

## Commentary

# New Jersey Affordable Housing Policy And Subprime Loans: Close Cousins

By Donovan Bezer

**S**uddenly, banks are teetering on the verge of collapse, and Treasury Secretary Henry Paulson Jr. says the answer is an immediate cash infusion of \$700 billion. Beware: the errors of the past, for which Congress has been asked to write a check to Paulson, are presently being repeated (albeit in slightly different form) by the state of New Jersey.

Subprime mortgages are to blame for the current turmoil in the financial markets. While fair value accounting and the securitization of collateralized debt are contributing factors, this crisis stems from banks underwriting mortgages for people who could not afford them. Why would a bank lend money to someone who lacks the ability to repay? Because the federal government encouraged it, and made the money available.

Fannie Mae and Freddie Mac are quasi-federal entities that lent lots of money to homebuyers. As you have likely read elsewhere, Fannie and Freddie are bust. Congress, too, actively sought to make mortgages available to anyone with a pulse. Lawmakers passed the Community Reinvestment Act in 1977 (adding administrative teeth in 1993) to encourage banks to increase home ownership among underserved populations. The full court press for home ownership continued, and by 2005, 69 percent of

*Bezer is an associate with Stryker, Tams & Dill in Newark and a former affordable-housing administrator for the City of Jersey City.*

all homes were owner-occupied. This represents the highest level ever of home ownership in America.

Mortgages can be bundled together and traded as a security. After mortgage-backed securities were adulterated with loans to people who could not afford their mortgage, lenders became extremely cautious. Today, you will find it difficult to get a mortgage even if you can afford it, where you seek to purchase with a down payment of less than 20 percent.

Astoundingly, in the area of subsidized housing, the state is marching blithely in the other direction. Gov. Jon Corzine (my predicted successor to Paulson) is increasing the number of homes that must, by law, be sold to people of modest means.

He has ordered that we create affordable housing units at four times the rate we have in the past. While about 65,000 units were created in the 23 years between 1985 and 2008, the state demands an additional 50,000 units be created in the next 10 years.

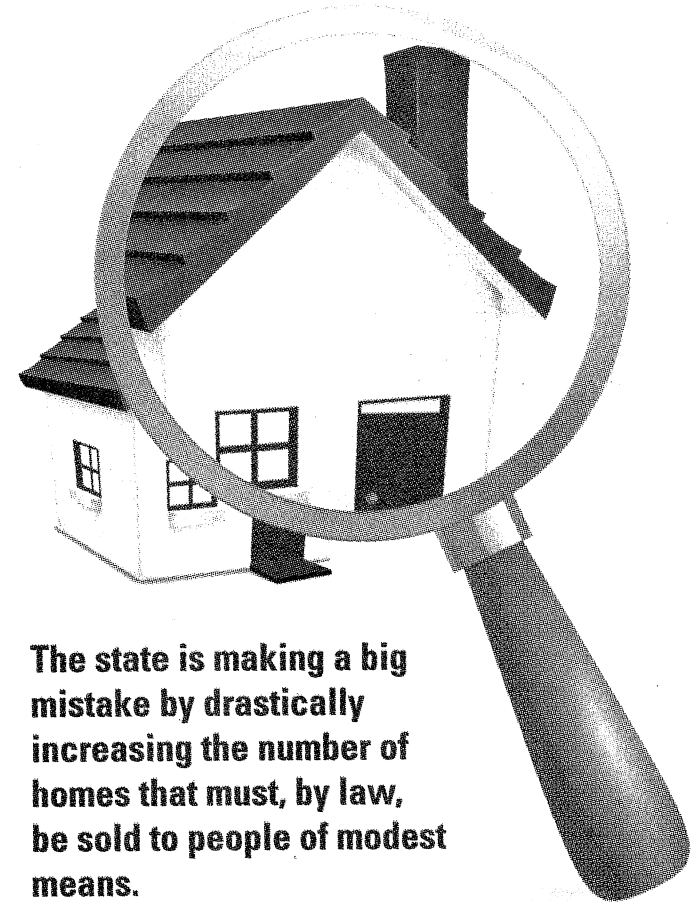
In addition, this past June he signed a bill, A-500, that modifies the Fair Housing Act to mandate that fully 17 percent of all affordable housing buyers be of "very low income," defined as a buyer who earns no more than 30 percent of the area's median income. While the enacted law slyly avoids "requiring" that 17 percent be very low income, a May 22 statement to the bill did say the 17 percent was "required."

Can a person qualified as having very low income afford to buy? In Jersey City,

where waterfront development has pushed the value of modest, one-bedroom apartments north of \$250,000, an unmarried buyer qualified as having very low income must earn less than \$14,600. Even after government subsidies, the purchase price is still more than \$100,000. The state's position is that a single person who earns \$14,600 has the ability to pay a mortgage, and should be encouraged toward home ownership — in this economy. If you lived alone and made \$146,000, could you afford a \$1 million home?

And although very low income buyers assume all the obligations of home ownership, they do not possess the same ownership interest as similarly situated people earning \$14,600 pushed into a subprime mortgage by predatory lenders. Affordable buyers take their property subject to government-imposed liens and restrictions on resale price, which ensure that the unit will remain at the artificially low price for the next very low income buyer. Such buyers believe they "own" their home, but what they have is far from a fee simple absolute.

Victims of predatory lending at least have the chance of being saved by appreciation in their investment in an upward housing market. But if the buyers sell



**The state is making a big mistake by drastically increasing the number of homes that must, by law, be sold to people of modest means.**

Illustration by iStockphoto.com/Luseen

above the regulatory resale price, the state takes nearly all the profit. The state is thus housing people who might otherwise be homeless. To do this by encouraging people to buy when they will be denied the most fundamental benefit of home ownership — the possibility of gain — is comparable to predatory lenders tricking poor people into buying homes.

Not everyone needs a left-handed mitt and not everyone needs to own a home. Gov. Corzine, there's no shame in renting. ■