



FIRST NATIONS DEVELOPMENT INSTITUTE

Educating Grassroots Practitioners – Advocating Systemic Change – Capitalizing Indian Communities

“We believe that, when armed with appropriate resources, Native peoples hold the capacity and ingenuity to ensure the sustainable, economic, spiritual, and cultural well being of their communities.”

Native Financial Education Coalition (NFEC) Policy Priority Four Predatory Lending

Specific Action Required

This factsheet supports NFEC’s recommendations that Congress:

- #1 Enact strong anti-predatory lending legislation that protects all borrowers, but allows tribal and state jurisdictions to regulate practices that specifically threaten their communities.
- #2 Support comprehensive financial education programs so Native people receive adequate information to avoid predatory lending practices.

Further, and more specifically, it recommends that Congress:

- Enact the Prohibit Predatory Lending Act (HR 1182) with a specific provision protecting tribal regulation.
- Oppose the Responsible Lending Act (HR 1295)
- Support education campaigns to inform consumers of alternatives to payday lending
- Support strong legislation to regulate predatory payday lending practices

Background Information

The geographic remoteness and cultural uniqueness of many Native communities mean Native people are often unprepared to deal with predatory lending practices. The most threatening predatory lending is that focused on aspiring Native home-owners. Detailed studies of predatory lending in Native communities have shown the most vulnerable citizens are not only the impoverished but the new asset-owners.¹ Examples abound of mutual-help home owners being approached with loan offers just weeks after receiving the title deed; and first time homeowners being preyed upon as they take their first steps towards full participation in the ‘ownership society.’

National data demonstrate Native people are almost twice as likely as whites to receive a mortgage from a sub-prime or manufactured home lender in 2000. That data set indicated that more than one in four loans to Native people were from sub-prime lenders while only one in ten loans to non-Hispanic Caucasians were from those lenders. States with higher Native population face even more troubling data with 79 percent of Native mortgages in New Mexico taken from sub-prime lenders when compared to only 16 percent of non-Hispanic Caucasians.² 2001 data in South Dakota showed Native people were three times more likely than non-Hispanic Caucasians people to get a mortgage from a high-cost lender.³ Tribal leaders are taking action to curb this practice and it is time for the Congress to stand with them in opposing this unscrupulous behavior.

1 First Nations Development Institute, (2003) *Predatory Lending in Native Communities* and National American Indian Housing Council and National Community Reinvestment Coalition, (2003) *High Cost Lending on Indian Reservations – Watch Out if You Are Buying a Home: A Survey Report and Data Analysis* by NAIHC and NCRC

2 FNFI, *Predatory Lending*

3 NAIHC and NCRC, *High Cost Lending*

Tribal leaders support predatory lending legislation that recognizes tribal sovereignty. The two predatory mortgage lending bills on the floor of the House could not be more different in their approach to the issue of preemption or other protections for vulnerable borrowers. The minimum federal standards set by HR 1182 (sponsored by Rep. Miller (D-NC), Rep. Watt (D-NC), and Rep. Frank (D-MA)) provide the right context for the protection of all Americans while allowing state governments to regulate specific practices that threaten their citizens. The federal preemption and relaxed standards proposed by HR 1295 (sponsored by Rep. Ney (R-OH) and Rep. Kanjorski (D-PA)) would significantly weaken tribal and state regulation already in place and leave Native community members in an unacceptably vulnerable position. HR 1182 does appear to require amendment to ensure tribal regulations are protected but generally provides the framework of protections that are most necessary for Native borrowers.

Payday lending is a trap that has cost many Native families dearly. Studies by the Center for Responsible Lending have estimated predatory payday lending practices to cost American families \$3.4 billion annually. Their research has shown that the payday lending business model is designed to keep borrowers in debt, not to provide one-time assistance during a time of financial need. According to a December 2003 study of payday lending industry data, borrowers who receive five or more loans a year account for 91 percent of the lenders' business.⁴ While there is no specific legislation in Congress to address these abusive practices, we call upon Members to partner with tribal governments and community-based organizations to ensure consumers are aware of lower-cost alternatives to payday lending and to create legislation that will address this trap that has caught so many Native and non-Native people.

While predatory mortgage lending can have permanent effects on the asset-building efforts of people with low incomes, and payday lending can trap people in a cycle of poverty, predatory tax preparation practices can actually stop people, who should be able to take advantage of a tax refund, from utilizing an annual 'windfall,' prohibiting them from taking personal steps to address their economic situation in a positive manner. More specific details of this issue and related recommendations are outlined in the factsheet associated with policy priority five.

This factsheet was prepared at the request of the Native Financial Education Coalition with significant contributions to the content by the National Congress of American Indians (NCAI) and First Nations Oweesta Corporation.

⁴ Ernst, Farris, and King, (2004) *Quantifying the Economic Cost of Predatory Payday Lending*

