

**Families & Communities in Crisis:
The Foreclosure Problem in Western North Carolina**

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State Responses

1. Legal Protections
Underwriting, Servicing, Foreclosing
2. Resources for Homeowners
Home Protection Program, State Home Foreclosure Prevention Project
3. Remaining Challenges

North Carolina Legislative Summary

1. Mortgage Loan Underwriting

- 1) NC Predatory Lending Act - Senate Bill 1149, Enacted October 1, 1999

The act prohibited prepayment penalties for home loans of \$150,000 or less, flipping, and financing upfront single premium insurance; and on high cost loans of \$300,000 or less there are additional protections including no financing of fees, no lending without consumer counseling, no balloon payments, no negative amortization, no lending without regard to the borrowers ability to repay the loan, no call provisions, no advance payments, and no fees to modify or amend the loan to defer payment, and no increased interest rate after default.

- 2) NC Mortgage Broker Licensing Law, Senate Bill 904, Enacted July 1, 2002

Set new licensing requirements for mortgage bankers, mortgage brokers and mortgage loan officers.

- 3) An Act to Protect Consumers Regarding Covered Loans, House Bill 1817, Enacted January 1, 2008

Defines subprime loans and provides new protections on those loans, strengthens the 1999 NC Predatory Lending, strengthens broker duties, prohibits certain acts, and gives the NC Commissioner of Banks new authority.

- 4) An Act to add to the list of Prohibited acts under the mortgage lending act, House Bill 2188, Effective October 1, 2008.

The principal focus of House Bill 2188 is modify fee notification requirements in NCGS 45-91 and to prohibit yield spread premiums in the brokering of sub prime loans.

2. Mortgage Servicing

- 1) An act to Protect Homeowners & Reduce Foreclosures, House Bill 1374, Enacted between August 2007 and April 1, 2008.

Clarifies the two-year statute of limitations for usury claims, gives North Carolina courts jurisdiction over home loans made in the state, makes the foreclosure process fairer by increasing disclosures, and protects homeowners from abusive mortgage loan servicing.

- 2) An Act To Regulate Mortgage Servicing, House Bill 2463, Enacted January 1, 2009

Gives the Commissioner of Banks regulatory authority over Mortgage Servicers, with additional protections to homeowners facing foreclosure resulting from illegal lending or servicing practices.

3. Direct Homeowners Support

- 1) The Home Protection Program, Created In 2004 in Session Law 124, Section 20-A in the State Budget

This program provides free counseling and bridge loans to eligible applicants that have lost a job due to changing economic circumstances. Loans are zero percent interest deferred for 15 years for a maximum of \$24,000 and 24 months. The program is administered by the NC Housing Finance Agency.

- 2) An Act to create an emergency program to reduce home foreclosures, House Bill 2623, Enacted November 1, 2008

Created a procedure in the foreclosure process whereby servicers have to notify homeowners of certain facts and rights prior to the filing of a foreclosure and provide the Administrative Office of the Courts with certain information that can be accessed by the Commissioner of Banks. The Commissioner is given the authority to postpone certain foreclosure cases by up to 30 days. This program is intended to help sub-prime mortgage holders by creating a new process designed to help homeowner's negotiate with mortgage servicers to avoid foreclosure.