

Democratic Candidates on Mortgage Reform

This month's issue features a look at the positions of several Presidential candidates on issues related to bankruptcy, foreclosure and lending practices. Featured are Democratic candidates Hillary Clinton, John Edwards and Barack Obama. The information is taken without edits from campaign Web sites.

Hillary Clinton: Protecting the Dream of Home Ownership Crack Down on Unscrupulous Brokers



Hillary Clinton

is acting on their behalf. In fact brokers earn more when they steer borrowers to mortgages with higher rates and fees. The broker's and borrower's interests are not always aligned. Borrowers need to be aware of this when assessing the advice brokers give them. To address this need, Hillary will require that brokers disclose to borrowers how they are paid.

- Work with states to develop strong licensing standards and require federal registration for mortgage brokers. Unscrupulous brokers have steered people into high cost mortgages, qualified them for loans they could not afford and attached fees unnecessarily. These brokers are responsible for many of the lending abuses that occurred in recent years, but there is no single, national source for information about individual brokers. Hillary will establish national registration for brokers so that prospective borrowers can easily look up a broker's employment history, violations, complaints and other information. As President, she will also work with the states to develop strong licensing standards to ensure that mortgage brokers are qualified and properly screened.

Crack Down on Mortgage Lending Abuses

- Eliminate prepayment penalties on mortgage products. Prepayment penalties, which are often used on subprime, Alt-A and non-traditional mortgages, are a problem for borrowers. These penalties can lock borrowers into loans until the

rates and monthly payments escalate. Families should not be discouraged from responsibly paying off their mortgages early, particularly when this would allow them to avoid balloon payments or high floating rates. Studies have shown that loans with prepayment penalties have a 52 percent greater risk of default than those without. Hillary will restrict the use of prepayment penalties.

- Require mortgage lenders to include the cost of taxes and insurance in the underwriting assessment of higher-risk mortgages. Many borrowers fail to consider taxes and insurance costs when weighing whether they can afford a particular mortgage. Sometimes, lenders exclude those costs from the underwriting assessment, and in the process qualify people for mortgages they cannot afford. Hillary will require that taxes and insurance costs be included in the underwriting assessment so that prospective homeowners can properly determine whether they can afford a particular house. This requirement would apply to subprime mortgages, Alt-A

enterprises (GSEs) that help stabilize the mortgage markets, to include helping a larger number of at-risk homeowners avoid foreclosure. This would be consistent with Fannie's and Freddie's existing goals that promote home ownership. The GSEs already help mitigate foreclosures by enabling some borrowers to swap into less risky, lower-cost loans. Fannie also helps homeowners arrange payment forbearance, financial counseling and loan restructurings. Hillary will expand those initiatives to make foreclosure mitigation a greater priority.

Expand Affordable Housing

- Establish a \$1 billion fund to provide federal support to housing trust funds established by state, county and municipal governments. The rise in home prices over recent years, coupled with stagnant wages, has meant that people are committing an increasing share of their salaries to mortgage payments. Between 2001 and 2004, for example, the number of households paying more than half of their incomes on housing increased by 1.9

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mortgages and nontraditional mortgages like interest-only, no-money-down and payment option ARMs.

Help Reduce Foreclosures

- Establish a \$1 billion fund to assist state programs that help at-risk borrowers avoid foreclosure. Hillary will establish a \$1 billion fund to support state programs that help at-risk borrowers avoid foreclosure. Some state programs help borrowers make the single payment necessary to become current on their loans; others help borrowers renegotiate their loan terms, or simply provide financial counseling. These foreclosure mitigation efforts are more important than ever right now. Federal assistance for state programs that assist at-risk borrowers supplements Hillary's call earlier in the year for "foreclosure timeout." At-risk borrowers and lenders should be encouraged to work out alternatives to foreclosure.

- Expand Fannie Mae's and Freddie Mac's Foreclosure Prevention Efforts. Hillary would expand the goals of Fannie and Freddie, the government-sponsored

million. The Joint Center for Housing Studies estimates that housing is a "severe cost burden" for 15.6 million low- and middle-income households. Families facing such strains often forgo necessities. Other families simply forgo home ownership, or turn to high-risk, alternative mortgage products. In order to encourage the development of affordable housing, Hillary will establish a \$1 billion fund to support state, county and municipal housing trust funds. Housing trust funds generally use dedicated funding sources to support initiatives like building subsidized rental housing and safety net housing, and they also support nonprofit housing developers. Hillary's fund will supplement the funding states, counties and municipalities have already dedicated to these initiatives.

- The plan supplements the plan Hillary announced earlier to address the problems in subprime mortgages. In that earlier announcement, Hillary called for expanding access to independent face-to-face counseling; restricting prepayment penalties for subprime mortgages;

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requiring “plain-talk, no-fine-print disclosure”; promoting “foreclosure timeout” in which at-risk borrowers and lenders work out alternatives to foreclosure; and strengthening the Federal Housing Administration so that it could provide more homebuyers with an alternative to the subprime market.

John Edwards: Protecting Homeowners and Fighting Predatory Mortgages

Home ownership is the foundation of the American Dream. For most families, the equity they build up in their home is a source of security and the primary source of their wealth. But for millions of families, the dream of home-ownership is slipping away. Home foreclosure filings rose to 1.2 million in 2006—



John Edwards

a 42 percent jump—due to rising mortgage bills and a slowing housing market. In Iowa, 3,445 families experienced foreclosure last year, up 64 percent from 2005. Nationally, as many as 2.4 million subprime borrowers have either lost their homes or could lose them in the next few years. Problems in the housing market could weigh down the economy. [RealtyTrac, 2007; Center for Responsible Lending, 2007; WSJ, 3/28/2007 and 3/29/2007]

A Rising Tide of Risky and Predatory Mortgages

John Edwards has called for strong national legislation to regulate mortgage abuses and prohibit predatory home-lending, based on North Carolina’s successful law. He proposed immediate steps to help homeowners escape predatory and other un-affordable mortgages, including letting families shed excessive home debt through bankruptcy and creating a Home Rescue Fund to help struggling homeowners renegotiate or refinance their mortgages. Finally, he called for federal regulators, lenders and investors to take responsibility and work together to help homeowners avoid foreclosure.

• *Increasing Use of Risky Mortgages.* In recent years, the housing market has increasingly relied on riskier mortgages.

Subprime mortgages carry higher interest rates and up-front fees than traditional mortgages, often costing families thousands of dollars more. While they are a valuable alternative for families with poor credit, as many as half of subprime borrowers are qualified for cheaper conventional loans. Other “exotic” mortgages—with “teaser” rates, no downpayments or interest-only payments—are often made without regard to the ability to repay. Together, subprime and exotic mortgages are now 40 percent of new home loans. [Center for American Progress, 2007; *Providence Journal*, 3/25/2007].

• *Minorities and Rural Communities Are Targeted for Predatory Lending.* Predatory mortgages carry abusive terms that deceive and exploit borrowers, such as excessive and hidden fees, large prepayment penalties, mandatory arbitration clauses, unnecessary insurance products and broker “kickbacks” for steering borrowers into more expensive loans. Predatory terms are more common among subprime loans. Black and Hispanic borrowers are three times more likely to receive subprime loans than white borrowers with similar credit scores. Rural subprime borrowers were more likely to take out a mortgage with a prepayment penalty in 2002. [CRL, 2007; National Community Rein-vestment Coalition, 2007; Carsey Institute, 2006]

Protecting Homeownership and Fighting Predatory Mortgages

• *The Result Is Millions of Foreclosures.* Many recent mortgages carry low introductory rates that are expected to jump as much as 30 percent in the coming months. Falling home prices have made it harder to refinance. As a result, Lehman Brothers predicts that 30 percent of subprime loans made in 2005 will eventually default. The Center for Responsible Lending recently concluded that—because most subprime loans are refinanced loans, not new home loans, and yet many end in foreclosure—subprime lending has actually reduced homeownership. [*Boston Globe*, 3/17/2007; CAP, 2007; Lehman Brothers, 12/22/2006; CRL, 2007]

• *Enact a Strong National Law against Predatory Mortgages.* As president, Edwards will pass a strong national law to prohibit the worst abuses

in the mortgage market: loan flipping, mandatory arbitration clauses, balloon loans, steep prepayment penalties and other excessive fees. It would regulate all lenders, including non-bank finance companies, and strengthen underwriting standards to ensure that borrowers receive affordable loans suited to their means. Because abusive practices among some brokers are part of the problem, Edwards will ban broker kickbacks (yield-spread premiums) and work with states to establish uniform broker licensing standards and a national database for disciplinary infractions.

• *Rewrite Certain Abusive Mortgages in Bankruptcy to Let Families Keep Their Homes.* Many victims of predatory lending owe more on their mortgages than their homes are worth. These “underwater” mortgages are created by excessive interest charges or falling home values. Even if they declare bankruptcy, they must pay off their inflated mortgages in full or else lose their homes. As president, Edwards will let homeowners shed excessive mortgage debt in bankruptcy. They will be able to keep their homes by paying off their full market values and get new loans terms set by the courts. For example, a family owing \$120,000 on a home worth \$100,000 could cut its mortgage to \$100,000, with the remaining \$20,000 treated like other unsecured debt in bankruptcy. The relief would be available only once and at the discretion of the bankruptcy judge.

• *Rescue Homeowners at Risk of Foreclosure.* Many foreclosures can be avoided by timely help, such as renegotiating loan terms, finding a new lender, or catching up with past payments. Preventing foreclosures can also prevent vicious cycles that can bring down whole neighborhoods. Edwards proposed a national Home Rescue Fund to help prevent foreclosure. The Fund would work through local nonprofits, government agencies and community financial institutions. If necessary, the Federal Housing Administration, Fannie Mae and Freddie Mac could work with community lenders to create affordable refinancing alternatives for these families.

• *Hold Lenders and Investors Accountable.* Edwards commends the FDIC for summoning lenders and Wall Street investors to a meeting discussing

their role in the crisis. However, these conversations will only succeed if lenders and Wall Street give regulators specific commitments to mitigate foreclosures, such as waiving prepayment penalties, restructuring loan terms, and forgiving of back payments. [Engel and McCoy, 2007; National Consumer Law Center, 2007]

John Edwards has announced his agenda to fight abusive and predatory mortgages. He will prevent future mortgage abuses with a strong national law and help current struggling families by rewriting bankruptcy laws and creating a national rescue fund for families at risk of foreclosure.

Taking on Abusive Lenders and Helping Families Save

Today, American families are working harder, saving less and borrowing more just to make ends meet. Half of Americans say they live paycheck to paycheck. For most families, wages have not kept up with rising costs for middle-class essentials like health care, housing and child care. More than half of middle-class families do not have enough savings to survive a job loss at 75 percent of their income for even one month. Consumer debt has increased eightfold and foreclosures have skyrocketed in recent years. The result is Two Americas, one struggling to get by and another that has everything it could want. [MetLife, 2003; Warren, 2007; Demos, 2007; Federal Reserve Board, 2007]

Washington has stood by as unscrupulous lenders have ripped off millions of families with deceptive and unnecessarily expensive loans. Payday loans—short-term unsecured loans that carry high interest rates—have ballooned to a \$28 billion industry. One in 53 households filed for bankruptcy in 2005, more families than got divorced or graduated from college. Americans own a smaller share of their homes today than they did a generation ago—down from 68 percent to 55 percent—despite the housing boom. [CRL, 2004; Cardweb, 2005; Demos, 2007]

Taking On Abusive and Predatory Lenders

John Edwards has offered new consumer protections against rip-offs from the credit “sneak attack” against the middle class, reigning in irresponsible credit card companies, predatory lenders and payday lenders. To stand up for regular families and help build One American Economy, Edwards will:

- *Protect Families from Abusive*

Financial Products. Families need someone on their side to help them get a fair deal from lenders and investment companies. The current crazy-quilt of five federal regulatory agencies share oversight responsibility but overlook consumer protection in favor of bank profitability. Federal law prevents states from effectively regulating financial products offered to their own citizens from out-of-state banks. Edwards will create a new Family Savings and Credit Commission to protect consumers. It will review all financial services products marketed to families, from six-figure exotic mortgages to \$30 bank overdraft charges. It will ensure that terms are reasonable and fairly disclosed and oversee all types of financial institutions, whether chartered under federal or state law. To reduce excess regulatory bureaucracy, Edwards will eliminate the Office of Thrift Supervision. [Warren, 2007]

- *Prohibit the Most Abusive Practices.* Edwards will enact strong national legislation to protect families from the most abusive practices in the credit card, payday loan and mortgage industries:

- *Limiting Abusive Credit Card Practices.* Credit card penalty interest rates can now top 39 percent. Deceptive tactics include bait-and-switch marketing on interest rates, penalty rates triggered by unrelated debt under “universal default” clauses, and mailing statements later in an effort to induce more late fees. Edwards will restore balance in the credit card market through a Borrower’s Security Act. The strong new law will require credit card companies to (1) disclose the true cost of making only minimum payments, (2) restore a 10-day grace period before imposing late fees and penalty rates, (3) apply interest rate increases to future balances only and (4) end the practice of universal default, where a creditor can change borrowers’ terms based on their debt and payments to other creditors. [NCLC, 2005; Demos, 2003; GAO, 2006]

- *Banning the Most Abusive Payday Loans.* Annual rates on payday loans typically exceed 400 percent a year. After the Pentagon concluded that exploitive payday loans undermined military readiness, Congress capped interest rates on payday and other loans to military families at 36 percent, a cutoff that many states use to prevent loan sharking. Edwards will extend this cap to all payday loans. [Center for Responsible Lending, 2006]

- *Enacting a Strong National Law Against Predatory Mortgages.* Today’s homeowners are more than three times more likely to lose their homes than they were a generation ago. Edwards will pass a strong national law to prohibit the worst abuses in the mortgage market, such as steep prepayment penalties, mandatory arbitration clauses, balloon loans, loan flipping and excessive fees. The law will strengthen underwriting standards to ensure that borrowers receive affordable loans suited to their means and reach non-bank lenders and mortgage brokers. [Warren, 2007]

- *Rescuing Homeowners at Risk of Foreclosure.* To help the estimated 2.2 million families already at risk of foreclosure, Edwards will create a Home Rescue Fund to help families get more affordable mortgages from responsible lenders and let them restructure excess mortgage debt that exceeds their home’s value through bankruptcy. [CRL, 2007]

- *Holding Mortgage Lenders and Investors Accountable.* The practice of lenders selling families’ home loans to Wall Street as investments has fueled the rise in unaffordable mortgages and resulting foreclosures. Edwards believes that lenders and Wall Street, too—not solely hardworking families—must bear some responsibility for their bad loans. Federal regulators should obtain specific commitments from loanholders to reduce foreclosures, including waiving prepayment penalties, restructuring loan terms and forgiving back payments.

Creating Alternatives to Abusive Lenders

Edwards believes we must help families gain independence from high-cost debt so every American has a fair shot at the American Dream. As president, he will:

- *Support Alternatives to High-Cost Credit.* Because commercial banks rarely make personal loans anymore, high-interest credit cards and payday loans are often the only option for families with unexpected expenses. Edwards will help nonprofits and states administer low- or no-interest emergency loans directly to taxpayers. States could choose to use state tax refunds as collateral. Because neighbors have a stake in one another, Edwards will help community groups establish up local revolving loan funds. [CFSI, 2006]

- *Help Families Save and Get Ahead.* Savings are how families cushion themselves against bumps in the road.

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Edwards will create new "Work Bonds" to help low-income workers save up to \$500 a year. He will subsidize banks to offer free savings accounts to the nearly 28 million Americans without them, giving them a way to save and avoid exorbitant check-cashing fees. Finally, he will give taxpayers the option of directly depositing their tax refunds into a retirement account. [Federal Reserve, 2007]

- *Modernize the Community Reinvestment Act.* For decades, the Community Reinvestment Act has led financial institutions to serve millions more families, helping them save. However, lower-income families, people of color and rural Americans are still underserved, and President Bush has weakened the law's requirements. Edwards will modernize this important law by expanding its reach to non-bank finance and mortgage companies, securities firms, insurers and services in areas without bank branches. The new CRA will reward financial institutions for marketing financial products at fair terms to underserved consumers and collect the data we need to ensure that all Americans have equitable access to financial services. [Woodstock Institute, 2006; NCRC, 2007]

Barack Obama: Protect Homeownership and Crack Down on Mortgage Fraud

Obama will crack down on fraudulent brokers and lenders. He will also make sure homebuyers have honest and complete information about their mortgage options, and he will give a tax credit to all middle-class homeowners.



Barack Obama

- *Create a Universal Mortgage Credit.* Obama will create a 10 percent universal mortgage credit to provide homeowners who do not itemize tax relief. This credit will provide an average of \$500 to 10 million homeowners, the majority of whom earn less than \$50,000 per year.

- *Ensure More Accountability in the Subprime Mortgage Industry.* Obama has

been closely monitoring the subprime mortgage situation for years, and introduced comprehensive legislation over a year ago to fight mortgage fraud and protect consumers against abusive lending practices. Obama's STOP FRAUD Act provides the first federal definition of mortgage fraud, increases funding for federal and state law enforcement programs, creates new criminal penalties for mortgage professionals found guilty of fraud, and requires industry insiders to report suspicious activity.

- *Mandate Accurate Loan Disclosure.* Obama will create a Home-owner Obligation Made Explicit (HOME) score, which will provide potential borrowers with a simplified, standardized borrower metric (similar to APR) for home mortgages. The HOME score will allow individuals to easily compare various mortgage products and understand the full cost of the loan.

- *Create Fund to Help Homeowners Avoid Foreclosures.* Obama will create a fund to help people refinance their mortgages and provide comprehensive supports to innocent homeowners. The fund will be partially paid for by Obama's increased penalties on lenders who act irresponsibly and commit fraud.

- *Close Bankruptcy Loophole for Mortgage Companies.* Obama will work to eliminate the provision that prevents bankruptcy courts from modifying an individual's mortgage payments. Obama believes that the subprime mortgage industry, which has engaged in dangerous and sometimes unscrupulous business practices, should not be shielded by outdated federal law.

Address Predatory Credit Card Practices

Obama will establish a five-star rating system so that every consumer knows the risk involved in every credit card. He also will establish a Credit Card Bill of Rights to stop credit card companies from exploiting consumers with unfair practices.

- *Create a Credit Card Rating System to Improve Disclosure.* Obama will create a credit card rating system, modeled on five-star systems used for other consumer products, to provide consumers an easily identifiable ranking of credit cards based on the card's features. Credit card

companies will be required to display the rating on all application and contract materials, enabling consumers to quickly understand all of the major provisions of a credit card without having to rely exclusively on fine print in lengthy documents.

- *Establish a Credit Card Bill of Rights to Protect Consumers.* Obama will create a Credit Card Bill of Rights to protect consumers. The Obama plan will:

- Ban Unilateral Changes
- Apply Interest Rate Increases Only to Future Debt
- Prohibit Interest on Fees
- Prohibit "Universal Defaults"
- Require Prompt and Fair Crediting of Cardholder Payments

Reform Bankruptcy Laws

Obama will reform our bankruptcy laws to protect working people, ban executive bonuses for bankrupt companies, and require disclosure of all pension investments.

- *Cap Outlandish Interest Rates on Payday Loans and Improve Disclosure.* Obama supports extending a 36 percent interest cap to all Americans. Obama will require lenders to provide clear and simplified information about loan fees, payments and penalties, which is why he'll require lenders to provide this information during the application process.

- *Encourage Responsible Lending Institutions to Make Small Consumer Loans.* Obama will encourage banks, credit unions and Community Development Financial Institutions to provide affordable short-term and small-dollar loans and to drive unscrupulous lenders out of business.

- *Reform Bankruptcy Laws to Protect Families Facing a Medical Crisis.* Obama will create an exemption in bankruptcy law for individuals who can prove they filed for bankruptcy because of medical expenses. This exemption will create a process that forgives the debt and lets the individuals get back on their feet. ■

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