



RACIAL JUSTICE &
EQUAL ECONOMIC
OPPORTUNITY PROJECT

NATIONAL CONSUMER LAW CENTER

Discrimination in the Manufactured Housing Industry: An Inside Look at Abusive Lending and Collection Practices by the Nation's Largest Mobile Home Company

March 22, 2016

Congressman Keith Ellison
Minnesota's 5th District

Daniel Wagner
BuzzFeed News

Mike Baker
Seattle Times

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Moderator – Odette Williamson

- Odette Williamson is a staff attorney at the National Consumer Law Center specializing in sustainable homeownership, consumer credit, elder justice and foreclosure prevention issues. Prior to joining NCLC, Ms. Williamson was an Assistant Attorney General in the Consumer Protection and Antitrust Division of the Massachusetts Office of the Attorney General.
- Ms. Williamson also leads the Racial Justice and Equal Economic Opportunity Project, focused on challenging the marketplace abuses aimed at individuals and communities of color.



Racial Justice and Equal Economic Opportunity



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The project on Racial Justice and Equal Economic Opportunity seeks to address the abusive and exploitative practices in the marketplace that have decimated the finances of communities of color.

<http://www.nclc.org/issues/racial-justice.html>



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NEWS
FOR
ADVOCATES



Investigative News Spotlights Discriminatory Lending Practices in the Manufactured Housing Industry

***Free webinar on March 22 with U.S. Congressman Keith Ellison,
BuzzFeed News and Seattle Times Reporters***

A recent [investigative](#) story by *Buzzfeed News* and the *Seattle Times* exposed potentially discriminatory lending and debt collection practices by the nation's largest manufactured housing company, Clayton Homes and its lending subsidiaries Vanderbilt Mortgage and 21st Mortgage.

The story detailed predatory practices that resulted in borrowers of color being charged substantially higher rates, on average, than white borrowers. Borrowers of color earning between \$75,000 and \$100,000, on average, paid interest rates higher than those paid by white borrowers making \$25,000 to \$50,000, according to *Buzzfeed News* and the *Seattle Times* analysis of Vanderbilt's loan data.

Other Webinars in this Series

Below is a partial list of past webinars sponsored by NCLC's Racial Justice & Equal Economic Opportunity Project.

Find these and other webinars at: <https://www.nclc.org/racial-justice.html>

- The Color of Debt: Racial Disparity in Debt Collection Lawsuits
- Debt and Democracy: How the Collection of Civil Fees and Fines Contributed to the Unrest in Ferguson
- Weblining and Other Racial Justice Concerns in the Era of Big Data
- Holding Wall Street Accountable for the Subprime Mortgage Crisis in Urban America





Presenter – Keith Ellison



- **Minnesota's 5th Congressional District which includes the City of Minneapolis and surrounding suburbs**
- **His priorities in Congress are building prosperity for working families, promoting peace, pursuing environmental sustainability, and advancing civil and human rights**
- **He is the author of several key pieces of consumer legislation including the Credit Cardholder's Bill of Rights of 2009 and Protecting Tenants in Foreclosure Act**
- **Member of the House Financial Services Committee**





Presenter – Mike Baker

- **Investigative reporter for The Seattle Times. He joined the Times in 2014 after eight years with the Associated Press.**
- **Baker has won or shared a variety of reporting awards. In 2015, he was part of a Seattle Times team that was awarded the Pulitzer Prize for Breaking News for coverage of the devastating Oso, Washington landslide.**
- **At AP he won the Scripps Howard award for coverage of the Fort Hood massacre, a Polk award for coverage of the Gulf oil spill, an APME award for coverage of the recession and the Edward R. Murrow award for investigation into student visa abuses.**





Presenter – Daniel Wagner

- **Joined BuzzFeed News' investigative unit in 2015 after two years as an investigative financial reporter at The Center for Public Integrity.**
- **He was recognized as a runner-up for the Scripps-Howard award in Business Reporting for his and Baker's reporting on manufactured housing.**
- **His work for the Center received numerous honors including the George Polk Award, two Sigma Delta Chi Awards, the Online News Association's AI Neuharth Innovation in Investigative Journalism Award and finalist for the Gerald Loeb Award.**
- **Major stories focused on the lack of accountability for perpetrators of the financial crisis, and how financial companies extract billions of dollars from prison inmates' families.**





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September 2014

Manufactured-housing consumer finance in the United States



FIGURE 1: MANUFACTURED HOUSING SHARE OF OCCUPIED HOUSING UNITS, BY STATE.¹⁶

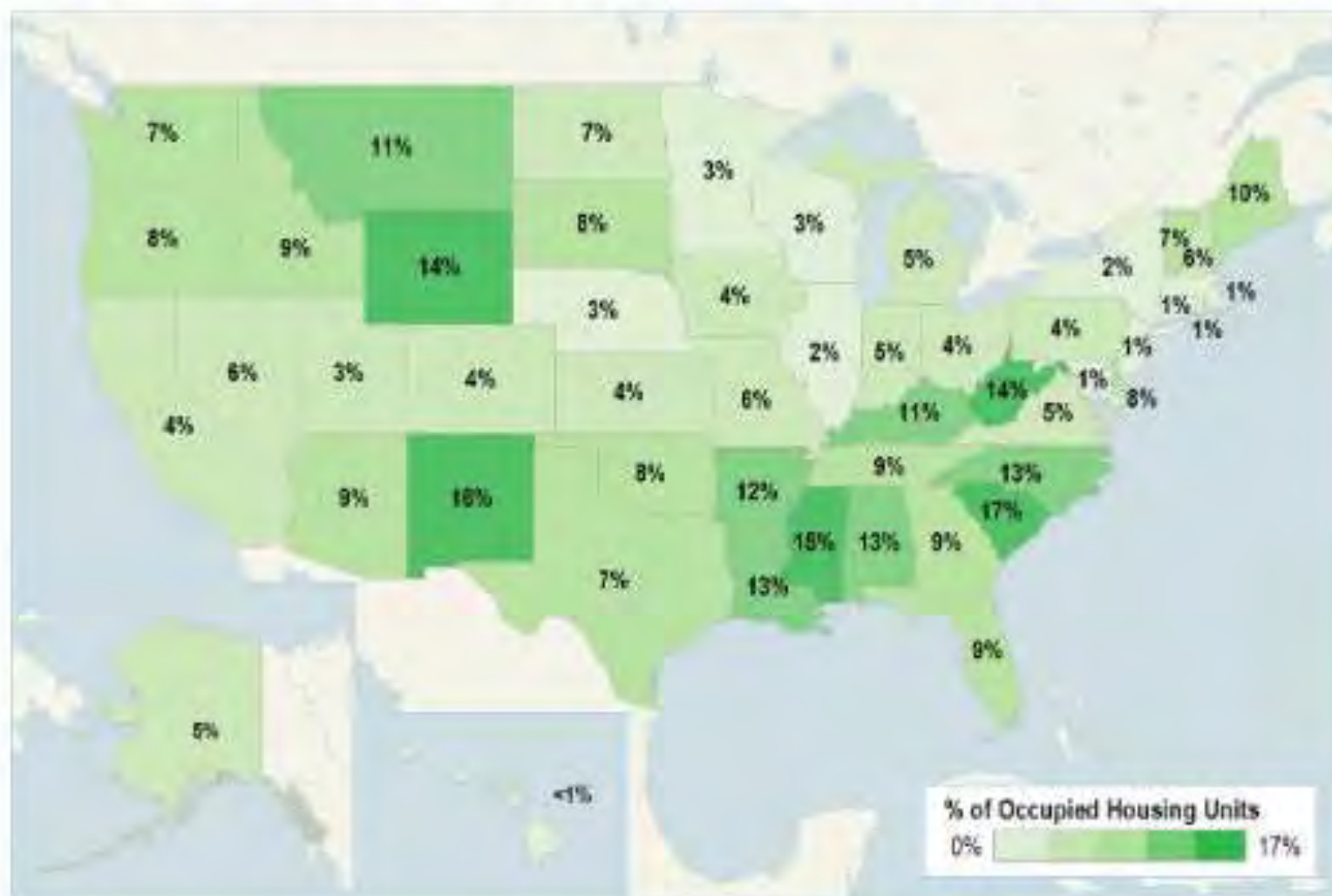


FIGURE 7: HIGHER-PRICED AND HOEPA HIGH-COST LOANS, SHARE OF PURCHASE LOANS ORIGINATED BY HOUSING TYPE⁶⁸



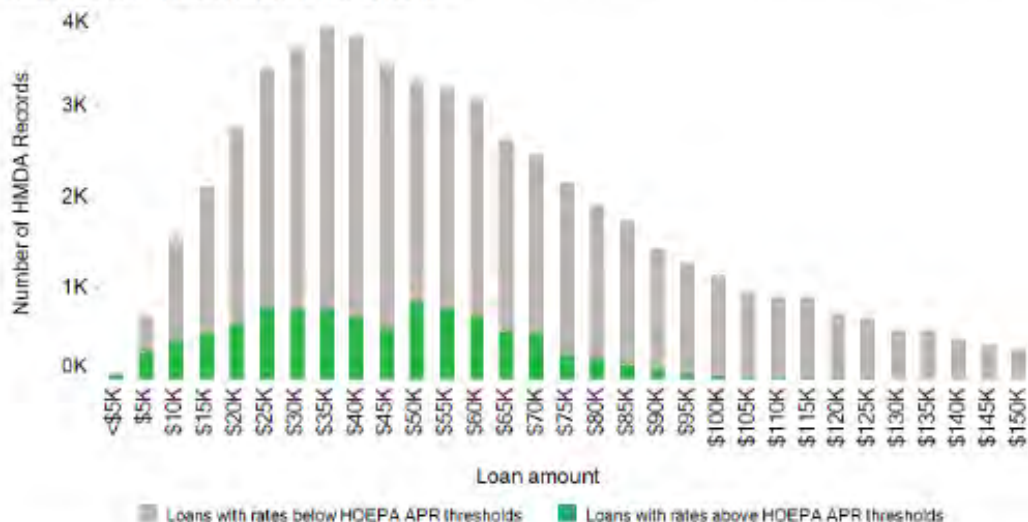
Loans for manufactured homes are also more likely to be classified as “high-cost” loans, as defined by the Homeownership and Equity Protection Act (HOEPA). High-cost loans (or “HOEPA loans”) are those with an APR or points and fees that exceed certain thresholds. HOEPA provides certain protections to consumers that take out high-cost loans, including additional disclosures, home ownership counseling, and restrictions on certain loan contract terms. The first threshold is based on the loan’s APR and is set at 650 basis points above APOR for all first-liens and 850 basis points for junior liens as well as for first-lien personal-property loans for less than \$50,000. The second threshold is based on points and fees and, in general, is five percent of the loan amount, with different thresholds for loans under \$50,000.

The Bureau analyzed 2012 HMDA data to compare first-lien manufactured-home and site-built loans that may be considered HOEPA loans. The current HOEPA thresholds described above did not take effect until 2013, so this analysis classified loans originated in 2012 as high-cost

⁶⁸ HMDA 2012, *supra* note 23.

Other such factors.

FIGURE 8: MANUFACTURED HOME PURCHASE LOANS ABOVE HOEPA HIGH-COST APR THRESHOLD, BY LOAN AMOUNT, BASED ON 2012 HMDA DATA⁷³



Based on HMDA data, the majority of these loans with APRs that exceed the HOEPA APR threshold for manufactured homes were originated by two creditors—the only creditors that originated more than 250 manufactured-home loans for home-purchase in 2012 that have rates that exceed the HOEPA APR threshold. These two creditors originated approximately 5,500 and

⁷² The estimated share for manufactured-housing loans falls to about ten percent for all loans (i.e., home-purchase, refinance, and home improvement loans).

⁷³ HMDA 2012, *supra* note 23. Note that analysis is for first-lien home-purchase loans secured by a 1–4 family property, excludes loans to businesses, and considers only the APR threshold; not the points and fees threshold because points and fees are not reported in HMDA. The estimate also assumes all loans with APR spreads between 650 and 850 bps over APR are secured by personal property. Finally, it assumes no lender response to the enactment of the HOEPA final rule.

TABLE 7: MANUFACTURED HOME ELIGIBILITY REQUIREMENTS FOR FHA TITLE I AND II PROGRAMS⁷⁷

FHA Title I	FHA Title II
Personal property	Real estate, permanent foundation
Land only, land/home, or home only; site can be leased	Unit and land only; site must be owned and titled as real estate
Loan limits: MH only: \$69,678 Lot only: \$23,226 Combination: \$92,904	FHA site-built limits apply: \$271,050-\$625,500 by area
5% down if credit score is 500+ 10% down if credit score is <500	Like FHA site-built requirements: 3.5% down Or 10% if credit score is <580
FHA insures maximum 90% of loan	Insures all of loan loss

House Members who seek to weaken CFPB Rules Regarding Manufactured Housing
These members signed a letter led by Rep. Fincher seeking to allow steering and higher cost loans

Member	District
Stephen Fincher	TN-08
Kevin Cramer	ND-At Large
Collin C. Peterson	MN-07
Brad Ashford	NE-02
Mike Bost	IL-12
Rod Blum	IA-01
Tim Huelskamp	KS-01
Bob Gibbs	OH-07
Lynn Jenkins	KS-02
Adrian Smith	NE-03
Jackie Walorski	IN-02
Sam Graves	MO-06
Jim Costa	CA-16
Rodney Davis	IL-13
Adam Kinzinger	IL-16
Vicky Hartzler	MO-04
Ryan Zinke	MT-At Large
Kristi Noem	SD-At Large
Sean Duffy	WI-07
Luke Messer	IN-06
Jeff Fortenberry	NE-01
Frank D. Lucas	OK-03
Darin LaHood	IL-18
Bradley Byrne	AL-01
Mike Pompeo	KS-04

H. R. 3275

To authorize the Secretary of Housing and Urban Development to provide grants and loans to owners of dated manufactured homes for the replacement of such dated manufactured homes with Energy Star-qualified manufactured or modular homes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. ELLERON introduced the following bill, which was referred to the Committee on Financial Services:

A BILL

To authorize the Secretary of Housing and Urban Development to provide grants and loans to owners of dated manufactured homes for the replacement of such dated manufactured homes with Energy Star-qualified manufactured or modular homes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Efficient Manufactured Home Act of 2015".

SEC. 2. ASSISTANCE FOR REPLACEMENT OF DATED MANUFACTURED HOMES WITH ENERGY-EFFICIENT MANUFACTURED AND MODULAR HOMES.

(a) **AUTHORITY.**—The Secretary of Housing and Urban Development may carry out a program under this section to provide grants to assist low-income, very low-income, and extremely low-income owners of dated manufactured homes for the replacement of such dated manufactured homes with Energy Star-qualified manufactured or modular homes.

(b) **GRANTS.**—

(1) **ELIGIBLE ENTITIES.**—The Secretary may provide grants under this section only to—

- (A) State housing finance agencies;
- (B) units of general local government; and
- (C) qualified nonprofit organizations.

(2) **COMPETITION; PRIORITY.**—The Secretary shall provide grants under this section through competition that provides priority to applicants for such grants that, in accordance with criteria established by the Secretary—

An overview

Mobile home loans and borrowers are different.

Clayton Homes dominates the industry.

Clayton charges borrowers of color a lot more.

Clayton targets borrowers of color and steers them into costly loans.

Collections practices reportedly include abuse and racism.

What's different about
mobile-home lending?

Mobile-home loans are different

Chattel (“personal property” loans)

— Closer to car loans than to traditional mortgages.

Buyers lack some mortgage protections.

Homes can be repossessed, which is faster than foreclosure.

Roughly 65% of MH buyers who owned land got chattel loans between 2001 and 2010.

Loans often arranged by sales facility

Rates can be much higher — Clayton has done loans in recent years over 15%. Many are over 10%.

Like cars, homes can depreciate rapidly, leaving many borrowers underwater for longer than the home is usable.

Price	Other costs ?	Interest rate ?	Down payment
\$96,005.56	\$10,074.92	12.5%	4.9%

15 years

20 years

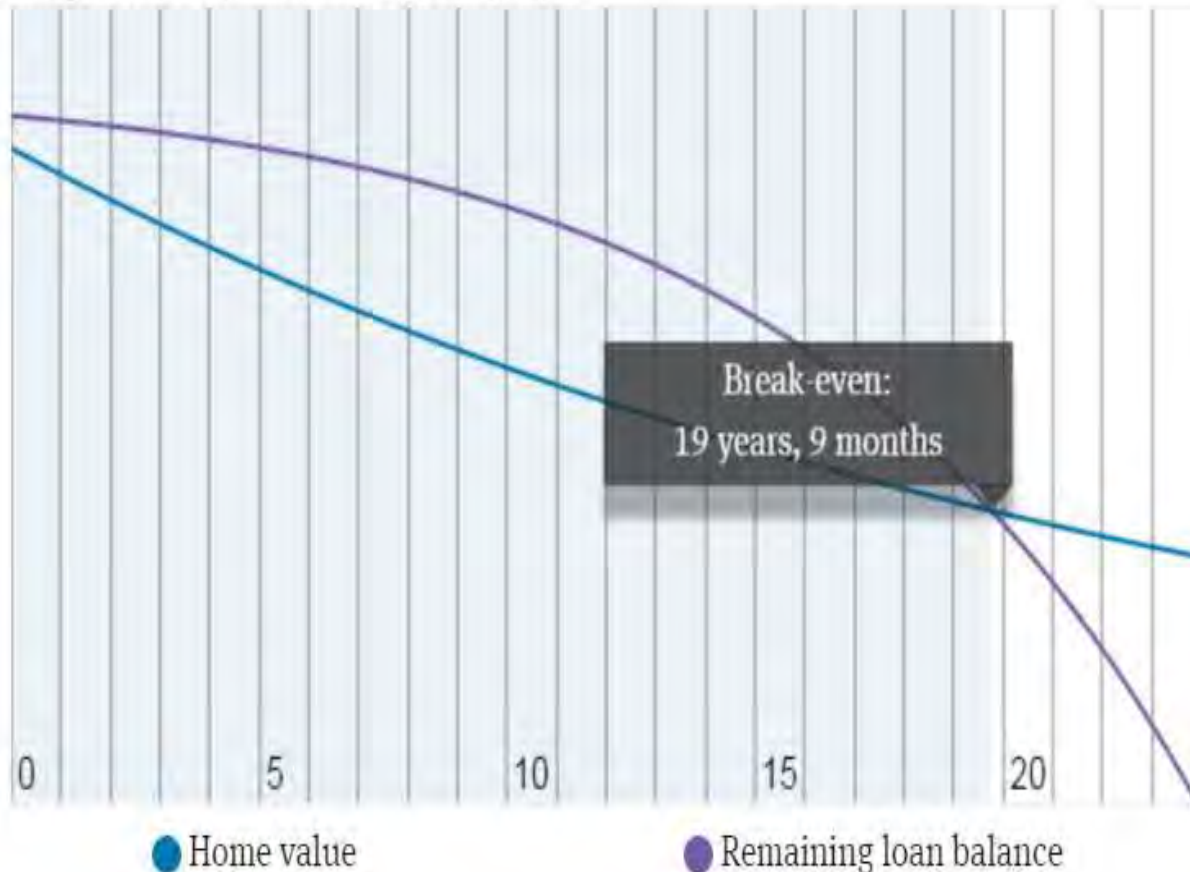
24 years

30 years

RESULTS

Final home value: **\$36,042 (38% original)**

Total paid: **\$323,964 (305% principal)**



Mobile-home buyers are different

Buyers of mobile homes tend to be poorer, older and more rural than typical homebuyers:

Median income for mobile-home households is roughly half the median income of families in other types of homes.

Thirty-two percent of mobile home households are headed by retirees, compared with 24 percent of site-built homes.

Mobile homes account for 6 percent of housing nationwide, but 14 percent outside of metropolitan areas.

Minorities are a growing part of market

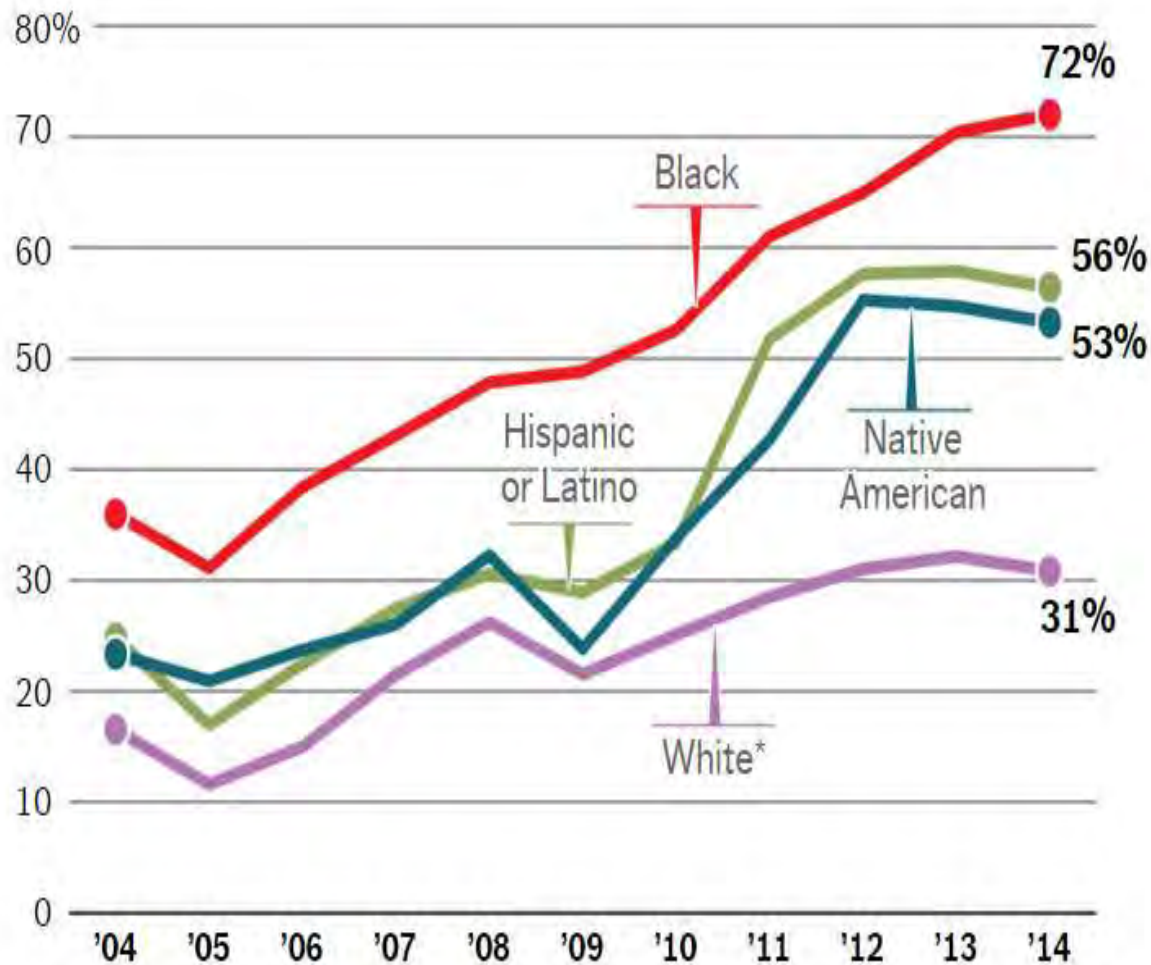
Mobile homes are a crucial housing type particularly for people of color concentrated in rural areas, such as Indian reservations and the Louisiana bayou.

About 18 percent of mobile-home borrowers in 2014 were people of color.

Counties with the largest number of mobile-home loans to minorities show Clayton's market dominance. This is where we began our reporting . . .

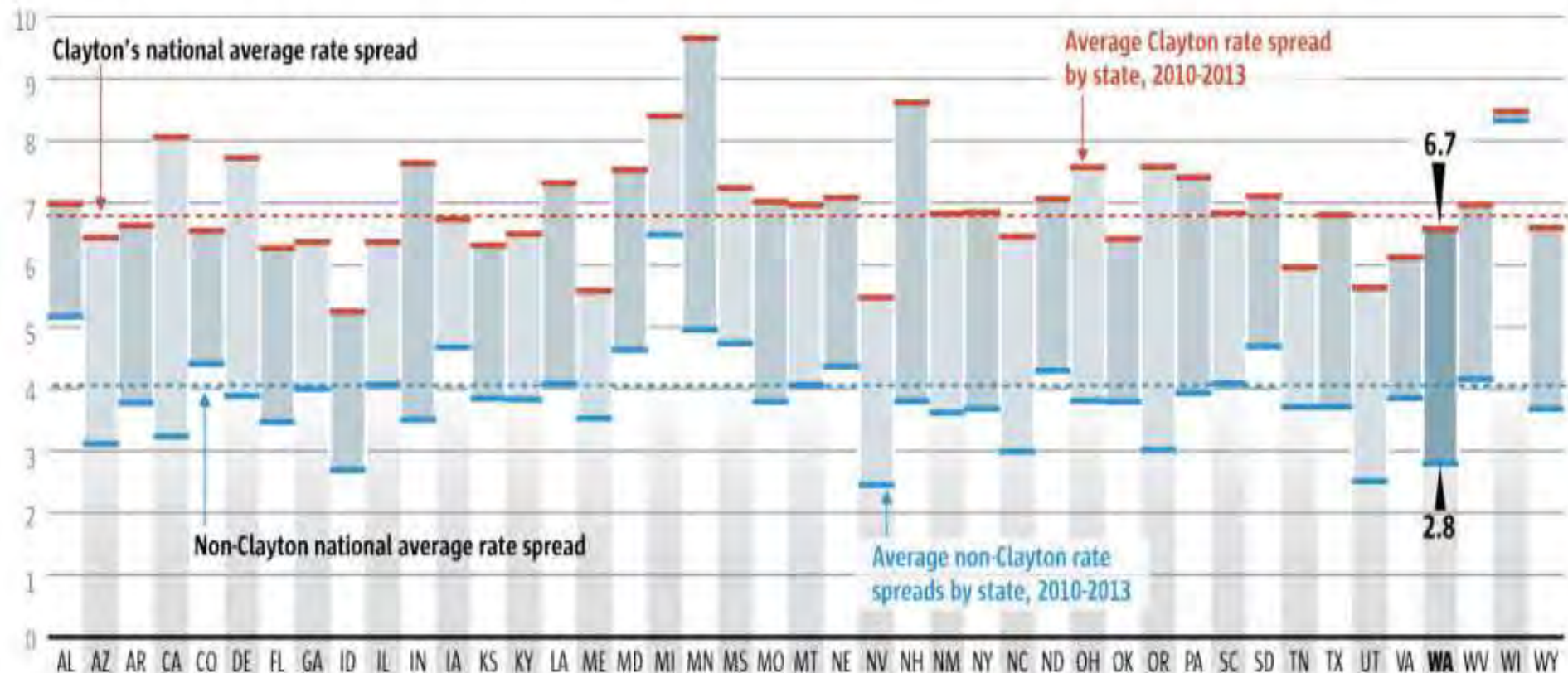
Clayton brands now dominate minority lending

Clayton Homes' market share among minorities who take out mobile-home loans has grown dramatically over the past decade. Last year, among the thousands of lenders required to report federal data, 72 percent of black borrowers got their loans from Clayton's Vanderbilt Mortgage and 21st Mortgage.



Clayton's extreme interest rates

Most of Clayton's mobile-home loans are considered "higher-priced" under federal rules and require additional disclosure. Among those loans between 2010 and 2013, Clayton's rates averaged 6.8 percentage points above a typical home loan – a gap known as a "rate spread" – far higher than the rest of the industry.



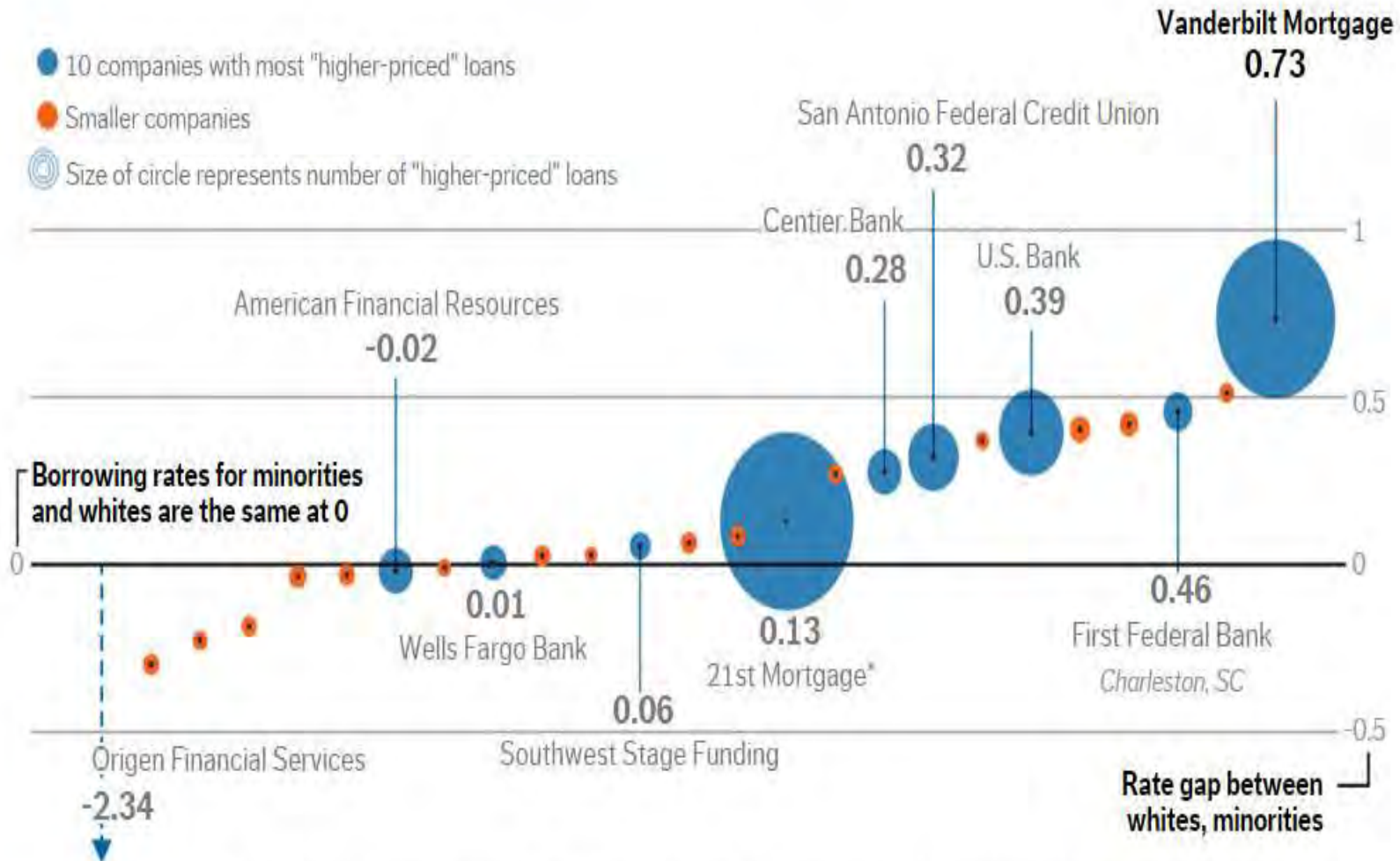
NOTE: Alaska, Connecticut, Hawaii, Massachusetts, New Jersey, Rhode Island and Vermont had fewer than 20 Clayton mobile-home loans

Source: Seattle Times analysis of data from the Federal Financial Institutions Examination Council

GARLAND POTTS / THE SEATTLE TIMES

Compared to peers, Vanderbilt charges minorities the most

Under federal rules, a lender making a “higher-priced” loan must disclose data about its interest rate. Among the 25 companies that originated at least 500 such mobile-home loans over the past five years, Clayton Homes’ Vanderbilt Mortgage gave the highest rates to minority borrowers as compared to whites.



*21st Mortgage is also a Clayton Homes lender but works primarily with retail lots not owned by Clayton.

How did Clayton come to dominate the mobile-home market?

One of the last companies standing after the industry crashed in the late 1990s and early 2000s, and one of the last that retained access to cheap funding by securitizing its loans.

As the market for MH loan-backed securities dried up, Clayton needed a new funding source. Founding family recognized that Berkshire Hathaway's sterling credit rating would enable them to borrow cheaply and approached Buffett. He offered to buy Clayton outright.

Under Buffett's leadership, Clayton bought up loans and other assets of competitors, growing its loan portfolio.

The portion of Clayton's income from finance was growing before Buffett bought it. Under Buffett, it became the lion's share.

Today, Clayton controls more than 70 percent of the market for mobile-home loans in some states.

Buffett built a behemoth in mobile-home lending

In 2003, Berkshire Hathaway purchased Clayton Homes, a mobile-home builder and lending company. Berkshire moved aggressively to acquire Clayton's major competitors, consolidating its dominance over the industry.

Share of new mobile-home loans among lenders subject to disclosure*

Size of loan portfolio at end of year** (In billions)



*No market share data available for 2003 or 2014.

**2013 figure is an estimate based on changes in Berkshire disclosure methods

Sources: Securities and Exchange Commission; Federal Financial Institutions Examination Council; National Archives



BERKSHIRE HATHAWAY INC.

How does Clayton draw in minority customers?

Targeting with ads and loan programs.

Demographic research and outreach.

Sponsoring events such as Pow-Wows in high sales volume areas with large minority populations.

Spanish language ad

TU CASA NUEVA, BUENA, BONITA, BARATA

Empezando en **\$29,999**

Mensualidades
desde sólo

\$299.99

¡Sin Crédito, Sin Social!

¡Su ITIN y su promesa es lo único que necesitamos!

Enganche
desde sólo

\$1,800

RBI #32763

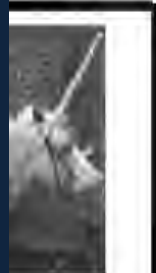
¿No tiene terreno? ¡SE LO FINANCIAMOS!

Clayton Homes Austin & San Antonio 2272 Austin Hwy. Leo 210-654-7999

Single parent loan program

Won't let dogs
pasture, \$50, 225-

bumper pulled.
903-738-5941.



**HORSE
PASTURE
G.**
ers at 225-
266-2483.

papers, \$1400,

EL TANK: Used
delivered, 225-

**NS
550.**

9500. WE CAN
Includes Labor.

6x12 Building:
2000 TOTAL

507

Condos/Townhomes For Sale

2BR/ 2BA: Wooden floors throughout, front & back balconies. Washer and dryer included, newly renovated. \$127,900. 225-803-2575.

FSBO: 2BR/ 2BA, Call for an appointment. 225-615-8246

SINGLE PARENT PROGRAMS

*2, 3, 4 Bedrooms For Sale
Specials Available Now!*

225-644-4663

7782 LASALLE AVENUE: Unit #8, 2BD/ 2BA condo, fully renovated, central A/C, hardwood floors, \$139,000. 504-533-4111.

13765 KENNER AVE: 2BR/2.5BA, 1183sqft.. Cheery wood floors and carpet. Fenced yard. \$102,000. 225-223-3663.

BEAUTIFUL LSU CONDO: 1br/ 1ba, 515 sf, only 1.7 miles to LSU, \$56,900, BANK FINANCING. 504-888-5900.

510

TO SELL YOUR HOME, C

AREA 3

HOMES FOR SALE: NEAT 2BR/1BA Remodeled home at 4919 Fairfield \$39,900; **ALSO HUD HOMES:** Some closing costs paid. **CO-OP REALTY 225-774-3424.**

AREA 4

4955 SUNNYBROOK 4BD/2BA, .58 acres, completely renovated \$149,900 225-603-1226.

AREA 5

4BR/ 3.5BA: 3900 living area, 2 car enclosed garage, 2 story, cathedral ceiling, SS appliances. \$449,000. 225-361-7066.

AREA 6

1589 SOUTH ACADIAN: 3BD/ 2.5BA on 1 acre, completely renovated, \$369,900, Kurt 225-614-7323.



EQUITY

318-746-8

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Native American housing



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Indian Reservation Housing

Nationwide we take pride in providing housing solutions to Native American communities. Whether your Tribal Members are looking for Single Residential dwellings, apartments or townhomes, we have the solution you are looking for.

We have built Thousands of homes for Tribal members and we enjoy getting to know the unique opportunities that each Tribal Housing need provides. If you have interest in our Indian Reservation Housing programs and Indian Financing Programs available, be sure to ask to speak to the Home Center Manager at any one of our locations.

Steering people into costly loans

Federal laws prohibit sales reps from guiding buyers to a particular financing option. (15 U.S. Code § 1602 and Regulation Z)

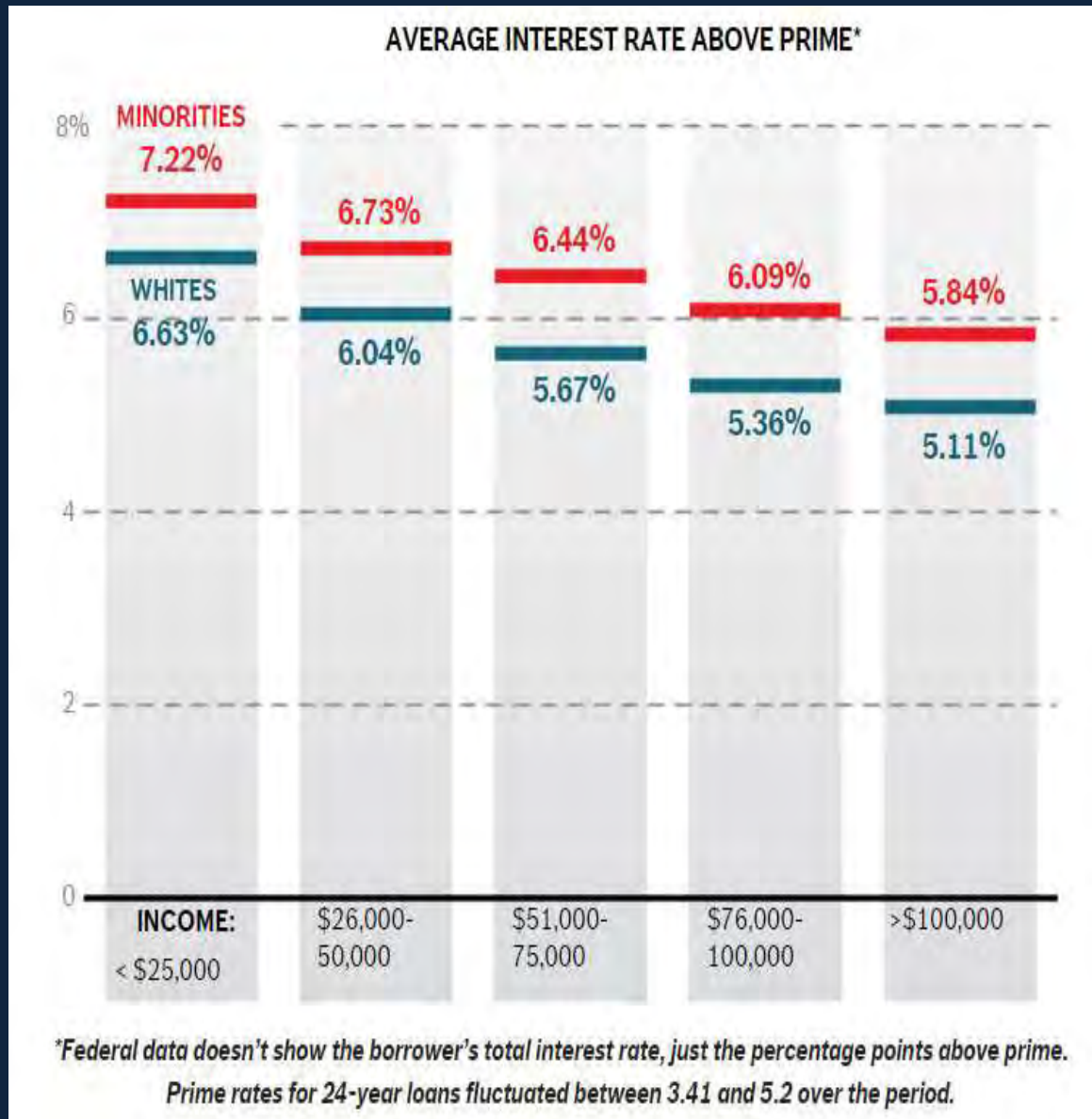
Dozens of minority borrowers interviewed were led to believe Vanderbilt was their only option, or their best option.

Internal records show Clayton closely monitors its “capture rate” -- or what percentage of customers take on Vanderbilt loans.

Former workers have reported quotas needed to be met. Internal records show lots are ranked based on their “capture rate.”

Three former workers said agents see low-income minorities as easy targets to get into high-cost loans.

Racial disparities persist at all income levels



Other problems reported in sales and origination

Changing loan terms after customers pay deposits or spends money to prepare land

Surprise fees

Failing to provide translators

Rushing people through closing

Disparate treatment of borrowers of color

False promises of future refinancing

Abusive collections

Both collectors and borrowers report racial slurs and abuse.

Mailers offer help with borrowers who are struggling, but collectors are trained to audit family finances and suggest people seek charity from churches, food banks and friends.

Borrowers report false threats of immediate repossession or foreclosure, even when the process will take weeks or months.

Audio from call in Louisiana: <https://soundcloud.com/buzzfeednews/21st-mortgage-plasma/s-fJSQK>

What's the impact?

Borrowers often lose family land or down payments.

Down payment often comes from inheritance, insurance payout or some other one-time financial gain. Once it's gone, it's gone. Collectors say those who stand to lose land frequently plead: I'll give up the home if you'll let me keep the land.

Damaged credit / bankruptcies

Buffett reported more than 8,000 repos last year.

Homes can be refurbished and resold.

Clayton limits losses by reselling homes that have been repossessed.