delinquency rates rose for all categories of borrowers in Mississippi. As of the third quarter of 2007, 10.6% of all mortgage loans in Mississippi were past due - the highest percentage of delinquent loans in the country.

Figure 1: Percentage of Loans Past Due by Quarter



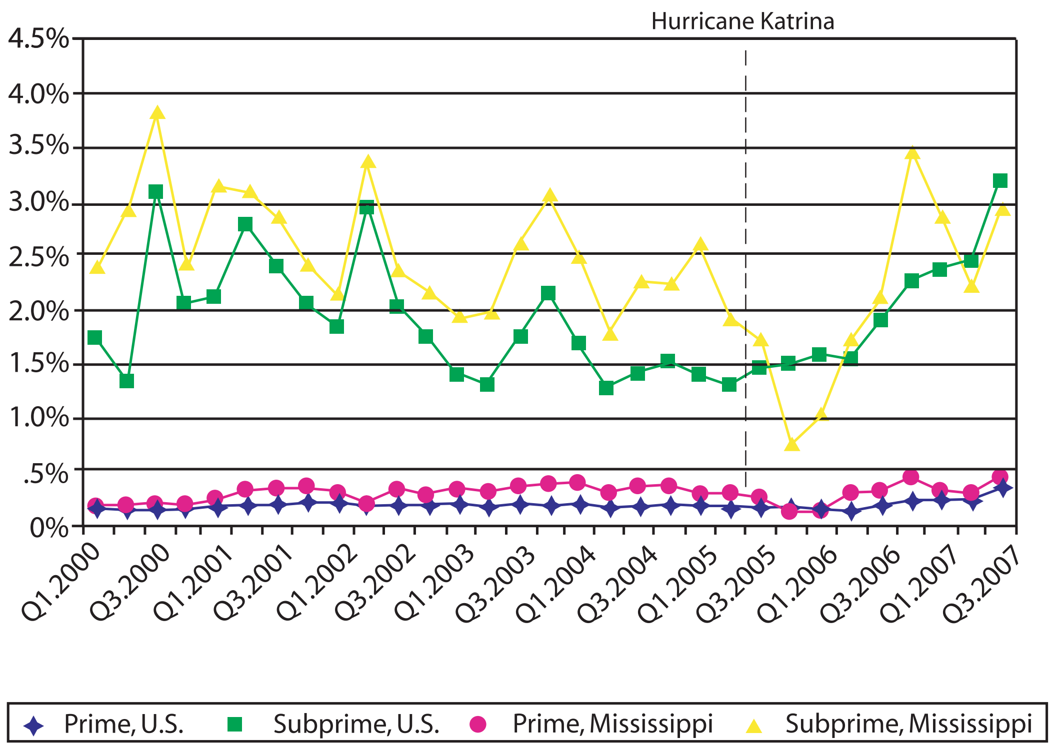
Source: *National Delinquency Survey*, Mortgage Bankers Association

Data consistently shows a large discrepancy between the percentage of homeowners with prime loans past due and those with subprime loans past due. In Mississippi, as of September 30, 2007, 6.23% of prime mortgage loans were past due, compared to 23.64% of subprime mortgages. Both of these rates showed an increase over the second quarter of 2007, when 4.85% of prime loans and 21.53% of subprime loans were past due. Figure 1 compares the delinquency rates for prime and subprime loans in Mississippi and the U.S. since the beginning of 2000.

Foreclosure Rates

Despite a temporary dip after Hurricane Katrina due to forbearance and foreclosure relief provided by lenders, Mississippi's foreclosure rates have now returned to pre-Katrina levels. In the third quarter of 2007, Mississippi ranked eighth on the rate of foreclosures started during the quarter (0.92%) and twelfth in the nation on the foreclosures inventory rate (1.88%).[10] Figure 2 demonstrates the difference in rates of foreclosures started among prime and subprime loans since 2000. During the third quarter of 2007, 2.96% of Mississippi's subprime loans entered foreclosure, while 0.45% of the state's prime loans entered foreclosure.[11]

Figure 2: Percentage of Loans Entering Foreclosure by Quarter



Source: *National Delinquecy Survey*, Mortgage Bankers Association

Foreclosures in the Jackson Metro Area

As of December 2006, Jackson was the MSA in the United States with the fourth highest rate of seriously delinquent subprime loans (15.6%) and the fourteenth highest rate of seriously delinquent prime loans (1.64%) among loans made in 2005. According to County Chancery Clerk records for Hinds, Madison, and Rankin Counties, foreclosures have increased nearly 13% in the metro area between 2004 and 2006, with the overall increase due to the increase in Hinds County.

	2004	2005	2006
Hinds Co.	2,670	1,983	3,037
Madison Co.	119	75	114
Rankin Co.	32	31	27
TOTAL	2,821	2,089	3,178

Sources: "Foreclosure stats reveal important lesson," *The Clarion Ledger*, April 15, 2007; www.loanperformance.com.

Contributing Factors

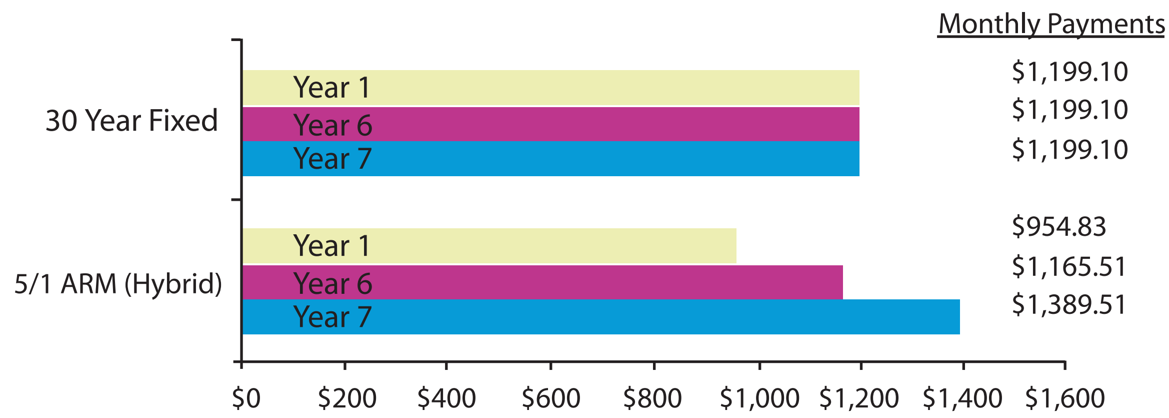
In order to address the high delinquency and foreclosure rates in Mississippi, it is important to understand the factors that are contributing to such high rates. Industry experts have attributed the current mortgage crisis to the large number of loans made by the subprime market and to the housing and financial challenges caused by Hurricane Katrina.

The Subprime Market

Mississippi has the highest rate of subprime lending in the country. In 2006, 36.9% of all first mortgages for owner-occupied single family homes in the state were subprime, according to Home Mortgage Disclosure Act data.[12] In a 2006 study, the Center for Responsible Lending (CRL) estimated that 2.2 million, or 15.4%, of all subprime home loans made from 1998 through 2006 will end in foreclosure. These foreclosed loans will cost homeowners as much as $164 billion.[13] CRL projects that total foreclosures will climb from 9.8% for subprime loans originated in 2002 to 19.4% for loans made in 2005 and 2006.[14]

As the current subprime mortgage crisis demonstrates, many of the subprime loans that have been made in recent years have included terms or used practices that have contributed to an increased risk of foreclosure. Some of the most harmful of these include payment shock, stated income or low documentation (low doc) loans, prepayment penalties, and the failure to escrow for taxes and insurance.

Figure 3: Mortgage Product Comparison by Monthly Payment



Source: *Consumer Handbook on Adjustable Rate Mortgages,* Federal Reserve Board of Governors, December 2006. http://www.federalreserve.gov/pubs/arms/armsbrochure.pdf

- *Payment shock* – One of the most harmful features of many subprime mortgages is what is known as payment shock. This phenomenon occurs when a homeowner's interest rate increases to an unaffordable level and is common among homeowners with Hybrid Adjustable Rate Mortgages (ARMs). According to the Consumer Federation of America, as of the middle of 2006, 81% of the subprime loans that were bundled and sold as investment securities were Hybrid ARMs.[15] Hybrid ARMs include a short initial period of fixed mortgage payments, after which the interest rate becomes adjustable, and the rate can (and usually does) increase. Many of these loans include a "teaser" rate (that is, an artificially low rate) for the initial payment period, which usually increases significantly after the initial payment period expires. These loans are underwritten based on the lower initial payments instead of on fully amortizing payments. Thus, when the rate increases, homeowners experience payment shock and find themselves unable to afford the increased payments and facing foreclosure. A study released in March of 2007 projected that 32% of the Hybrid ARMs originated between 2004 and 2006 will default when they reset.[16]

Figure 3 illustrates the effects of payment shock by comparing a $200,000 Hybrid ARM product to a 30-year fixed rate loan for the same principal amount. Payments listed represent the minimum monthly payment. The first example profiles a 30-year fixed rate mortgage with a flat interest rate of six percent. While initial monthly payments are higher than the adjustable rate mortgage product, the payment stays the same throughout the life of the loan. The other product – the 5/1 Hybrid ARM – provides an example of an ARM in which monthly payments are lower during the first five years of the loan than during the remaining 25 years of the mortgage. After five years, the interest rate adjusts, resulting in payments that are higher than the introductory payments. Given the adjustable rate feature of the mortgage, payments can also be further driven up by increases in interest rates, as seen in Year 7.[17] The borrower now faces payments that are nearly 46% higher than when he or she received the mortgage.

- *Stated income or low doc loans* – During the housing boom, some lenders loosened underwriting standards so much that they did not require documentation for applicants' current income and debts. Especially in cases where income information was inflated, homeowners have found themselves unable to afford their mortgage payments.

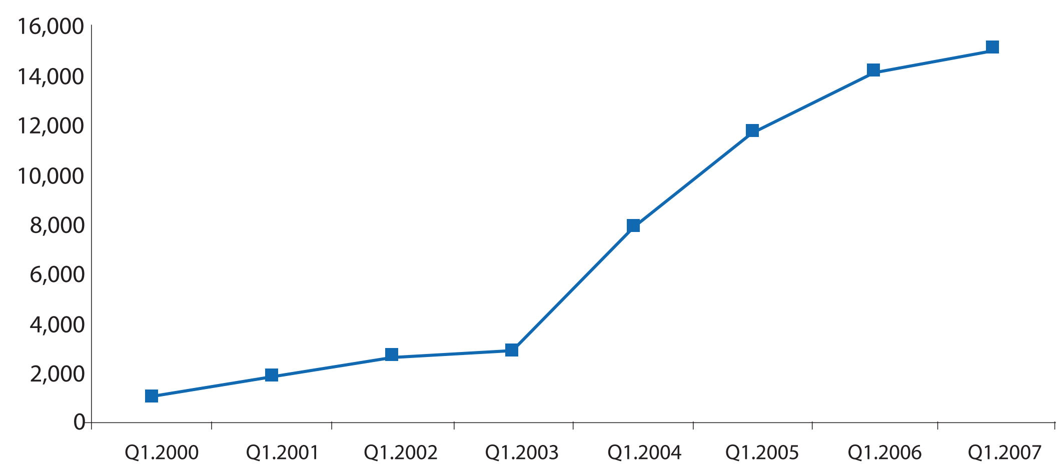
- *Prepayment penalties* require borrowers to pay a fee if they repay the loan for any reason within a certain time period. These are especially harmful to homeowners with a hybrid adjustable rate loan and a prepayment penalty that extends beyond the initial payment period. When these borrowers are faced with a loan that has become unaffordable because of increased payments, they must pay a large fee in order to refinance into a more affordable loan. Research shows that 80% of subprime loans require prepayment penalties, compared to two percent of prime loans.[18] According to the Center for Responsible Lending, every year 850,000 families lose a combined $2.3 billion in home equity as a result of prepayment penalties on subprime loans.[19]

- *Lack of escrowing for taxes and insurance* – Some lenders do not require homeowners to escrow for payments on taxes and insurance. When homebuyers are not aware that their monthly payments do not include taxes and insurance, they are left with a large bill at the end of the year for which they did not plan. Low-income and first-time homebuyers are hit especially hard by this extra bill. In some cases, it becomes a contributing factor to a home foreclosure.

Consistently, the group of loans with the highest rates of delinquency and foreclosure consists of subprime adjustable rate mortgages. The use of Hybrid ARMs and other similar subprime products has risen significantly in recent years. Regulators expect interest rates on approximately 1.3 million Hybrid ARMs to reset to higher rates in 2008.[20] According to the Mortgage Bankers Association, the number of subprime ARMs being serviced by banks in Mississippi has grown from 1,039 in the first quarter of 2000 to 15,014 in the first quarter of 2007 (see Figure 4).[21]

In the third quarter of 2007, 30.16% of subprime ARMs in Mississippi were past due, and 9.16% were in foreclosure. Over 20% were considered seriously delinquent, which is de-

Figure 4: Number of Subprime ARMs Serviced in MS by Quarter

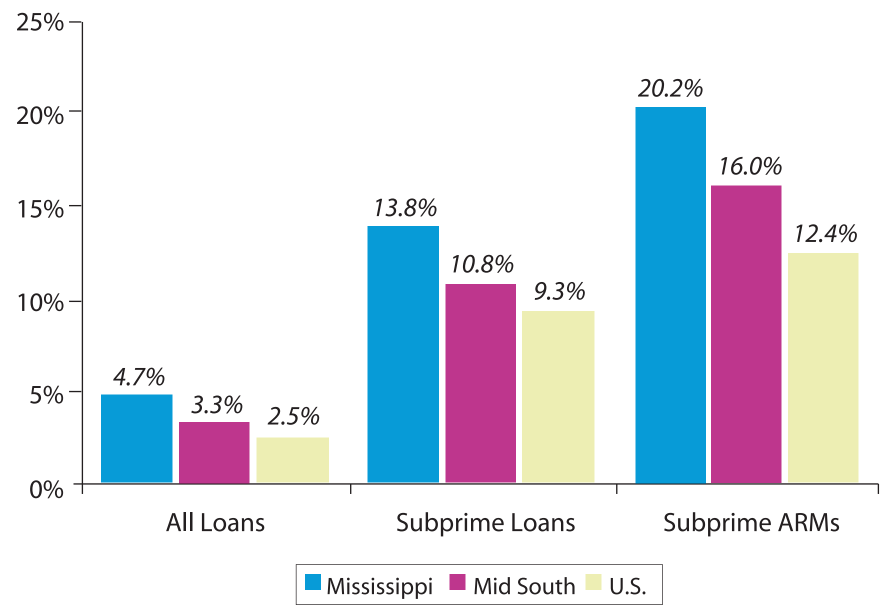


Source: *National Delinquency Survey*, Mortgage Bankers Association fined by the Mortgage Bankers Association as those loans which are more than 90 days delinquent or in foreclosure.[22] Figure 5 shows the percentage of all loans, subprime loans, and subprime ARMs that are seriously delinquent in Mississippi, the Mid South region[23] and the U.S. The rate of seriously delinquent subprime ARMs in Mississippi is higher than the rates for the Mid South region and the United States.

Hurricane Katrina

Hurricane Katrina has had a major impact on delinquency and foreclosure rates in Mississippi over the past two years. Immediately following the storm, delinquency rates rose for all borrowers, with subprime delinquency rates topping 30% (see Figure 1). While delinquency rates rose quickly after Hurricane Katrina, foreclosures did not – in fact, they declined in the months after Katrina. Many lenders allowed borrowers to temporarily postpone foreclosure given the devastation experienced by much of the state. In addition, the State of Mississippi announced foreclosure relief, available for all property that sustained hurricane damage, which allowed borrowers to petition to postpone foreclosure until October of 2007. While these forms of assistance contributed to a lower foreclosure rate for several months following the storm, foreclosures have now returned to pre-Katrina rates.

Figure 5: Percentage of Loans Seriously Delinquent, 3rd Quarter 2007



Source: *National Delinquency Survey*, Third Quarter 2007, Mortgage Bankers Association

Foreclosure Moratorium

As allowed by statute, after Hurricane Katrina, the State of Mississippi instituted relief from "inequitable mortgage foreclosures" and made it available to all homeowners who sustained at least 15% damage to their property. In order to take advantage of foreclosure relief, the homeowner had to file a petition in Chancery Court to receive an injunction prohibiting foreclosure until October 4, 2007. This provision allowed property owners to postpone foreclosure if the property had experienced at least a 15% loss in fair market value due to Hurricane Katrina, the owner was unable to make mortgage payments, and the owner had attempted unsuccessfully to refinance the mortgage. The court could require the owner to pay a monthly carrying cost to cover insurance, interest, and property taxes. Because homeowners were required to file a petition in order to postpone foreclosure, homeowners without information or resources were less likely to take advantage of the injunction process.

Source: Mississippi Code of 1972, §89-1-301

Mississippi's Foreclosure Process

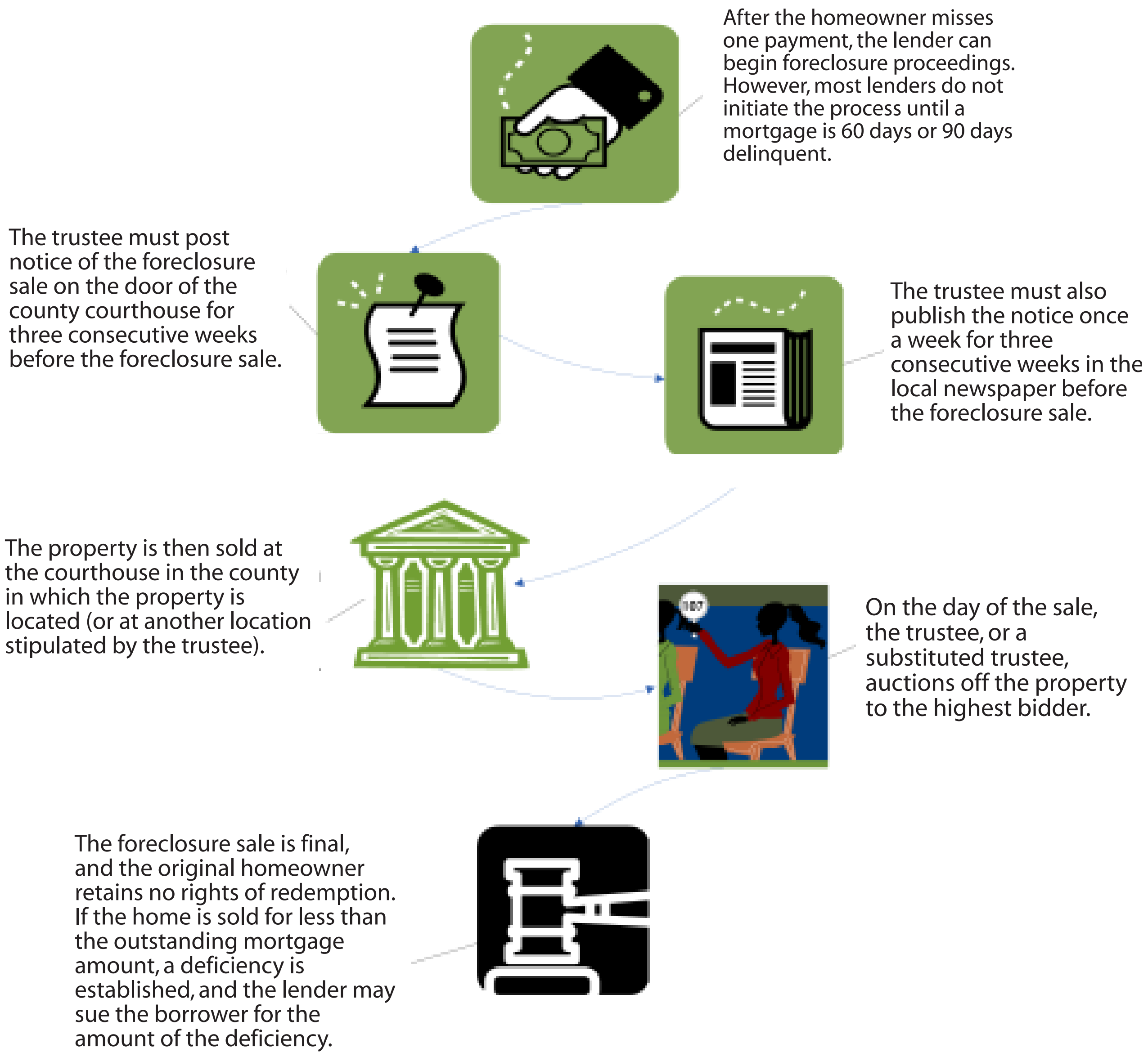
Mississippi foreclosure law allows foreclosure through either a judicial or a non-judicial process. However, non-judicial foreclosure is by far the most common. The deed of trust, or mortgage, includes language which establishes whether judicial or non-judicial foreclosure will be used. Almost all deeds of trust in Mississippi include a Power of Sale clause, which authorizes the trustee identified in the deed of trust to sell the property without court involvement if the borrower defaults on the loan.[24] In the rare cases when judicial foreclosure is used in Mississippi, the lender must sue the borrower to initiate a foreclosure. This method allows the homeowner to appear in court to present his or her case and requires that the judge make a ruling prior to scheduling the foreclosure sale. Therefore, most lenders in the state prefer non-judicial foreclosure and ensure that the deed of trust includes a Power of Sale clause. Figure 6 describes the non-judicial foreclosure process in Mississippi.

Definitions

Deed of trust: A document which secures a loan with real property as collateral. The property is deeded by the title holder to a trustee which holds the title in trust for the lender.

Power of Sale: A clause, contained in most deeds of trust in Mississippi, which authorizes the trustee identified in the deed of trust to sell the property through non-judicial foreclosure if the borrower defaults on the loan.

Figure 6: The Non-Judicial Foreclosure Process in Mississippi



*The homeowner can stop the foreclosure proceedings at any point until the date of the sale by paying all overdue payments, interest, accrued costs, and attorney's and trustee's fees.

Source: *Foreclosure Law In Mississippi*, University of Mississippi Center for Continuing Legal Education, 1999.

Costs of Foreclosure

Foreclosure is extremely costly for everyone involved. The homeowner loses all of the equity he/she has built, experiences the emotional and financial stress of losing one's home, and is left with tarnished credit. Lenders, servicers, and investors of the loans suffer from a loss of cash flow and the reduced value of the asset. Neighborhoods and municipalities in which those homes are located also suffer from declining property values, diminished tax revenue, a rising number of vacant homes, increased safety risks, and a damaged neighborhood image. Figure 7 summarizes the implications to the primary stakeholders involved in the foreclosure process.

Figure 7: Costs of Foreclosure for Primary Stakeholders

Stakeholders	Costs of Foreclosure
Homeowners	Lose all of the equity that they have built in the home. In addition, they suffer emotional strain, a loss of stability, and incur many other financial consequences of foreclosure. The homeowner's credit is severely tarnished; research shows that after homeownership is terminated, the average household will spend an estimated 10 years renting before they are able to achieve homeownership again.[25]
Lenders	Lose 20 to 60 cents on the dollar in a foreclosure. In addition, when a large number of loans in a lender's investment pool enter default, it can negatively impact the lender's ability to sell its loans on the secondary market.[26]
Servicers	Lose the regular stream of servicing fees and incur significant expenses, including staff time, trying to resolve problem loans.
Mortgage Insurers	Lose the amount paid for claims. The amount of loss equals the outstanding principal and all expenses incurred, less the proceeds from the sale of the house.
Investors	Lose cash flow, and as foreclosures increase, suffer from the reduced market value of securities.[27] Most mortgage loans are purchased by the secondary market, which bundles the loans and sells them to investors. These investors take on a large portion of the risk that a home loan may end in foreclosure.
Neighborhoods	As the number of foreclosures within a neighborhood grows, the neighbors suffer greatly: vacancies increase (which attracts criminal activity), their health and safety are put at risk and property values decline. According to an analysis of 1997, 1998, and 1999 Chicago property and foreclosure data by the Woodstock Institue, for each conventional foreclosure within one-eighth of a mile of a house, other things held constant, property value decreased by between 0.9 and 1.136 percent. In low- and moderate-income neighborhoods, the study found that for each foreclosure within one-eighth of a mile of a house, property value of that house is reduced by between 1.44 and 1.8 percent.[28] The Center for Responsible Lending estimates that foreclosures on subprime loans originated in 2005 and 2006 will result in 44.5 million homes across the U.S. losing a total of almost $223 billion in value.[29]
Counties and Municipalities	While a property is in or near foreclosure, jurisdictions often lose property tax revenue and revenues from unpaid water and utility bills, which carry municipal taxes. And as property values decline, counties and municipalities suffer from lower tax revenues, decreased business investment, and fewer homeowners wanting to move into the neighborhood. In addition, jurisdictions often incur costs for building inspections, maintenance such as garbage removal and cutting weeds, demolition contracts, fire suppression, and policing. Research demonstrates that the total cost to the jurisdiction can be more than $34,000 per foreclosed property.[30]

Alternatives to Foreclosure

Given the high costs of foreclosures to all parties, it is important to know that there are many alternatives to foreclosure that can be negotiated between the borrower and the lender. These alternatives, known as loss mitigation, are options developed by the financial sector in order to avoid foreclosure.

Loss mitigation options include the following:

- **Forbearance** – The borrower pays reduced monthly payments for a period of time.
- **Repayment plan** – The borrower and lender work out a plan for the borrower to repay the overdue payments, typically over six months or less.
- **Loan modification** – Mortgage loan documents are changed to reduce the interest rate or extend the loan term.
- **Short sale** – The borrower sells the home prior to foreclosure, and the lender foregoes the debt not covered by the sales price.
- **Deed in lieu of foreclosure** – The borrower assigns the property's title to the lender without going through foreclosure.
- **Short refinance** – When the appraised home value is less than the debt owed on the home, the borrower refinances for a reduced value, and the lender writes off the balance.

These loss mitigation methods have proven to be successful in keeping many families in their homes. In 2002, over 90% of Fannie Mae's 22,000 workouts resulted in the homeowners remaining in their homes.[31] However, there are two large challenges with the use of these tools:

1. **Many homeowners are not aware that these options exist.** Of the homeowners who lose their homes to foreclosure, approximately 50% never contacted their lenders. According to a Freddie Mac survey, 61% of late-paying borrowers are not aware that there are alternatives that a lender or servicer can provide to homeowners having trouble making mortgage payments, and 92% of those said that they would have contacted their servicers if they had known about their options.[32]

2. **Many borrowers who have tried to contact their lenders or servicers have encountered inflexibility in obtaining refinancings and loan modifications.** Borrowers have found that it can be difficult to get in touch with an individual at their lending institution who has the power to authorize a loan workout. The lack of a standardized process for lenders and servicers to use in loan modifications has caused many homeowners to enter foreclosure because they were unable to obtain a loan workout. Secretary of the Treasury Henry Paulson recently stated, "We have an immediate need to see more loan modifications and refinancing and other flexibility. For many families, this will be the only viable solution. The current process is not working well."[33]

Policy Recommendations

Action is needed on the state level to address the current foreclosure crisis in Mississippi. The recommendations below outline a plan for addressing the needs of homeowners currently facing foreclosure and taking preventive measures against future foreclosures.

Enact strong state predatory lending laws that will protect homebuyers from predatory practices which lead to foreclosure. Thirty-one other states have taken action against predatory lending to provide protections to homebuyers.[34] Such legislation in Mississippi should include the following minimum protections:

- Require lenders to evaluate the borrower's ability to pay the fully amortizing payments, with the borrower's maximum total debt-to-income ratio, including amounts owed under the loan, capped at 50% of the borrower's monthly gross income;
- Prohibit lenders from refinancing an existing home loan when there is no reasonable, tangible net benefit to a borrower;
- Prohibit pre-payment penalties and negative amortization loans;
- Require counseling for all first-time subprime borrowers;
- Require escrow of taxes and insurance on all subprime loans; and
- Require all lenders to offer loss mitigation options to homeowners in default.

Support comprehensive counseling services, including pre-purchase and post-purchase homeownership counseling. Research shows that quality education and counseling before the borrower purchases a home are the best defense against mortgage delinquency and foreclosure. Such counseling can create default-resistant borrowers who qualify for affordable traditional mortgage loans and who become sustainable homeowners. A recent analysis of the loan performance of a sample of borrowers counseled by nonprofit counseling agencies in the NeighborWorks® America network, a national leader in homeownership and foreclosure counseling, indicates that their loans are:

- Ten times less likely to go into foreclosure than subprime loans; and
- Nearly four times less likely to go into foreclosure than FHA loans.[35]

The State of Mississippi should provide funding to expand Mississippi's existing network of homeownership counseling agencies and equip them with the tools and resources to conduct comprehensive homeownership counseling.

Create a default loan program which provides funds paired with counseling to assist homeowners facing foreclosure. Default loan programs could consist of programs to bring their payments current or options to refinance mortgages that become unaffordable. Pennsylvania has both programs. Pennsylvania's Homeownership Emergency Mortgage Assistance Program (HEMAP) provides qualified homeowners with assistance for up to 24 months to bring them current on their mortgages. This assistance helps homeowners who are experiencing a financial crisis (loss of a job, divorce, health emergency, etc.) get back on their feet and avoid losing their homes. The program pairs homeowners facing foreclosure with nonprofit counseling agencies which assist them with their applications and provide counseling services funded by the State. In addition to HEMAP, the Pennsylvania Housing Finance Authority offers the Refinance to an Affordable Loan (REAL) Program, which combines 100% financing at 30-year fixed rates with flexible credit underwriting for homeowners at risk of losing their homes. Mississippi should develop a pilot default loan program with at least $1 million targeted to low-income households and provide an affordable refinancing product for homeowners in trouble with their mortgages.

Pennsylvania's HEMAP Program

Pennsylvania's Homeownership Emergency Mortgage Assistance Program (HEMAP) was created in 1983 as a loan program to assist homeowners who are temporarily unable to make mortgage payments and are facing foreclosure. HEMAP provides funds to non-profit agencies to counsel delinquent homeowners and assist them with their applications for aid. Through HEMAP, qualified homeowners may receive either one-time assistance to bring them current on their mortgages or continuing assistance to help them pay their mortgages monthly. All program participants are required to contribute 40% of their monthly income towards their mortgage, and HEMAP will cover the rest, up to a maximum of $60,000 total, and for a term not to exceed 24 months. HEMAP makes mortgage payments directly to the lender on the homeowner's behalf, with HEMAP making up the difference between the applicant's monthly contribution and the lender's required payment. The state requires that all lenders must send a standard notice to all homeowners who are at least 60 days delinquent, notifying them about HEMAP, informing them of the 30-day temporary stay of foreclosure, and providing them with information about their default and the pending foreclosure sale.

For more information, see www.phfa.org/consumers/homeowners/hemap.aspx.

Require lenders to send at least two notices to homeowners who are facing foreclosure. Currently, Mississippi law does not require lenders to provide notice directly to borrowers prior to the foreclosure sale. The only notice requirements are that the lender must post a notice of the foreclosure sale at the courthouse and publish it in the local newspaper for three consecutive weeks.[36] This minimal provision does not require notice to be given directly to homeowners and does not give the homeowner a reasonable amount of time to identify a workout option or to cure default. Mississippi should require lenders to send at least one Default Notice when the homeowner enters default and a Notice of Intention to Foreclose at least 90 days before the scheduled foreclosure sale. Both notices should be sent by registered first class mail to the debtor's address and include the following information:

1. Information about the nature of the default, when and how to cure the default, and what will happen if the homeowner does not cure the default.
2. A list of services available to help the homeowner avoid foreclosure, including loss mitigation options, counseling programs, and default loan programs. Minnesota and Pennsylvania require that all lenders provide information to borrowers of the foreclosure-prevention services available in the state. In Minnesota, after the legislature began to require notice to the borrowers of the state foreclosure hotline, calls to the hotline increased by 60%.[37]
3. Contact information for the individual/department with authority to design a loss mitigation option for that homeowner.
4. Details of the scheduled foreclosure sale (on the second notice), including the date, time, and location of the sale.

In addition to notifying the homeowner of the pending foreclosure sale, the state should require lenders to send notice to all co-signers, lien holders, and tenants of the property.

Supplement the default loan program and notice requirements with support for foreclosure counseling. Foreclosure counselors provide a vital bridge between borrower and lender when complex foreclosure proceedings begin. By working together with lenders, counselors are often able to identify ways to keep a borrower in the home and to reduce or eliminate money lost by the lender. For example, the default loan programs in Pennsylvania and Minnesota pair homeowners facing foreclosure with non-profit counseling agencies, which provide foreclosure prevention counseling services funded by the State. Other cities and states, including Chicago, Dallas, and the State of Ohio, have partnered with NeighborWorks® America and the Homeownership Preservation Foundation to utilize their foreclosure assistance hotline (1-888-995-HOPE) to connect borrowers with one-on-one counseling. By supporting a strong network of foreclosure counselors, the State of Mississippi would better position itself to be successful in its foreclosure prevention strategies.

Ohio Statewide Foreclosure Prevention Programs

- The Ohio Home Rescue Fund (which totals $1 million), funded through the Ohio Housing Trust Fund, provides assistance to families facing foreclosure in the form of a $3,000, 0% interest, forgivable 2nd mortgage with a three-year term. Recipients must have income at or below 65% of the Area Median Income (AMI), be able to document a foreclosure trigger event (loss of job, health emergency, etc.), demonstrate the ability to maintain the loan after receiving assistance, and agree to mandatory financial counseling.
- The Ohio Housing Finance Agency Rescue Fund was created in April of 2007 to provide a foreclosure rescue loan of up to $3,000 to qualifying homeowners with incomes between 65% and 115% of AMI who are facing foreclosure. The loan is due upon sale or transfer of the home. Initial funding of $3.1 million is anticipated to directly keep 900 families from losing their homes.
- The Governor's Task Force on Foreclosure Prevention was created by Governor Ted Strickland with the goals of increasing participation by lenders and servicers in reducing foreclosure filings, identifying best practices, increasing the availability of tools to avoid foreclosure, and identifying needed legislative and legal actions. The Task Force made 27 recommendations to the Governor and Legislators that address the current foreclosure crisis. The full report is available at: **http://www.com.state.oh.us/admn/pub/FinalReport.pdf.**

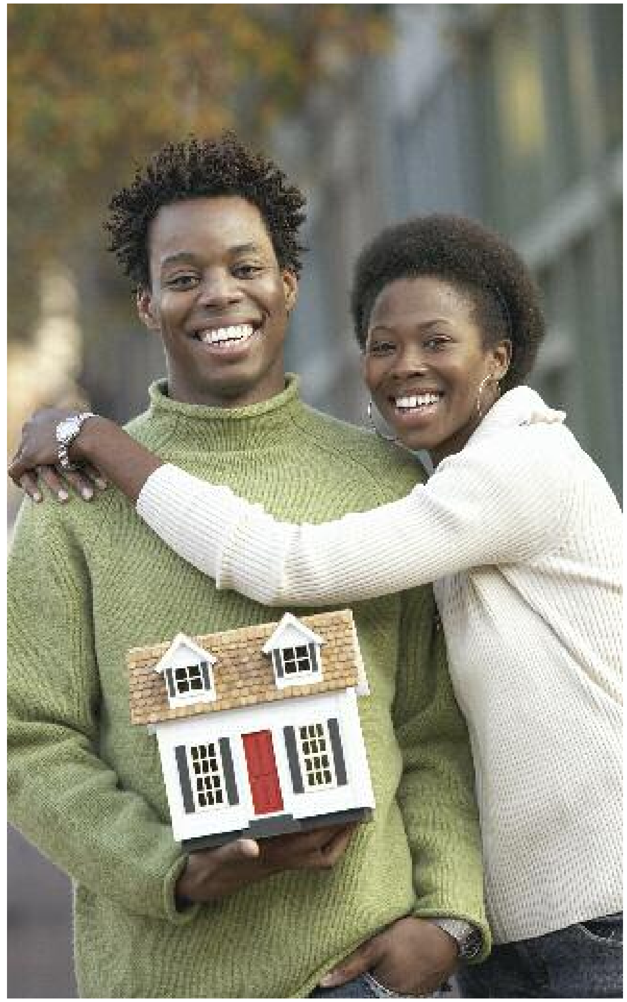
Require county governments to automate data collection to increase access to foreclosure data. Currently, it is extremely time consuming to collect foreclosure data from counties because their data systems are not set up to easily generate reports on the number of trustee's deeds filed. The accessibility of information is important to allow counties to monitor the foreclosure trends in their jurisdictions and to allow communities to understand the trends that are impacting them.

Create a statewide task force to study foreclosure trends across the state; establish steps for addressing foreclosures statewide; and promote increased partnerships between lenders, regulators, counseling agencies, and other community groups. Both Ohio and Maryland have established such task forces in the past year that have developed recommendations for addressing the rising foreclosures in those states. See Ohio Statewide Foreclosure Prevention Programs described above.

Conclusion

The recent wave of foreclosures across the country and the crisis in the subprime mortgage market suggest trouble for homeowners in the state of Mississippi. Mississippi has the highest rate of subprime lending and the highest percentage of homeowners with past due payments in the country. As of September 30, 2007, 10.6%, or 27,014 homeowners are past due on their home payments and will face losing their homes to foreclosure if they are unable to find the funds to make payments. Mississippi also has consistently had one of the highest foreclosure rates in the nation – even before Hurricane Katrina.

Other states across the country that have seen increases in foreclosures have created programs and partnerships to assist homeowners in distress. Mississippi should institute some of these reforms to prevent homeowners with past due payments from experiencing foreclosure. With assistance from the public, private, and nonprofit sectors, Mississippi can prevent thousands of families from losing their largest investments – their homes.



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