

# **FORECLOSED!**



**PREDATORY LENDING IN JEFFERSON COUNTY**  
**A REPORT TO THE LOUISVILLE URBAN LEAGUE**



**Predatory Lending in Jefferson County**  
**A Report to the Louisville Urban League**

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## Executive Summary

Rising foreclosure rates in Jefferson County and throughout Kentucky can be attributed to several causes, including the expansion of mortgage lending to marginal borrowers, excessive consumer debt, and the soft economy. Anecdotal evidence suggests that predatory lending may also be an important cause of foreclosure in many cases.

Predatory lending comes in many forms, including:

- *Packing* loans with single-premium credit life insurance policies and other fees that are often not disclosed to the borrower.
- *Balloon payments*, which are large repayments due at the end of the loan term that allow for low monthly payments. *Payable on demand clauses* may also be included.
- *Loan flipping*, which is the repeated refinancing of loans so that additional high fees can be charged.
- *Excessive interest rates* charged to borrowers who would qualify for lower rates.
- *Inflated appraisals* that qualify borrowers for loans that are larger than would be justified by the value of the property.
- *Prepayment penalties* discourage borrowers from refinancing to obtain lower interest rates.
- *Underwriting based solely on the property's value* and not on the borrower's ability to repay.
- *Inflated incomes* that qualify borrowers for loans that are larger than they can afford to repay.
- *Fraudulent home repair schemes* that coerce homeowners to mortgage their homes in exchange for shoddy or otherwise inadequate work.
- *Failure to fully disclose* the terms of a mortgage loan to borrowers.
- *Pressure and intimidation* for homeowners to sign loan documents.
- *Misleading or fraudulent marketing* of loan programs or home repair schemes, including "bait and switch" tactics where the terms at closing are different from those discussed earlier in the process.
- *Abusive and aggressive practices* employed for collection and foreclosure.
- *Mandatory arbitration provisions* that insure favorable outcomes for lenders in case of foreclosure.

This report uses Jefferson County Circuit Court records to identify foreclosures on mortgage loans with one or more of four characteristics found in predatory loans:

- *Very high interest rates.* We follow the definition of high-cost loans in federal legislation and consider high interest rates to be 8 or more percentage points above the 30-year Treasury security rate.

- *Prepayment penalties* combined with *high interest rates*. We identified any type of prepayment penalty in combination with interest rates at least 4 percentage points higher than the 30-year Treasury security rate.
- *Balloon payments* at the end of the term of the loan.
- *High loan-to-value ratios*. If the original amount of the loan exceeds both the appraisal for the foreclosure auction and the actual sale price at auction, then the mortgage is considered to have a high loan-to-value ratio.

Court records were examined for 1,555 mortgage foreclosures that resulted in court-ordered auctions between January 2000 and December 2002. About one-third of those foreclosures appeared to involve loans with predatory characteristics. This suggests that predatory lending probably accounts for a significant part of the growing foreclosure rate in Jefferson County.

Of the loans with predatory characteristics, 73% had prepayment penalties combined with high interest rates, 29% had balloon payments, 10% had very high interest rates, and 5% had high loan-to-value ratios. Prepayment penalties were much more likely to be found in loans with high interest rates than in other loans.

Some lenders appear to be more involved in abusive lending practices than others. Bank One, USBank, Bankers Trust Company of California, and Citigroup together accounted for over 25% of all foreclosures on loans with predatory characteristics in our sample.

Predatory lending is heavily concentrated in the high-poverty and largely African American “west end” of Louisville. Six zip codes in that area account for 46% of the foreclosures on mortgage loans with predatory characteristics in Jefferson County, but less than 9% of the owner-occupied dwellings and less than 8% of the owner-occupied dwellings with mortgages.

Recently enacted predatory lending legislation in Kentucky is unlikely to have much impact on the foreclosure rate as it applies only to a small fraction of loans that might potentially have predatory characteristics.

## I. The Rising Foreclosure Rate and Predatory Lending

Mortgage foreclosure rates have increased dramatically in Kentucky in recent years. As of the end of 2002, some 1.9% of mortgage loans were in foreclosure in Kentucky, compared to only 0.4% at the end of 1995.<sup>1</sup> In Jefferson County, there were 438 court-ordered foreclosures in 1995, compared to 1,262 in 2002.<sup>2</sup>

Anecdotal evidence suggests that Community Reinvestment Act (CRA) products may have captured many of the best low-income borrowers in the early 1990s and lenders then accepted marginal borrowers in the latter part of the decade in order to maintain CRA volume and relationships with affordable housing partners, such as nonprofit housing organizations struggling to sell their standing inventory. Banks pursued a wide array of mortgage products, including 100% loans that required little or no investment on the part of the borrower. This ease of purchase may have attracted borrowers who did not fully appreciate the risks and responsibilities of homeownership. Little, no, or even negative equity increases the possibility that borrowers may walk away from their homes when faced with financial difficulties.<sup>3</sup>

Other factors affecting the foreclosure rate include the expansion of consumer debt and families' increasing reliance on two incomes to pay mortgages. Loss of just one income can lead to foreclosure. The expansion of mortgage lending to marginal borrowers, easy consumer credit, and the soft economy together probably explain much of the increase in the foreclosure rate in Jefferson County and Kentucky.

This assessment is supported by the fact that Federal Housing Administration (FHA) and Veterans Administration (VA) insured and guaranteed loans have by far the highest foreclosure rates in Kentucky. As of the end of 2002, 3.2% of FHA-insured loans in Kentucky were in foreclosure and 2.8% of VA loans were in foreclosure. In contrast, only 1.6% of conventional loans were in foreclosure at that time. The main FHA loan program provides for a down payment of as low as 3%, with closing costs and fees wrapped into the mortgage. Mortgage loans guaranteed by the VA often do not require a down payment and can have relatively long repayment periods. The Kentucky Housing Corporation (KHC) also provides loans on relatively favorable terms to low- and moderate-income borrowers and, as will be shown below, had the highest number of foreclosures in Jefferson County during the three-year period from 2000 to 2002.<sup>4</sup>

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<sup>1</sup> Unpublished data obtained from the Mortgage Bankers Association of America.

<sup>2</sup> Statistics provided by the Jefferson County Circuit Court. These numbers include some property tax foreclosures, condominium fee foreclosures, and mortgage foreclosures on commercial properties; however, the vast majority are mortgage foreclosures on residential properties.

<sup>3</sup> This discussion is drawn from Steven C. Bourassa *et al.*, *Kentucky Housing Needs Assessment, Phase I, Vol. 1* (Louisville: Urban Studies Institute, University of Louisville, 2001), pp. 45-46.

<sup>4</sup> KHC loans are typically insured by FHA, VA, or the Rural Housing Service.

Other anecdotal evidence suggests an even more disturbing explanation for at least some of the rise in the foreclosure rate. Local newspaper reports and studies from other communities suggest that some lenders are using deceptive and, in some cases, illegal practices to coerce borrowers into unfavorable mortgage agreements.<sup>5</sup> In some cases, these predatory lending arrangements may benefit unscrupulous or fraudulent home repair businesses; in other cases, they mainly benefit the lenders.

Predatory lending comes in many forms:<sup>6</sup>

- *Packing* loans with single-premium credit life insurance policies and other fees that are often not disclosed to the borrower.
- *Balloon payments*, which are large repayments due at the end of the loan term that allow for low monthly payments. *Payable on demand clauses* may also be included.
- *Loan flipping*, which is the repeated refinancing of loans so that additional high fees can be charged.
- *Excessive interest rates* charged to borrowers who would qualify for lower rates.<sup>7</sup>
- *Inflated appraisals* that qualify borrowers for loans that are larger than would be justified by the value of the property.
- *Prepayment penalties* discourage borrowers from refinancing to obtain lower interest rates.
- *Underwriting based solely on the property's value* and not on the borrower's ability to repay.
- *Inflated incomes* that qualify borrowers for loans that are larger than they can afford to repay.
- *Fraudulent home repair schemes* that coerce homeowners to mortgage their homes in exchange for shoddy or otherwise inadequate work.

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<sup>5</sup> For local examples, see: Scott Wade, "Foreclosures up in Jefferson County," *Courier-Journal* (January 5, 2002); Gregory A. Hall, "Two men indicted in probe of lending," *Courier-Journal* (March 14, 2002); Federal Trade Commission, "Home equity lenders settle charges that they engaged in abusive lending practices," Press Release at <<http://www.ftc.gov/opa/1999/07/hoepa.htm>>, and Federal Trade Commission, "Sub-prime lender agrees to pay \$350,000 civil penalty to settle charges of violating federal lending laws," Press Release at <<http://www.ftc.gov/opa/2000/08/actionloan.htm>>. For other examples, see: Richard A. Oppel, Jr., "U.S. suit cites Citigroup unit on loan deceit," *New York Times* (March 7, 2001); Diana B. Henriques, "Home lender in a settlement for \$60 million," *New York Times* (March 22, 2002); and Sarah Kershaw, "Failing mortgages soar in New York," *New York Times* (March 27, 2002).

<sup>6</sup> This list is compiled from a variety of sources, including Patricia Barry, "Beware: predatory lenders at work," *AARP Bulletin* (June 2001), at <<http://www.aarp.org/bulletin/june01/plending.html>>, and Federal Deposit Insurance Corporation, "Subprime lending," Press Release PR-9-2001 (January 31, 2001), at <<http://www.fdic.gov/news/news/press/2001/pr0901a.html>>.

<sup>7</sup> Mortgage brokers may earn "yield-spread premiums" from lenders for signing borrowers at higher interest rates than they would otherwise qualify for.

- *Failure to fully disclose* the terms of a mortgage loan to borrowers.
- *Pressure and intimidation* for homeowners to sign loan documents.
- *Misleading or fraudulent marketing* of loan programs or home repair schemes, including “bait and switch” tactics where the terms at closing are different from those discussed earlier in the process.
- *Abusive and aggressive practices* employed for collection and foreclosure.
- *Mandatory arbitration provisions* that insure favorable outcomes for lenders in case of foreclosure.

To a disproportionate extent, the targets of predatory lenders are elderly and minority homeowners who have some home equity, may need home repairs, and are relatively unprepared to question or understand loan provisions or to resist pressure or intimidation.

The term “subprime” is often misused to refer to predatory lending practices. Actually, subprime lending *per se* is not necessarily abusive or fraudulent. Subprime lending involves borrowers who have weak credit histories and for whom the risk of default is increased. Such lending may justifiably involve high interest rates or other provisions that compensate for the risk to the lender. Predatory lending may or may not be targeted at subprime borrowers.

Although predatory lending is relatively well defined and numerous examples have been documented and in some cases prosecuted, there is relatively little knowledge about the extent to which such lending has contributed to rising foreclosure rates. This is because information about the causes of foreclosures is difficult to collect. To completely understand a particular case probably requires a review of loan, court, and related documents, but also an interview with the former homeowner, who may be difficult to locate. Even then it may not be clear exactly how predatory practices may or may not have led to foreclosure.

This report attempts to shed some light on this question by means of a detailed review of Circuit Court records in Jefferson County.<sup>8</sup> We focus on court-ordered foreclosures of residential mortgages that resulted in successful auctions between January 2000 and December 2002.<sup>9</sup>

The next section of this report describes the information that was available to us in the court records and methods we used to identify potentially predatory loans. The third section provides a detailed summary of the information collected from court foreclosure records, while the fourth section looks at the location of predatory lending within Jefferson County. The final section offers some conclusions.

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<sup>8</sup> In the Kentucky court system, Circuit Court is the branch of trial court that deals with, among other matters, civil cases involving more than \$4,000; see Administrative Office of the Courts (AOC), *Justice in Our Commonwealth: A Citizen’s Guide to Kentucky Courts* (Frankfort, KY: AOC, 2000), p. 4.

<sup>9</sup> A small number of cases are included that involved auctions in early 2003.



## II. The Use of Court Records to Identify Predatory Loans

Although court dockets for foreclosure cases do not by any means provide everything one needs to know to identify predatory loans, they do provide information about several key indicators of abusive lending practices. In particular, the court records include loan and auction documents containing information about:

- Interest rates.
- Prepayment penalties.
- Balloon payments.
- The principal amount of the loan as well as the appraisal for auction purposes and the sale price at auction.

These measures were translated into four indicators that suggest possible predatory loans:

- *Very high interest rates*, defined as 8 or more percentage points above the long-term Treasury security rate for the month and year that the loan was originated.<sup>10</sup> As of December 2002, for example, the 30-year Treasury security rate was about 5%, meaning that very high interest rates would have been at least 13%.

- *Prepayment penalties* combined with *high interest rates*. We define high interest rates as 4 percentage points or more above the long-term Treasury security rate for the month and year that the loan was originated. We focus on high interest rate loans because prepayment penalties do not necessarily harm the borrower unless there is a possibility of refinancing to obtain a lower interest rate.
- Requirements for *balloon payments* at the end of the loan term.
- *High loan-to-value ratios* as indicated by loans that were made for amounts greater than both the appraisal for auction purposes and the sale price at auction.

Although these indicators do not capture all possible types of predatory lending behavior, many of the predatory characteristics not listed here would probably occur in combination with one or more of these four characteristics. Also, very high interest rates might indicate a subprime, rather than a predatory, loan. Nevertheless, we believe that these four measures provide the best available indicators of abusive lending practices.

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<sup>10</sup> The 8 percentage point rule corresponds to the regulations implementing the federal Home Ownership and Equity Protection Act, which require additional disclosures and consumer protections when a mortgage's annual percentage rate is 8 percentage points or more above Treasury security rates with comparable maturities; see the Federal Reserve Bank's amendments to the regulations at <<http://www.federalreserve.gov/boarddocs/press/boardacts/2001/2001121421/attachment.pdf>>. We use the Treasury security 30-year yields reported by the Federal Reserve Bank for comparison with mortgage interest rates (for loans originating prior to February 1977, we use the 20-year yields for comparison); see: <<http://www.federalreserve.gov/releases/h15/data/m/tcm30y.txt>> and <.../tcm20y.txt>. The average 30-year fixed-rate mortgage interest rates reported by Freddie Mac tend to be about 1 to 1.5 percentage points higher than the 30-year Treasury security rate (see <<http://www.freddie.com>>), indicating that the 8 percentage point rule applies to mortgages with interest rates 6.5 to 7 percentage points above average.

We undertook a complete review of all available court records relating to foreclosures in Jefferson County between January 2000 and December 2002. Not all of the relevant court dockets were available and time did not permit repeated searches for missing documents; however, over 1,800 cases were reviewed, representing a large majority of the foreclosures during that period. Of these, about 250 were rejected because they did not involve mortgages (for example, they were property tax or condominium fee foreclosures), they did not concern owner-occupied residential properties, the properties were not in Jefferson County, or the files were incomplete.

For the remaining 1,555 cases, we collected the following information:

- Lender's and lender's attorney's names.
- Borrower's name.
- Address of the property.
- Date, amount, term, and interest rate of the mortgage loan.
- Prepayment penalties.
- Balloon payments.
- Appraisal for foreclosure, principal sum claimed, amount to be raised at auction, and amount of successful bid.
- Date of auction.
- Name of successful bidder.

With these pieces of information, we were able to identify the loans that had one or more of the four predatory lending indicators. We were also able to summarize the foreclosures by lender and to look at the locations of predatory loans within Jefferson County.

The data obtained from court records was supplemented with information collected at a focus group meeting involving individuals who had experienced or were threatened with foreclosure. In addition, Louisville Urban League and Housing Partnership Inc. foreclosure counseling case records were summarized by staff of those agencies. Neither of these supplementary sources was as informative as we had hoped. The focus group participants had experienced a variety of unfortunate circumstances that hindered their ability to make mortgage payments. In many cases, it seemed that predatory lending practices might have contributed to their problems.

As for the foreclosure counseling cases, many of those seeking help had experienced loss of income. The case records said relatively little about whether abusive lending practices also contributed to the threat of foreclosure. The counselors' focus was clearly on how to avoid foreclosure rather than on the specific causes of the problem.

Given the limited amount of information yielded by the focus group and the counseling cases, the focus of the rest of this report is on the conclusions drawn from the review of court records.

### III. Findings for Jefferson County

Table 1 lists those lenders with at least 25 foreclosures in our sample. The lenders listed include subsidiary companies that may no longer exist and acquisitions that may have taken place after the loan in question was originated. For examples, Washington Mutual includes PNC Mortgage Corporation, Bank of America includes Equicredit, and Wells Fargo Bank includes Norwest Bank.

Table 2 lists those lenders with at least 10 foreclosures involving loans with predatory characteristics. Comparison of Table 1 with Table 2 indicates that a majority of the lenders with large numbers of foreclosures also had large numbers of foreclosures with predatory characteristics. Similarly, only four of the lenders listed in Table 2 do not also appear in Table 1.

We identified 509 foreclosures on loans with one or more predatory characteristics, constituting nearly one-third of all of the foreclosures we examined (see Table 3). Of these loans with predatory characteristics, 73% had prepayment penalties combined with high interest rates, 29% had balloon payments, 10% had very high interest rates, and 5% had high loan-to-value ratios.<sup>11</sup>

Not surprisingly, prepayment penalties were much more common in loans with high interest rates than in loans with lower rates. Some 57% of high-interest-rate loans had prepayment penalties, while only 19% of loans with lower interest rates had prepayment penalties, clearly indicating that the penalties were designed to lock-in high rates.

Table 4 identifies the characteristics of predatory loans for each lender. Only corporate lenders with more than one foreclosure are listed separately. Individual lenders and corporate lenders with only one foreclosure each are grouped at the end of the table.

Prepayment penalties combined with high interest rates constituted the predominant problem for most lenders. For example, a large proportion of Bank One's foreclosures (35 out of 39) involved loans that combined high interest rates with prepayment penalties. Exceptions include Action Loan (very high interest rates predominated) and Commonwealth Bank, Continmortgage, First Bank, and Stock Yards Bank (for which balloon payments predominated).

Table 4 also lists the median age of the loan at the time of foreclosure. In almost all cases, the median age is only 2, 3, or 4 years, indicating that the loans are relatively young at the time of foreclosure.

Our data also revealed that the lender or the lender's attorney was the successful bidder in 65% of the entire sample of foreclosure cases and 61% of the foreclosure cases with predatory characteristics. This practice seems to be a response to the lender's need to make certain that auctions are successful and the sale price is high enough to cover the lender's claim.

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<sup>11</sup> A study of predatory lending in Montgomery County, Ohio, similarly found that prepayment penalties and balloon payments were the most common abuses, occurring in 75% and 24%, respectively, of the loans defined as predatory. See Richard D. Stock, *Predation in the Sub-Prime Lending Market: Montgomery County* (Dayton, OH: Center for Business and Economic Research, University of Dayton, 2001).

**Table 1. Lenders with 25 or more foreclosures, Jefferson County, 2000-2002**

Rank	Lender	Number of foreclosures	Percent of all foreclosures
1	Kentucky Housing Corp.	89	5.72
2	Washington Mutual	74	4.76
3	Countrywide Home Loans	70	4.50
4	Bankers Trust Co. of California	67	4.31
5	USBank	62	3.99
6	Bank One	61	3.92
7	Fifth Third Bank	60	3.86
8	Wells Fargo Bank	58	3.73
9	Bank of America	56	3.60
9	Citigroup	56	3.60
11	Wachovia Bank	54	3.47
12	Chase Manhattan Bank	50	3.22
13	Bank of New York	39	2.51
13	PNC Bank	39	2.51
15	Mortgage Electronic Registration	34	2.19
16	National City Bank	33	2.12
17	CIT Group	31	1.99
18	Aegis Lending	30	1.93
18	Ameriquest	30	1.93
20	Aames Funding Corp.	25	1.61

**Table 2. Lenders with 10 or more foreclosures on mortgages with predatory characteristics, Jefferson County, 2000-2002**

Rank	Lender	Number of foreclosures with predatory characteristics	Percent of all foreclosures with predatory characteristics
1	Bank One	39	7.66
2	USBank	33	6.48
3	Bankers Trust Co. of California	32	6.29
4	Citigroup	25	4.91
5	Aames Funding Corp.	22	4.32
5	Bank of America	22	4.32
7	Wachovia Bank	20	3.93
8	Action Loan	15	2.95
9	Wells Fargo Bank	14	2.75
10	Ameriquest	13	2.55
10	Bank of New York	13	2.55
10	Conseco Finance	13	2.55
13	Mortgage Electronic Registration	11	2.16
14	Household International	10	1.96
14	Provident Bank	10	1.96

**Table 3. Numbers and percentages of foreclosures on mortgages with predatory characteristics, Jefferson County, 2000-2002**

Characteristic	Number with characteristic	Percentage with characteristic	
		All mortgage foreclosures	Foreclosures with predatory characteristics
Very high interest rates	51	3.28	10.02
High interest rates and prepayment penalties	373	23.99	73.28
Balloon payments	149	9.58	29.27
High loan-to-value ratios	27	1.74	5.30
<i>At least one predatory characteristic</i>	<i>509</i>	<i>32.73</i>	<i>100.00</i>

**Table 4. Foreclosed loans with predatory characteristics by lender, Jefferson County, 2000-2002 (in alphabetical order by lender)**

Lender <i>Acquired or subsidiary lender</i>	Number of loans with predatory characteristics	Number with very high interest rates	Number with high interest rates and prepayment penalties	Number with balloon payments	Number with high loan-to-value ratios	Median age of loan at time of foreclosure (in years)
Aames Funding Corp.	22	2	22	0	0	2
Action Loan	15	12	10	2	4	2
Aegis Lending	7	0	5	2	0	4
<i>United Companies Lending</i>	7					
American General Finance	7	1	6	0	0	2
<i>American General Finance</i>	1					
<i>Morequity</i>	6					
Ameriquest	13	1	12	0	0	2
Ascensia Bank	2	0	0	1	1	2
<i>USAccess Bank</i>	2					
Bank of America	22	0	17	10	0	3
<i>BA Mortgage</i>	1					
<i>Equicredit Corp.</i>	18					
<i>Nationscredit Financial</i>	3					
Bank of New York	13	0	13	1	0	3
Bank One	39	2	35	5	1	2
<i>Bank One</i>	33					
<i>Bank One Financial Services</i>	6					
Bankers Trust Co. of California	32	4	29	5	0	4
BB&T	5	0	1	3	1	3
<i>Bank of Louisville</i>	5					
Bullitt County Bank	2	0	1	1	0	2

Lender <i>Acquired or subsidiary lender</i>	Number of loans with predatory characteristics	Number with very high interest rates	Number with high interest rates and prepayment penalties	Number with balloon payments	Number with high loan-to-value ratios	Median age of loan at time of foreclosure (in years)
Centex Corp.	4	0	4	0	0	2
<i>Centex Home Equity</i>	4					
Chase Manhattan Bank	9	0	6	3	0	2
<i>Chase Bank of Texas</i>	4					
<i>Chase Manhattan Bank</i>	5					
CIT Group	9	0	8	1	0	3
Citigroup	25	2	20	10	0	3
<i>Associates Financial</i>	13					
<i>Citifinancial</i>	11					
<i>Ford Consumer Finance</i>	1					
Citizens Union Bank	2	0	0	2	0	2
Commonwealth Bank	5	0	0	4	1	2
Companion Mortgage	6	0	5	0	1	3
Conseco Finance	13	0	12	9	0	3
<i>Conseco Finance</i>	12					
<i>Greentree Financial Services</i>	1					
Contimortgage	9	1	2	6	0	4
Countrywide Home Loans	8	0	8	0	0	3
Credit Based Asset Servicing	2	0	1	1	0	2
Fifth Third Bank	3	0	2	0	1	2
First American Financial	3	3	2	1	0	2
First Bank	5	0	1	5	0	3
First National Bank of Chicago	4	0	3	2	0	3

Lender <i>Acquired or subsidiary lender</i>	Number of loans with predatory characteristics	Number with very high interest rates	Number with high interest rates and prepayment penalties	Number with balloon payments	Number with high loan-to-value ratios	Median age of loan at time of foreclosure (in years)
H&R Block	6	1	6	0	0	3
<i>Option One Mortgage</i>	6					
Household International	10	2	8	0	1	3
<i>Beneficial Kentucky</i>	4					
<i>Household Finance</i>	6					
HTFA First Financial Corp.	2	2	0	0	0	5
IMC Mortgage	7	1	5	2	0	2
Kentucky Housing Corp.	3	0	0	0	3	13
LAP Financial Services	2	2	1	0	0	3
Lasalle National Bank	2	0	1	1	0	2
Lehman Brothers	9	1	7	1	1	3
<i>Aurora Loan Services</i>	2					
<i>Financial Freedom Senior Funding</i>	1					
<i>Lehman Capital</i>	6					
Louisville Comm. Dev. Bank	3	1	0	3	0	3
Manufacturers & Traders Trust	3	0	3	0	0	4
Mortgage Electronic Registration	11	1	11	1	0	2
Mortgage Lenders Network	5	0	1	3	1	2
National City Bank	6	0	5	0	1	2
<i>Altegra Credit</i>	4					
<i>National City Bank</i>	2					
Novastar Mortgage	8	0	7	1	0	2

Lender <i>Acquired or subsidiary lender</i>	Number of loans with predatory characteristics	Number with very high interest rates	Number with high interest rates and prepayment penalties	Number with balloon payments	Number with high loan-to-value ratios	Median age of loan at time of foreclosure (in years)
Ocwen Federal Bank	8	1	5	3	0	3
<i>Ocwen Federal Bank</i>	1					
<i>Ocwen Financial Services</i>	7					
One Stop Mortgage	8	1	8	0	1	2
PNC Bank	2	0	0	1	1	8
Provident Bank	10	0	10	1	0	1
Stock Yards Bank	4	0	0	4	0	2
Travelers Bank & Trust	2	0	2	0	0	3
<i>Travelers Home Mortgage</i>	2					
USBank	33	1	25	21	1	3
<i>Firststar Bank</i>	2					
<i>USBank</i>	31					
Wachovia Bank	20	2	15	8	0	3
<i>First Union National Bank</i>	19					
<i>The Money Store</i>	1					
Washington Mutual	5	0	2	1	3	3
<i>Homeside Lending</i>	2					
<i>North American Mortgage</i>	1					
<i>Washington Mutual</i>	2					
Wells Fargo Bank	14	0	14	1	0	2
<i>Norwest Bank</i>	11					
<i>Wells Fargo Bank</i>	3					
Individuals	17	5	2	14	0	3
Corporations with one foreclosure	23	2	10	9	4	3

#### **IV. The Location of Predatory Lending Within Jefferson County**

The incidence of foreclosures on mortgage loans with predatory characteristics by zip code is shown in Table 5, while Map 1 (in the Appendix) shows the locations of zip code districts within Jefferson County. Map 2 shows that there is a concentration of poverty within west and central Louisville. Map 3 shows a similar concentration of the African American population. The same areas tend to have relatively low rates of owner-occupation (Map 4), but relatively high percentages of owner-occupiers without mortgages (Map 5).

Map 6 shows that homeowners with mortgages are more likely to experience foreclosure in west Louisville, where there are also high concentrations of persons in poverty and African Americans. Map 7 plots the data in Table 5, showing a similar pattern as in Map 6.<sup>12</sup>

The six zip codes with the highest rates of foreclosures on mortgages with predatory characteristics (40202, 40203, 40208, 40210, 40211, and 40212) accounted for 46% of such foreclosures in our sample. Yet, according to the 2000 census, these zip codes accounted for less than 9% of the owner-occupied dwellings in Jefferson County, and less than 8% of the owner-occupied dwellings with mortgages.

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<sup>12</sup> The data for zip code 40202 was combined with that for 40203 in Maps 5, 6, and 7, due to the small number of homeowners with mortgages in 40202.

**Table 5. Incidence of foreclosures on mortgages with predatory characteristics by zip code, Jefferson County, 2000-2002**

Zip code	Number of foreclosures on loans with predatory characteristics	As a percentage of owner-occupied houses with mortgages
40059	1	0.04
40118	2	0.15
40177	1	0.76
40202	4	17.39
40203	29	3.31
40204	11	0.52
40205	4	0.08
40206	7	0.26
40207	3	0.05
40208	15	1.37
40209	0	0.00
40210	47	2.26
40211	70	2.53
40212	62	2.37
40213	8	0.28
40214	18	0.30
40215	19	0.60
40216	35	0.50
40217	4	0.16
40218	11	0.30
40219	23	0.38
40220	8	0.13
40222	1	0.03
40223	3	0.07
40228	3	0.12
40229	11	0.18
40241	6	0.11
40242	3	0.14
40243	3	0.15
40245	13	0.31
40258	14	0.29
40272	31	0.49
40291	7	0.12
40299	16	0.24
<i>Jefferson County</i>	<i>493</i>	<i>0.41</i>

Note: Excludes 16 addresses for which the zip code is unknown.

## V. Conclusions

This report has documented that about one-third of residential mortgage foreclosures in Jefferson County between 2000 and 2002 involved loans with predatory characteristics. This suggests that predatory lending probably accounts for a significant part of the growing foreclosure rate in the County. Other factors, such as the extension of Community Reinvestment Act (CRA) mortgage lending to marginal borrowers, the expansion of consumer debt, and the soft economy probably also play significant roles.

Of the loans with predatory characteristics, 73% had prepayment penalties combined with high interest rates, 29% had balloon payments, 10% had very high interest rates, and 5% had high loan-to-value ratios. Prepayment penalties were much more likely to be found in loans with high interest rates than in other loans.

Some lenders appear to be more involved in abusive lending practices than others. Bank One, USBank, Bankers Trust Company of California, and Citigroup together account for over 25% of all foreclosures on loans with predatory characteristics in our sample. Yet, some lenders with large numbers of foreclosures, such as Kentucky Housing Corporation, have relatively few foreclosures involving loans with predatory characteristics. This latter group includes lenders that have been active in the subprime market, but in a non-abusive

manner, and those who have been particularly active in responding to the CRA.

Predatory lending is heavily concentrated in the high-poverty and largely African American west end of Louisville. Six zip codes in that area account for 46% of the foreclosures on mortgage loans with predatory characteristics in Jefferson County, but less than 9% of the owner-occupied dwellings and less than 8% of the owner-occupied dwellings with mortgages.

Various organizations have advocated the enactment of stricter legislation to prohibit predatory lending.<sup>13</sup> A notable example is the model statute proposed by the American Association of Retired Persons (AARP), which advocates restrictions on prime as well as subprime lending.<sup>14</sup> Recently enacted predatory lending legislation in Kentucky applies only to high-cost subprime loans as defined by the federal Home Ownership and Equity Protection Act (HOEPA)—for example, loans with interest rates more than 8 percentage points above the yield on Treasury securities of comparable maturity.<sup>15</sup> This legislation was passed unanimously and also had support from the Kentucky Bankers Association. It seems unlikely, however, that this legislation will have much of an impact on the growing foreclosure rate in Jefferson County, because few of the loans with predatory characteristics would have met HOEPA's definition of high cost.<sup>16</sup>

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<sup>13</sup> See, for example, Center for Predatory Lending, "The seven signs of predatory lending," at <<http://predatory.lending.org/abuses/index.cfm>>. This web site also provides a useful bibliography on predatory lending, as does the Predatory Lending Resource Center site of the Mortgage Bankers Association of America, at <<http://www.mbaa.org/resources/predlend/>>.

<sup>14</sup> Mike Calhoun *et al.*, *Home Loan Protection Act: A Model State Statute* (Washington, DC: AARP, 2001).

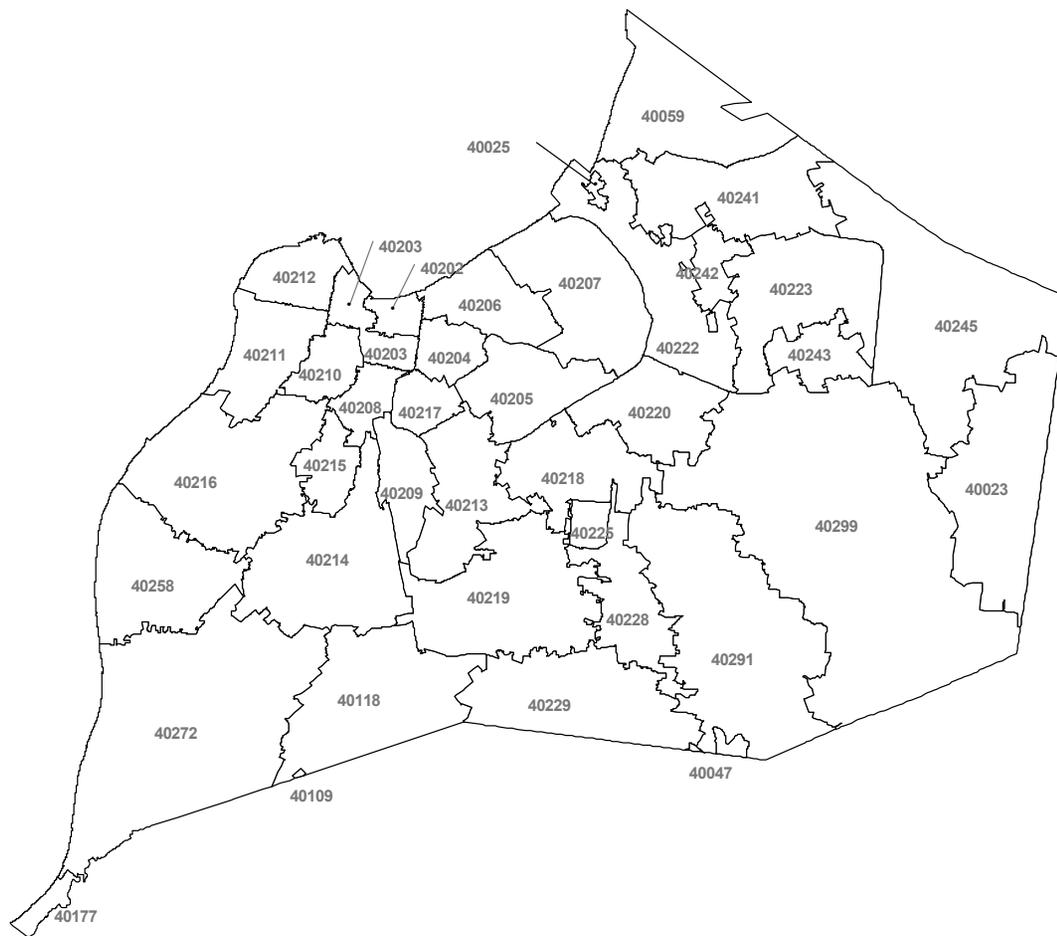
<sup>15</sup> Ky. Rev. Stat. §360.100.

<sup>16</sup> For example, only 3% of foreclosed mortgages in our sample would have exceeded HOEPA's annual percentage rate trigger.

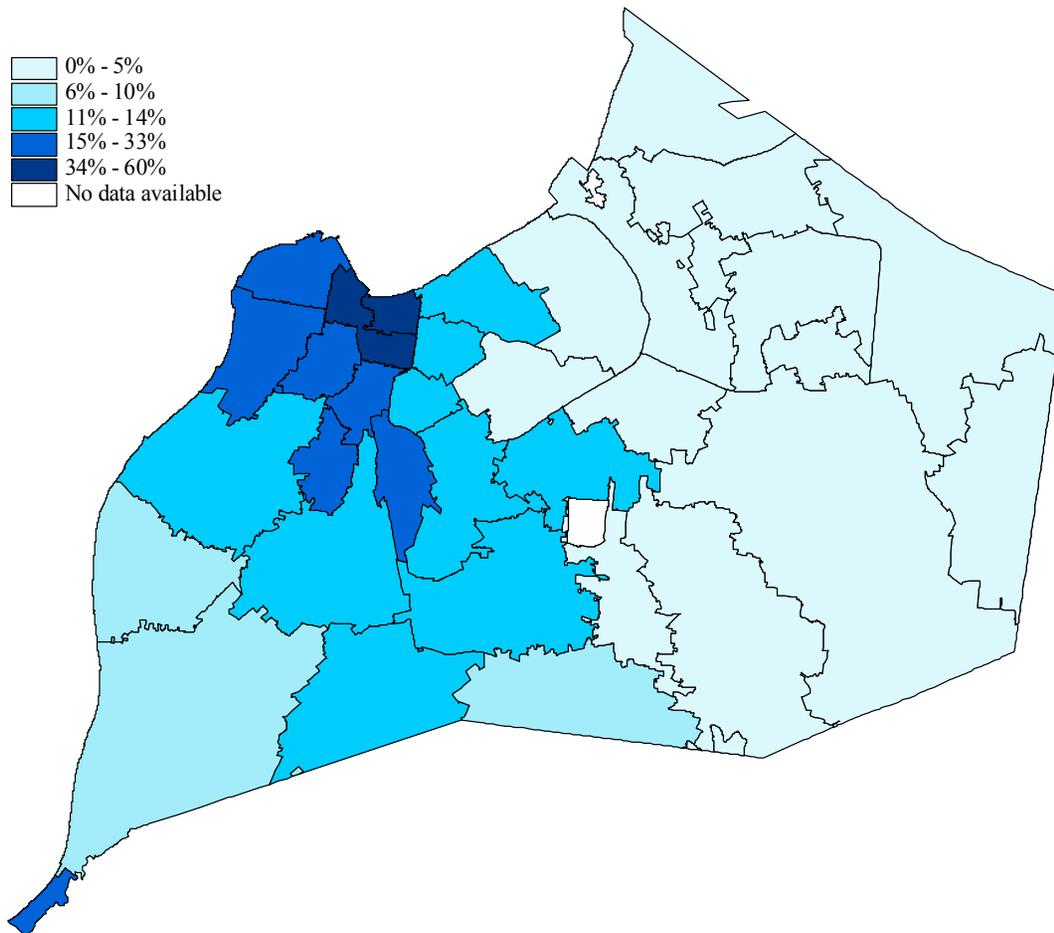


## **Appendix: Maps**

**Map 1. Jefferson County zip codes**

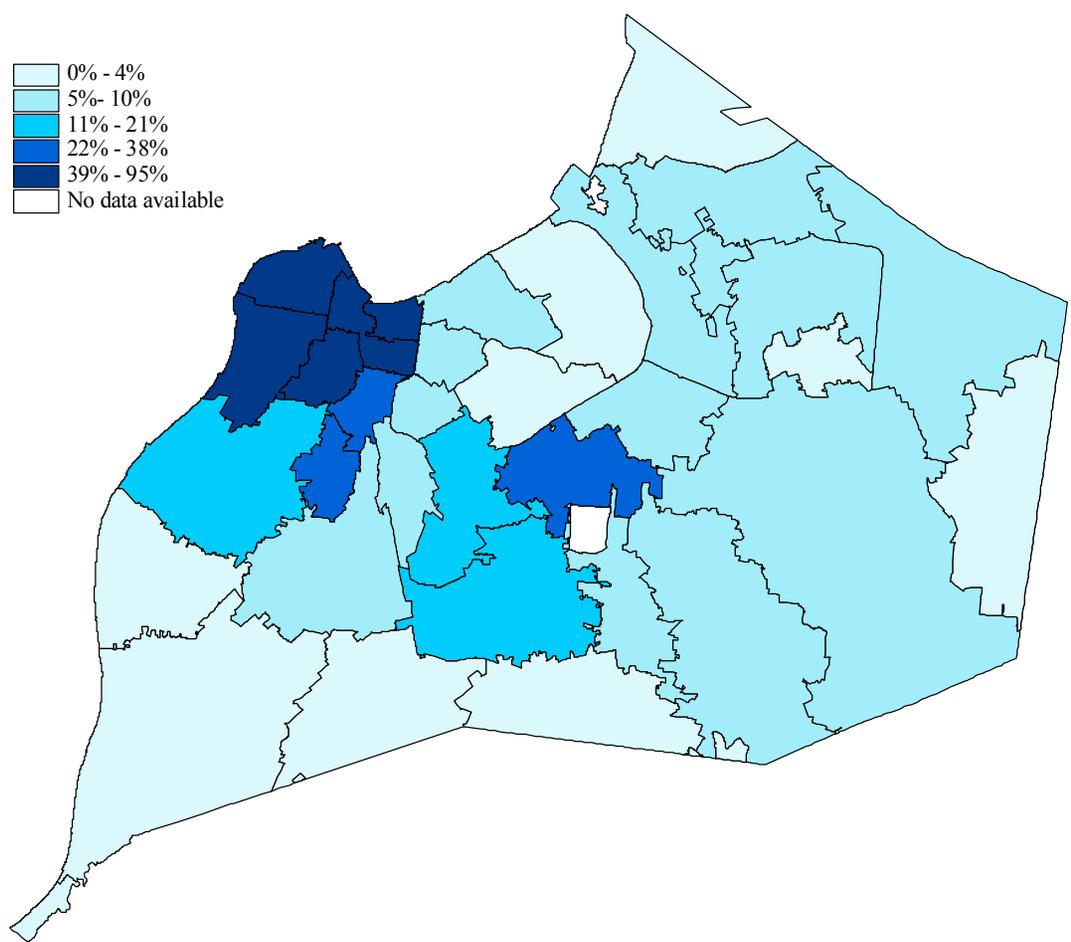


**Map 2. Persons in poverty as a percentage of total population by zip code, Jefferson County, 2000**



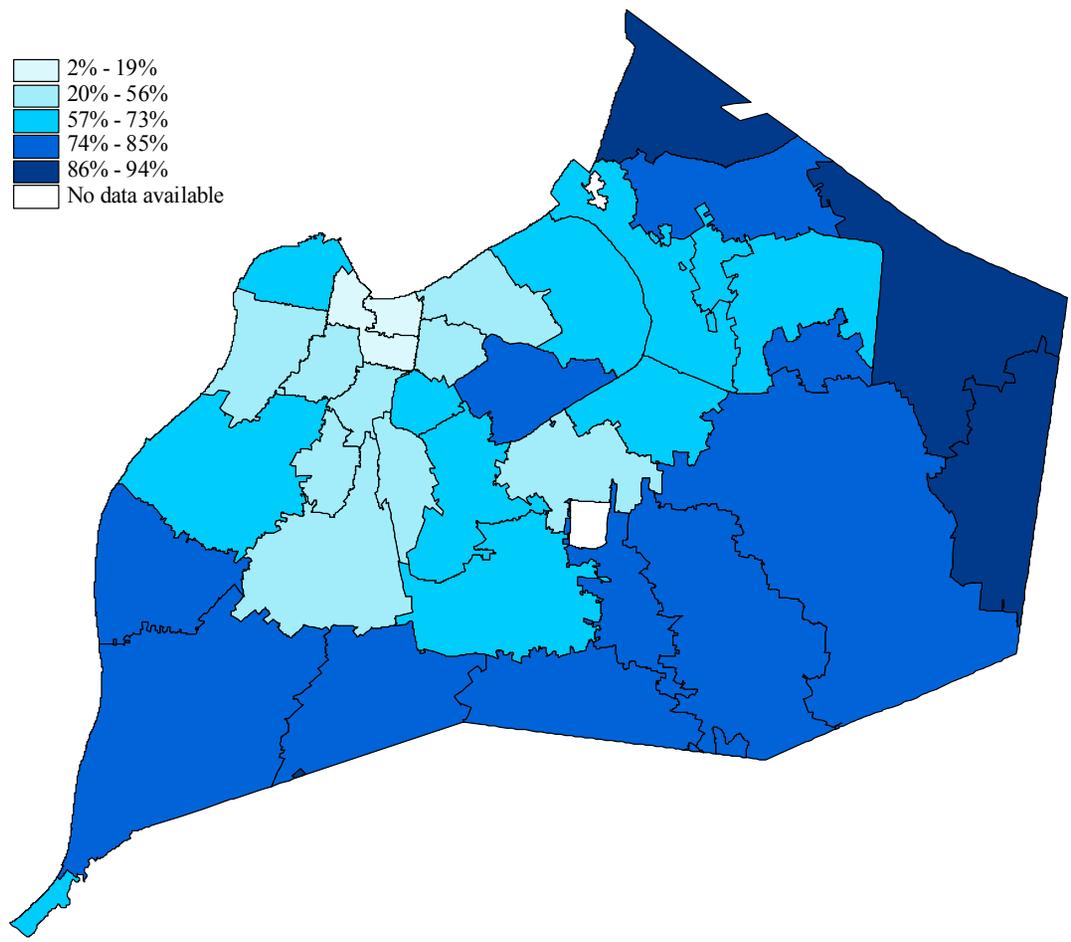
Source: U.S. Census Bureau, *2000 Census of Population and Housing*, Summary File 3.

**Map 3. African Americans as a percentage of total population by zip code, Jefferson County, 2000**



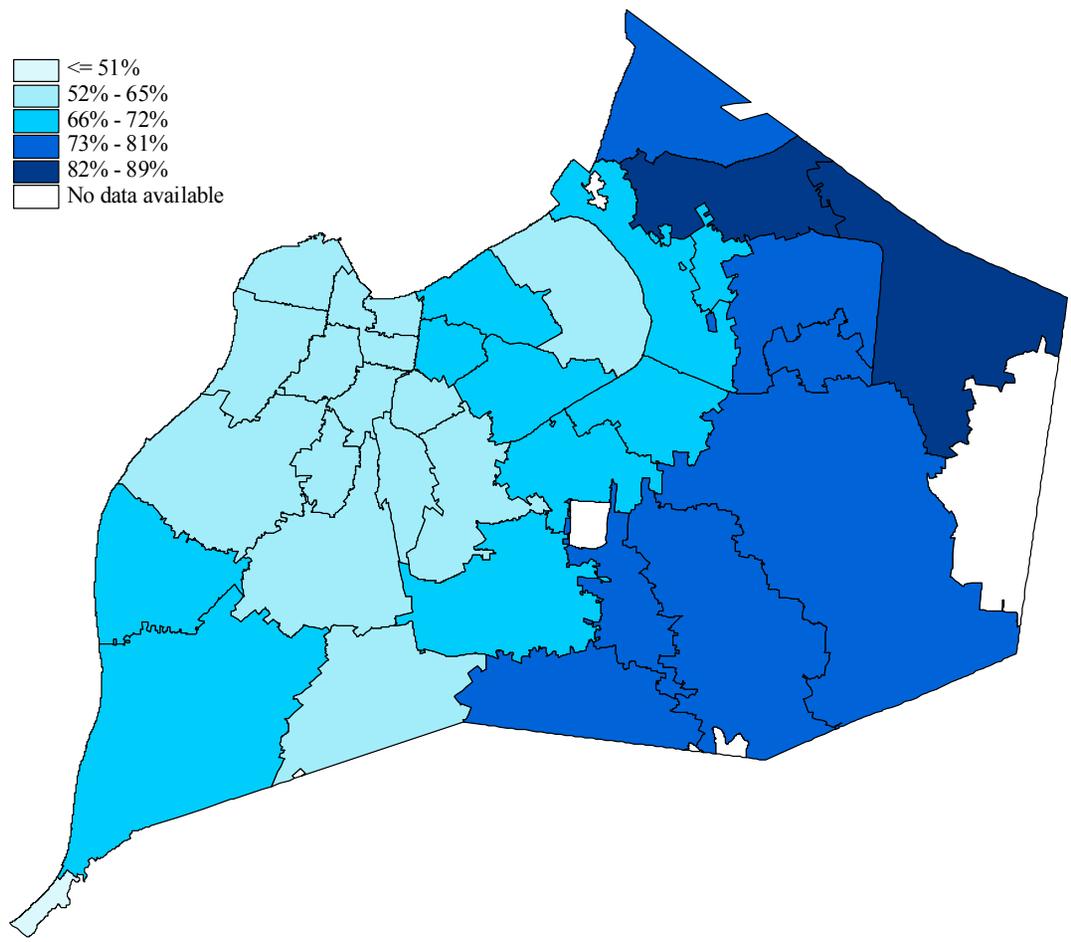
Source: U.S. Census Bureau, *2000 Census of Population and Housing*, Summary File 3.

**Map 4. Percentage of housing that is owner-occupied by zip code, Jefferson County, 2000**



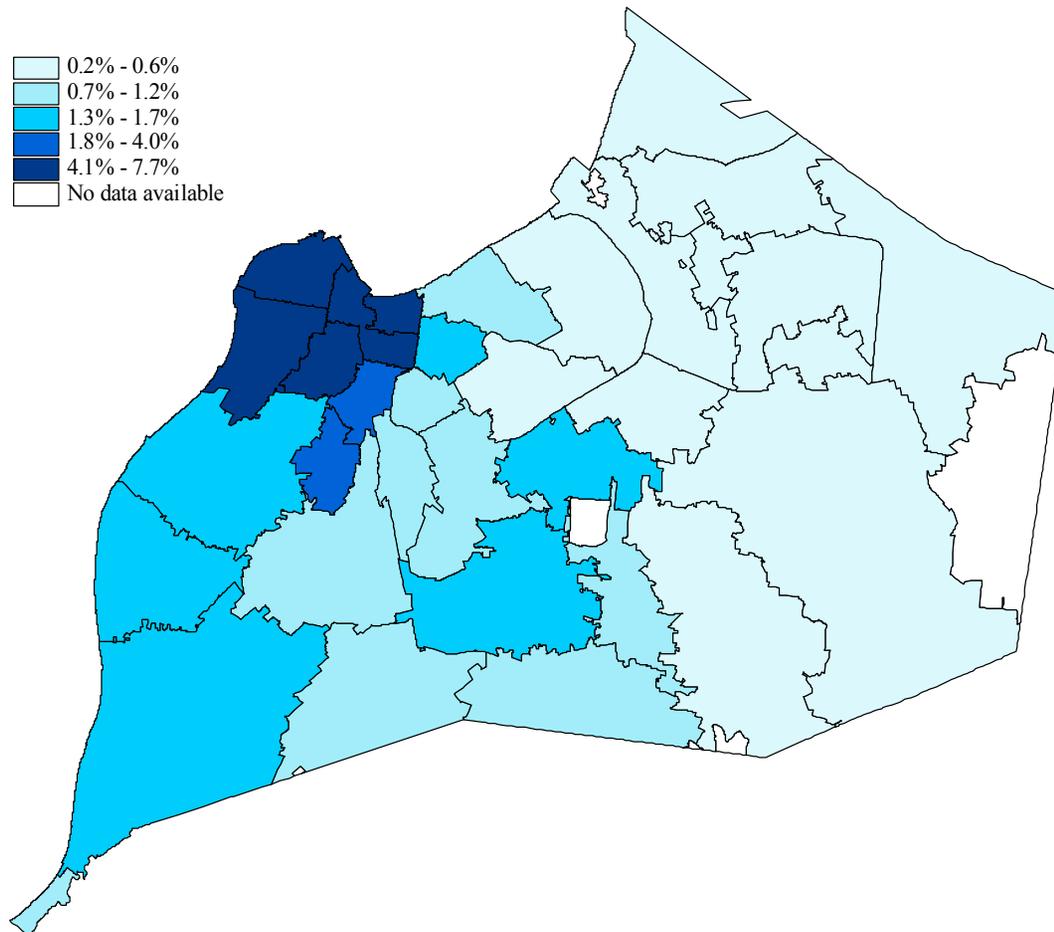
Source: U.S. Census Bureau, *2000 Census of Population and Housing*, Summary File 3.

**Map 5. Percentage of homeowners with mortgages by zip code, Jefferson County, 2000**



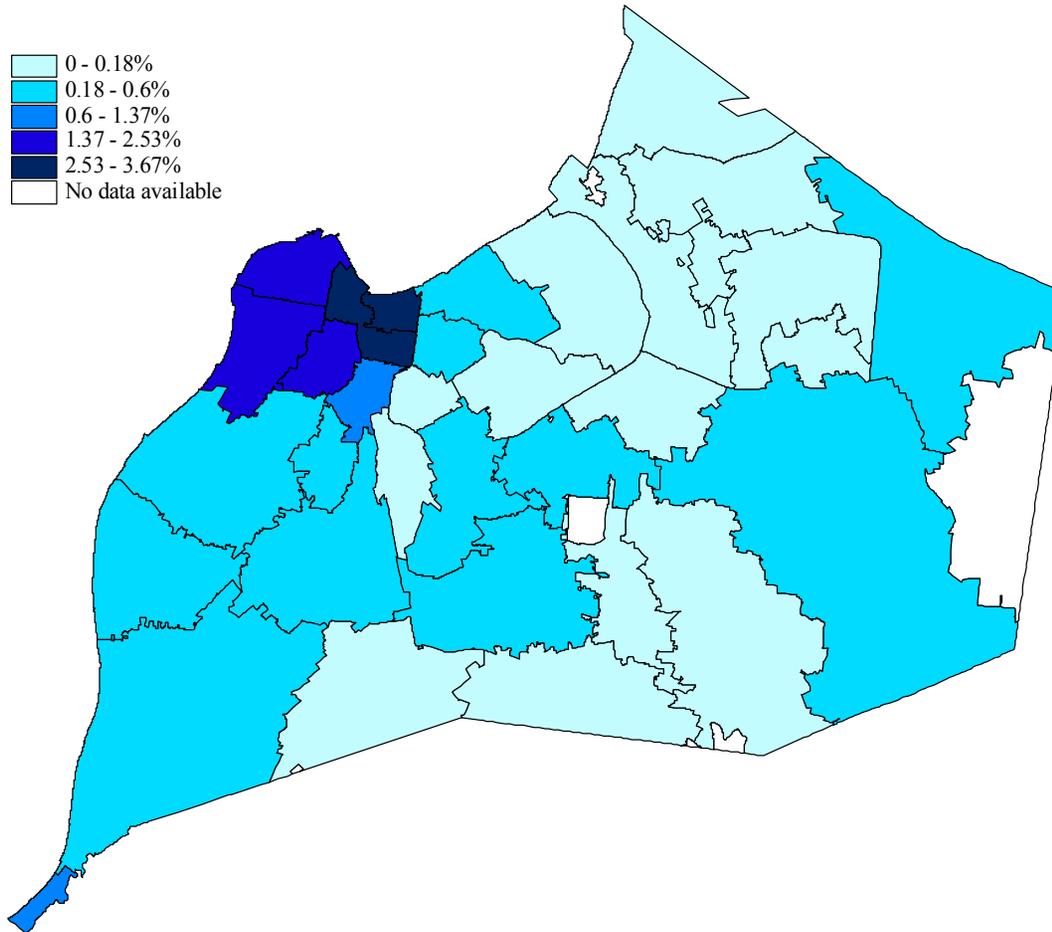
Source: U.S. Census Bureau, *2000 Census of Population and Housing*, Summary File 3.

**Map 6. Mortgage foreclosures as a percentage of owner-occupied houses with mortgages by zip code, Jefferson County, 2000-2002**



Source: Author's tabulations of Jefferson County Circuit Court records and U.S. Census Bureau, *2000 Census of Population and Housing*, Summary File 3.

**Map 7. Foreclosures on mortgages with predatory characteristics as a percentage of all mortgaged owner-occupied homes by zip code, Jefferson County, 2000-2002**



Source: Author's tabulations of Jefferson County Circuit Court records and U.S. Census Bureau, *2000 Census of Population and Housing*, Summary File 3.



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