

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

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

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

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

14 WHEREAS, approximately 80% of subprime loans are Adjustable Rate Mortgages  
15 (ARMs)<sup>1</sup> for which the interest rate increases after two years and then every six months after;  
16 and

17 WHEREAS, the Center for Responsible Lending estimated in a December 2006  
18 report<sup>2</sup> that one in five subprime loans will end up in foreclosure; and

19 WHEREAS, subprime lenders made ARM's without regard to whether the borrower  
20 would be able to afford the payments after the rate increases; and

21 WHEREAS, subprime lenders made ARM's assuming that homeowners would  
22 refinance before the interest rate increased; and

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

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

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

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

5 WHEREAS, 46% of subprime loans made in 2006 required little or no income  
6 documentation<sup>3</sup>; and

7 WHEREAS, more than two-thirds of subprime loans have prepayment penalties<sup>4</sup>,  
8 compared to just 2% of prime loans; and

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

11 WHEREAS, approximately 70% of the subprime loans were refinancing loans for  
12 families who had already bought a home<sup>5</sup>; and

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

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

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

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

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22 <sup>3</sup> From U.S. Comptroller of the Currency John Dugan as quoted in " U.S. Bank Regulator Urges Curbing Stated-Income  
23 Subprime Loans", Bloomberg.com, May 23, 2007.  
[http://www.bloomberg.com/apps/news?pid=newsarchive&sid=ap\\_bmEnY5KuQ](http://www.bloomberg.com/apps/news?pid=newsarchive&sid=ap_bmEnY5KuQ)

24 <sup>4</sup> Statement of Senator Christopher Dodd, February 7, 2007.  
[http://banking.senate.gov/index.cfm?Fuseaction=Articles.Detail&Article\\_id=115](http://banking.senate.gov/index.cfm?Fuseaction=Articles.Detail&Article_id=115)

25 <sup>5</sup> 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

1           WHEREAS, these practices are commonly referred to as “predatory lending”; and

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

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

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

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

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

13           WHEREAS, Freddie Mac reports that half of all foreclosed homeowners never talked  
14 with their lender<sup>6</sup>;

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

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

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

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

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<sup>6</sup> [http://www.freddiemac.com/news/archives/corporate/2005/20051212\\_ropersurvey.html](http://www.freddiemac.com/news/archives/corporate/2005/20051212_ropersurvey.html)

- 1           • Prohibit lenders from making mortgages that quickly become unaffordable after the  
2 interest rate increases
- 3           • Stop the misuse and abuse of stated income loans
- 4           • Eliminate prepayment penalties on subprime loans
- 5           • Designate the failure to escrow taxes and insurance in subprime loans as an  
6 unfair and deceptive practices; and, be it
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8           FURTHER RESOLVED, that the City and County of San Francisco calls on the 25  
9 largest subprime mortgage lenders and servicers in the country to voluntarily agree to a six  
10 month suspension on foreclosures of owner-occupied properties in City and County of San  
11 Francisco; and, be it

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

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

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

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

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