

October 16, 2007

The Honorable Rick Perry
Governor
State of Texas
Texas Capitol, Room 2S.1
Austin, Texas 78711

VIA HAND DELIVERY AND UNITED STATES MAIL

Re: Protecting Texas Families - The Subprime Foreclosure Crisis in Texas

Dear Governor Perry:

As you know, our state and nation are experiencing a dramatic increase in foreclosures in the subprime mortgage market as countless families find themselves unable to meet their financial commitments. Given the high volume of subprime lending in Texas over the past few years, I have written to you, Lt. Governor David Dewhurst, and even former Chairman of the Federal Reserve Alan Greenspan on this important issue.¹ Nouriel Roubini, a professor at New York University and head of Roubini Global Economics, predicts a resulting recession in the near future. He contends that if the economy slips into recession, "then you have a systemic banking crisis like we haven't had since the 1930s. The cost could be as high as \$1 trillion."²

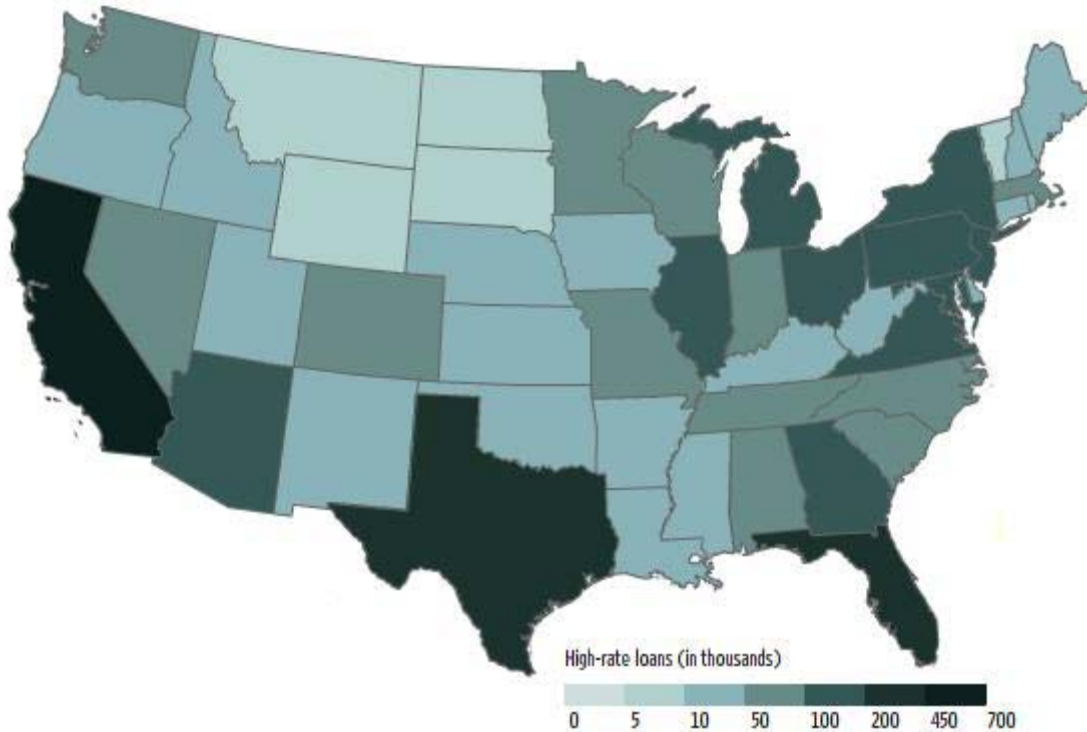
This spike in foreclosures has been associated with declines in stock markets worldwide, coordinated national bank interventions, and bankruptcy of several mortgage lenders. Below,

¹ See attached: letter from Senator Eliot Shapleigh to Alan Greenspan, Chairman of the Federal Reserve Board, February 3, 2003; letter from Senator Eliot Shapleigh to Officials of the Federal Bank and Thrift Agencies, March 25, 2003; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, October 1, 2003; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, December 17, 2003; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, October 25, 2004; letter from Senator Eliot Shapleigh to Attorney General Greg Abbott, December 1, 2004; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, January 26, 2005; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, February 7, 2005; letter from Senator Eliot Shapleigh to Governor Rick Perry, February 8, 2005; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, February 21, 2005; letter from Senator Eliot Shapleigh to Lt. Governor David Dewhurst, February 26, 2007.

² Emily Kaiser, "Subprime crisis could pack political punch," *Reuters*, March 15, 2007.

please find a national map showing the number of high rate loans issued in 2006, the driving force behind the current foreclosure crisis.

Number of High Rate Loans Issued in 2006



Source: Rick Brooks and Constance Mitchell Ford, "The United States of Subprime," *The Wall Street Journal*, October 11, 2007.

I am extremely concerned about the fiscal impact on Texas, particularly on the budget in the 81st Legislative Session. Thus, I am writing to urge that you act now to protect Texas families and the property tax base of our state as we face what may well be a Texas tsunami of mortgage foreclosures.

Specifically, I ask that you call a special session in early 2008 so that together with the Legislature, you can help us act to protect our state's homeowners, communities, and school districts which may soon find themselves in tight times financially. I ask that you frame the call around the following concepts:

- Working with mortgage lenders and servicers to maximize alternatives to foreclosure so that more homeowners can keep their homes. Inevitably, some discretion for mortgage lenders and servicers is built into the decision of whether to foreclose, and lenders and servicers must maximize this discretion to allow homeowners to seek out all potential means of avoiding foreclosure and the loss of their home;
- Providing increased funding for non-profit housing counselors and the expansion of educational efforts to make borrowers aware of options to work out delinquencies, with funds distributed based on areas of greatest need. Counseling and other educational

services will help prevent foreclosure, in addition to building budgeting skills and connecting Texans with community resources; and

- Requiring counseling before closing on certain subprime and high risk mortgage loans. Texas must empower future homeowners with tools and knowledge to make the most informed decision regarding their home loan.

In the absence of a special session, any legislative change will be delayed until the next regular session in January 2009. In that case, I ask that you convene a Governor's work group to develop a statewide response to the foreclosure crisis and subsequent legislative recommendations. Ohio, which has one of the highest foreclosure rates in the country, recently released the final report from the Ohio Foreclosure Prevention Task Force. Created in March 2007 by Governor Ted Strickland, the Task Force's mission was to provide a unified response to improve prevention methods and manage foreclosure issues in Ohio. The Task Force's report was issued on September 10, and its recommendations will help the state focus on the escalating crisis.³

If Texas' leaders do not act, I fear that our state could be faced with a deficit similar to or worse than that in 2003. As you know, there are concerns that the new margins tax will not bring in sufficient revenue. Those fears are now compounded with the new threat that exists due to the exceedingly high number of foreclosures. Foreclosures impact many aspects of the economy, and our state's leaders need to take a hard look at these numbers. The current glut of foreclosures we are experiencing could cause Texas' property values to dive due to significant foreclosures. Obviously, if property values drop, school tax revenues drop, creating a demand for increased state revenue. Houston's experience in 1986 demonstrates how foreclosures and real estate values can dramatically affect property values and school tax revenues. This will have a significant impact on the state's bottom line when we return to Austin for the 81st Legislative Session.

As you know, Texas has some of the highest loan rates in the country. According to the Corporation for Enterprise Development, Texas ranked number 43 in the country in the percent of all mortgage loans that are subprime loans.⁴ Of the ten highest subprime MSAs in the U.S., Texas is home to seven:

MSA Ranking by Overall Percentage of Subprime Refinance Loans

Rank	MSA Name	Population	Conventional Refinance Loans	Percent Subprime
1	El Paso, TX	679,622	1,767	47.82
2	Corpus Christi, TX	380,783	1,061	46.84
3	Laredo, TX	193,117	342	45.32
4	Killeen-Temple, TX	312,952	683	44.80
5	Beaumont-Port Arthur, TX	385,090	1,160	44.48

³ The Task Force's final report is available online at: <http://www.com.state.oh.us/admn/pub/FinalReport.pdf>.

⁴ Corporation for Enterprise Development, "Assets and Opportunity Scorecard," available online at: <http://www.cfed.org/go/scorecard>.

6	Miami, FL	2,253,362	10,701	42.67
7	Columbus, GA-AL	274,624	1,799	42.63
8	San Antonio, TX	1,592,383	5,270	41.90
9	Memphis, TN-AR-MS	1,135,614	7,577	41.86
10	Galveston-Texas City, TX	250,158	944	41.63
11	Fayetteville, NC	302,963	1,814	41.23
12	Enid, OK	57,813	427	40.75
13	Jamestown, NY	139,750	737	40.71
14	Rocky Mount, NC	143,026	872	39.68
15	Buffalo-Niagara Falls, NY	1,170,111	5,218	39.36
16	Daytona Beach, FL	493,175	3,477	38.77
17	Danville, VA	110,156	802	38.53
18	McAllen-Edinburg-Mission, TX	569,463	1,345	37.62
19	Sumter, SC	104,646	734	37.33
20	Victoria, TX	84,088	220	37.27
21	Goldsboro, NC	113,329	681	37.00
22	Lakeland-Winter Haven, FL	483,924	3,234	36.92
23	Florence, SC	125,761	963	36.55
24	Pine Bluff, AR	84,278	364	36.54
25	New York, NY	9,312,235	23,104	36.50
26	Orlando, FL	1,644,561	10,275	36.18
27	Hickory-Morganton-Lenoir, NC	341,851	3,481	36.08
28	Charlotte-Gastonia-Rock Hill, NC-SC	1,499,293	14,789	36.07
29	Brownsville-Harlingen-San Benito, TX	335,227	795	35.97
30	Houston, TX	4,177,646	14,552	35.70

Source: Texas Low Income Housing Information Services, using data from the May 2002 *Risk or Race? Racial Disparities and the Subprime Refinance Market* report by the Center for Community Change.

The high number of subprime mortgage loans has finally caught up with Texas and, indeed, the entire country. In the McAllen metropolitan area, over 39 percent of the mortgage volume between 2004 and 2006 were high rate loans.⁵ The inevitable result of these numbers are higher foreclosures. In August 2007, Texas reported 16,970 foreclosure filings, the fourth highest total in the nation for the month.⁶ These figures represent a 36 percent increase over July 2007, and the state's foreclosure rate of one foreclosure filing for every 532 households was 9th highest among the states.⁷ On the following page, please find a chart of July 2007 foreclosures in Texas' five largest counties.

⁵ Rick Brooks and Constance Mitchell Ford, "The United States of Subprime," *The Wall Street Journal*, October 11, 2007.

⁶ RealtyTrac, "Texas Foreclosure Activity Up 36 Percent in August," Press Release, September 21, 2007.

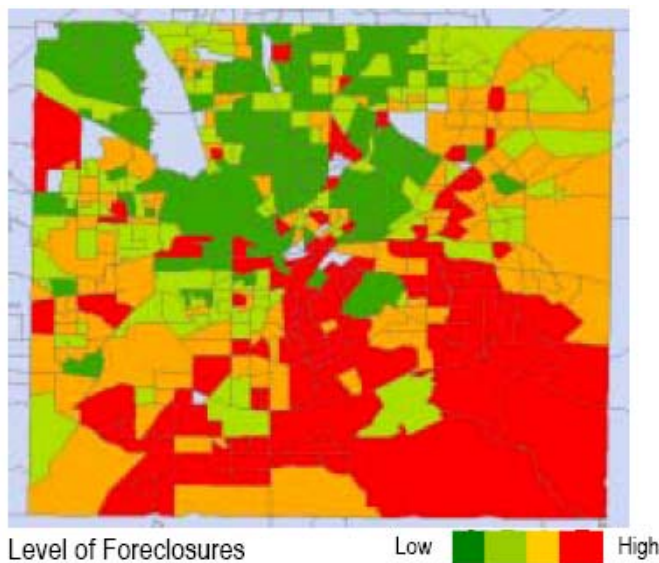
⁷ *Id.*

Texas Foreclosure Activity - August 2007

County	August 2007 Foreclosures	1 in every # households
Harris	3,176	459
Dallas	3,205	285
Tarrant	2,522	253
Bexar	1,318	435
Travis	678	577

Source: RealtyTrac U.S. Foreclosure Market Report

Here is what the 2005 to 2006 foreclosure activity looked like in Dallas County, the county with the highest number of foreclosures in August 2007:



Source: Texas Department of Housing and Community Affairs

Nationally, the numbers are alarming as well. In the most recent quarterly report issued by the Mortgage Bankers Association, this quarter's foreclosure starts rate is the highest in the 53-year history of the survey, with the previous high being last quarter's rate.⁸ According to RealtyTrac, foreclosure filings across the U.S. nearly doubled last month compared with September 2006, jumping from 112,210 to 223,538.⁹

The high rate mortgages that are causing the incredible jump in foreclosure rates are not just limited to minority, low-income borrowers. Indeed, a recent analysis by *The Wall Street Journal* shows that, in addition to low-income areas, high rate lending rose sharply in middle-class and wealthy communities.¹⁰ The problem is not over, either. As much as \$600 billion in

⁸ Mortgage Bankers Association, "Delinquencies Increase in Latest MBA National Delinquency Survey", Press Release, September 6, 2007.

⁹ RealtyTrac, "Foreclosure Activity Decreases 8 Percent in September," Press Release, October 11, 2007.

¹⁰ Rick Brooks and Constance Mitchell Ford, "The United States of Subprime," *The Wall Street Journal*, October 11, 2007.

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adjustable-rate subprime loans are due to adjust to higher rates by the end of 2008, thus putting more and more borrowers in precarious financial situations.¹¹

Again, I ask that you lead our great state to action and take immediate steps to help Texas prepare for and respond to the ongoing foreclosure crisis. I look forward to working with you on this important issue during the interim, special, and next legislative session.

Very truly yours,



Eliot Shapleigh

ES/de

Enclosure: Rick Brooks and Constance Mitchell Ford, "The United States of Subprime," *The Wall Street Journal*, October 11, 2007.
Senator Eliot Shapleigh, "Access to Capital and Credit," *Texas Borderlands Frontier of the Future*, February 2007.
Letters from Senator Eliot Shapleigh to Governor Rick Perry, Lt. Governor David Dewhurst, and Attorney General Greg Abbott regarding subprime lending.
Letters from Senator Eliot Shapleigh to Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve, regarding subprime lending.
Selected articles from *The New York Times* regarding the foreclosure crisis.

cc: The Honorable David Dewhurst
The Honorable Leticia Van de Putte, Chair of Senate Democratic Caucus
The Honorable Tommy Williams, Chair of Senate Republican Caucus

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¹¹ *Id.*