[Resolution urging banks to work with the City address the affects of subprime lending and calling on the Federal Reserve to take action at the national level to end predatory loan practices.]

Resolution urging banks to work with the City to address foreclosures and subprime loan practices. Calling on the Federal Reserve to prohibit loans at unaffordable rates, end the misuses of stated loans, eliminate prepayment penalties, and designate failure to escrow taxes and insurance in subprime loans as a deceptive practice.

WHEREAS, the subprime lending industry has grown rapidly in San Francisco City and County during the last few years; and

WHEREAS, some mortgage brokers and subprime lenders aggressively market high-cost home loans that borrowers are unable to repay and engage in other unfair credit practices that strip retirees and working families of the equity they have in their homes; and

WHEREAS, approximately 80% of subprime loans are Adjustable Rate Mortgages (ARMs)[1] for which the interest rate increases after two years and then every six months after; and

WHEREAS, the Center for Responsible Lending estimated in a December 2006 report[2] that one in five subprime loans will end up in foreclosure; and

WHEREAS, subprime lenders made ARMs without regard to whether the borrower would be able to afford the payments after the rate increases; and

WHEREAS, subprime lenders made ARMs assuming that homeowners would refinance before the interest rate increased; and

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[1] Statement of Michael Calhoun, President, CRL, December 19, 2006. See http://www.responsiblelending.org/press/statements/page.jsp?itemID=31217027

[2] Center for Responsible Lending, Losing Ground, December 2006, http://www.responsiblelending.org/pdfs/CRL-foreclosure-rprt-1-8.pdf

WHEREAS, some mortgage brokers and lenders made loans to people despite knowing that the family would not be able to afford the loan; and

WHEREAS, many borrowers with subprime ARMs were never given a choice between an adjustable or fixed rate or were promised a fixed rate but given an ARM; and

WHEREAS, 46% of subprime loans made in 2006 required little or no income documentation[3]; and

WHEREAS, more than two-thirds of subprime loans have prepayment penalties[4], compared to just 2% of prime loans; and

WHEREAS, many homeowners with subprime ARMs have not been able to refinance due to the stagnation or decrease in home values; and

WHEREAS, approximately 70% of the subprime loans were refinancing loans for families who had already bought a home[5]; and

WHEREAS, prepayment penalties trap borrowers into subprime loans with high or adjustable rates and strip their equity; and

WHEREAS, less than half of all subprime loans include taxes and insurance in the monthly payment; and

WHEREAS, many borrowers of subprime loans want to have their taxes and insurance included in their monthly payment, and many borrowers have been mislead to believe their payment includes taxes and insurance; and

WHEREAS, many borrowers end up in foreclosure when they have to make a lump sum payment of their taxes and insurance; and

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[3] From U.S. Comptroller of the Currency John Dugan as quoted in " U.S. Bank Regulator Urges Curbing Stated-Income Subprime Loans", Bloomberg.com, May 23, 2007. http://www.bloomberg.com/apps/news?pid=newsarchive&sid=ap_bmEnY5KuQ

[4] Statement of Senator Christopher Dodd, February 7, 2007. http://banking.senate.gov/index.cfm?Fuseaction=Articles.Detail&Article_id=115

[5] Mortgage Bankers Association Press Release, "Percentage of Subprime Loans Used by First-Time Home Buyers Up During the Second Half of 2006", 7/3/07

WHEREAS, these practices are commonly referred to as "predatory lending"; and

WHEREAS, these predatory loans have led to an increase in foreclosure rates which hurts the families who are losing their homes as well as the neighborhoods where there are a concentration of foreclosed homes; and

WHEREAS, these vacant homes attract crime and cost San Francisco money in crime prevention and the deterioration of neighborhoods; and

WHEREAS, the mortgage industry maintains that their companies lose money on foreclosures and only foreclose as a last resort; and

WHEREAS, most Pooling and Servicing Agreements (PSAs) allow servicers to modify loans in order to make them affordable for the homeowner; and

WHEREAS, many homeowners facing foreclosure report that their servicer never offered them an opportunity for loan modification; and

WHEREAS, Freddie Mac reports that half of all foreclosed homeowners never talked with their lender[6];

WHEREAS, many families have not had an opportunity to modify their loans to make them affordable; and

WHEREAS, the federal Home Ownership and Equity Protection Act (HOEPA) instructs the Federal Reserve Board to protect consumers from predatory lending (*15 U.S.C. § 1639 (L) (2)*) ; and

WHEREAS, any regulations issued by the Federal Reserve would have the same effect as law and would cover all mortgage lenders in the country; now, therefore, be it

RESOLVED, ~~be it resolved~~ that the Board of Supervisors of the City and County of San Francisco calls on the Federal Reserve to use its authority to:

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[6] http://www.freddiemac.com/news/archives/corporate/2005/20051212_ropersurvey.html

- Prohibit lenders from making mortgages that quickly become unaffordable after the interest rate increases
- Stop the misuse and abuse of stated income loans
- Eliminate prepayment penalties on subprime loans
- Designate the failure to escrow taxes and insurance in subprime loans as an unfair and deceptive practices; and, be it

FURTHER RESOLVED, that ~~the~~ City and County of San Francisco calls on the 25 largest subprime mortgage lenders and servicers in the country to voluntarily agree to a six month suspension on foreclosures of owner-occupied properties in City and County of San Francisco; and, be it

FURTHER RESOLVED, that City and County of San Francisco will send a copy of this resolution to the CEOs of the 25 largest subprime lenders and servicers in the country; and, be it

FURTHER RESOLVED, that City and County of San Francisco calls on these lenders and servicers to make every effort during the suspension period to help their customers avoid foreclosure and remain in their homes, including modifying loans by reducing the interest rate and/or the principal to achieve an affordable monthly payment; and, be it

FURTHER RESOLVED, that City and County of San Francisco calls on these companies to work with City and County of San Francisco and community-based organizations during the suspension period to reach those homeowners who are not communicating with the servicer; and, be it

FURTHER RESOLVED, that City and County of San Francisco calls on these lenders and servicers to provide a timely response to City and County of San Francisco noting whether the company will agree to the voluntary foreclosure suspension; and, be it

FURTHER RESOLVED, that City and County of San Francisco calls on those lenders who refuse to implement the voluntary suspension, to appear before City and County of San Francisco Board of Supervisors to discuss the company's lending and servicing practices.

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

City and County of San Francisco

Tails

Resolution

File Number: 071441 **Date Passed:**

Resolution urging banks to work with the City to address foreclosures and subprime loan practices; calling on the Federal Reserve to prohibit loans at unaffordable rates, end the misuses of stated loans, eliminate prepayment penalties, and designate failure to escrow taxes and insurance in subprime loans as a deceptive practice.

October 23, 2007	Board of Supervisors — REFERRED: Land Use and Economic Development Committee
December 4, 2007	Board of Supervisors — SUBSTITUTED
January 8, 2008	Board of Supervisors — ADOPTED Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 071441

I hereby certify that the foregoing Resolution was ADOPTED on January 8, 2008 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

1·14·08
Date Approved

Mayor Gavin Newsom