AMERICAN PREDATORY LENDING AND GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Debbie McCune Davis

Bass Connections

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PREFACE

The following Oral History is the result of a recorded interview with Debbie McCune Davis conducted by Jon Rosen on June 24, 2021. This interview is part of the Bass Connections American Predatory Lending and the Global Financial Crisis Project.

Readers are asked to bear in mind that they are reading a transcript of spoken word, rather than written prose. The transcript has been reviewed and approved by the interviewee.

Transcriber: Yoo Jung Hah | Session: 1
Interviewee: Debbie McCune Davis | Location: Zoom
Interviewer: Jon Rosen | Date: June 24, 2021

Jon Rosen: I'm Jon Rosen, a student at Duke Law School and a member of the Bass Connections American Predatory Lending Global Financial Crisis team. And it is Thursday, June 24th, 2021. I am speaking with Debbie McCune Davis, a former member of the House and Senate of the Arizona State Legislature, for an oral history interview. Representative McCune Davis joins me via Zoom. Thank you so much for joining me today.

McCune Davis: Good afternoon Jon. Happy to be here.

Jon Rosen: I'd like to start by establishing a little bit about your background. I believe that you received your bachelor's degree from Arizona State. Is that right?

McCune Davis: Yes. I have a bachelor's in Sociology from Arizona State University.

Jon Rosen: Throughout your legislative career, you've worked on mortgage and foreclosure issues. Did you decide to focus on those particular issues because of issues you were seeing within your community?

McCune Davis: The legislative district that I represented over a total of 30 years with two separate terms of service in the legislature - there were always challenges in terms of economic impact on families. But the neighborhoods changed over time and went from middle-class families to a migration of families with less income and less social equity. So, the answer is [that] it basically came with the natural changes that happened in the community itself.

Jon Rosen: Can you just expand a little bit on how those issues changed over time while you were in the legislature?

McCune Davis: [It] went into the legislature in the – well, 1979 was the first session. So that goes back a very long way. At that time, families were buying homes and establishing in neighborhoods and sending their kids to neighborhood schools. Over time, many of those kinds of trends shifted. Some of the homes went from ownership to rental. In some cases, with the housing problems that arose, we saw people who were very secure in their housing put at risk. That was probably the most significant change. The changes in how loans were made really drove a lot of the economic distress and displacement of families.

Jon Rosen: You've done a lot of work on payday loans. Can you talk about how you came to advocate for those issues?

McCune Davis: The economic impact of the mortgage market really came through some of the actions that we saw from the folks who were putting people out in neighborhoods, trying to find folks to rewrite their mortgages. That was aggressive action by the lenders themselves and the brokers. And the payday lending market, that was a different issue. The St. Vincent DePaul Society came to a group of us and said, "we have been helping economically distressed families for years, but something's changed. We can't help them anymore because they're coming to us now not needing a house, a one month rent payment or a coverage of a utility bill. They now need us to pay off their loan before they can get even close to getting caught up." And the charities – and the churches too – basically said, "we're not in a position to do that. We have to do something to stop families from going to these lenders who gave the impression that these loans were quick and easy and never disclosed any of the consequences." So that was the dynamic in that environment. And that situation was very different – well, they were both exploitive and distressing to me. But, it's slightly different than the way that it was played out.

Jon Rosen: In 2008, you worked on a campaign regarding Prop 200 about lenders interest rate limits. Can you talk a little bit about that?

McCune Davis: That one actually goes back a few years before that, probably end of 2005/2006. Janet Napolitano was the governor. When the original statute was put in place to permit payday lending in Arizona, it had a 10-year sunset on it. So, the lobbyists too were really beginning to get nervous about the ability to extend. [They] were going to the governor's office and essentially threatening them, and basically saying that they needed help getting the 10-years extended. The governor's office, basically wasn't going to assist them. So, they came to the legislature and attempted to pass bills there, and honest to goodness by the skin of our teeth, we were able to stop that from happening. But they began to have influence with more and more members of legislature, and that happens through the election process and the contribution process.

At some point I want to talk a little bit about a curious dynamic related to people, sort of the argument being made that people have agency, which entitles them to make mistakes. I'll come back to that at some point.

But we were able to stop that bill that would have continued their ability to do business in Arizona or take away their sunset. So, they decided they were going to go to the ballot, and they believed that they could make the case to the public, that they provided such an important service to the community that the public would side with them. Our campaign countered that. With far fewer resources, we were able to defeat that effort.

Jon Rosen: If you want to now, can you talk a little bit about that agency argument for consumers?

McCune Davis: Some of my most conservative colleagues who wrapped themselves in their religion and their beliefs and claimed to be ethically sided with the payday lenders and basically made the argument that people have agency. If they choose to get into a 400% loan, that was their right and that it wasn't government's business to protect those people. When in reality in Arizona and all across the country, the history of lending to what were considered vulnerable citizens always had protections and caps in it. So somewhere along the way, the sense of ethics around lending shifted. It was very distressing to me because these are the same people who, through their religious beliefs, believe that if God gave them money, it's because he wanted them to have it. It's sort of rooted back into that dynamic – that you're entitled to be rich, that if you're rich it's because you've been gifted that. It really distressed me because these folks no longer cared how people acquired wealth and whether or not there was exploitation of communities involved. They just were interested in the end product. And this argument of agency was just one I could never wrap my head around.

Jon Rosen: You mentioned how the dynamic shifted in that area. Can you talk about that a little more and how that affected consumer protection issues like that?

McCune Davis: It made it much harder. During my first tenure in the legislature, Household Finance was a name that everyone knew. They were working and involved in vulnerable communities; sophisticated borrowers were not going to Household Finance, for instance, to get loans. But families who didn't have means often went there to cover short-term expenses. They had relationships in those communities. But they had lending caps. There the loans were expensive, but there were protections in place. Those protections were in place for many, many years.

And then this new dynamic came in, and all of a sudden, those protections -that acceptance of the fact that unsophisticated borrowers were not in a position to read every word in a contract, understand that a partial payment wasn't going to roll their loan over, to the point where it added to the principal. All of those things started to slip away. That was hard. I think that's what initiated my interest in making sure that we didn't erode all of those principles, at least while I was there to play that role.

The other thing that happened is that during the economic downturn of 2007-2009 - I don't know, whenever things started getting tricky. Both fast-food places, gas stations, the corner markets were shutting down. Companies and corporations were pulling back and shutting down many of their branches. Payday lenders moved into every one of them and they didn't just move onto one street corner. They moved two or three on a street corner. They took great pride in quietly saying that [they were] sending customers who got into trouble with one to the one across the street to take out a new loan to pay the other back. So, the spiral of costs just went up and up where the middle-class families just simply had no defenses against these businesses. And they went into areas where the banks had closed branches as well. At first, people didn't understand that they weren't the same thing as a federally regulated branch of a bank - that they were in fact, a very different animal.

Jon Rosen: Did you find that the payday lending industry was trying to lobby members of your state legislature generally?

McCune Davis: Oh, absolutely. With them, money is just a tool. The broader they could build their infrastructure in state and the more money they could take in, the better off they were. So, they were more than happy to bring in lobbyists [more] and more lobbyists. And [they] attempted to go specifically to the majority and try to shut down our efforts. We were lucky in that things weren't quite as partisan then. There were people, some of my colleagues from small communities, who understood what the long-term impact of this kind of lending would be. We did manage, like I said, to push back on them. But every session they'd come back carving away one more protection and raising it a few percentages, the interest rates. It felt like that was a full-time job. In addition to everything else, it was just keeping tabs on what they were up to next. And they never followed the rules. They never introduced the bills as a separate piece of legislation. They always waited until late in session. Then they bring it in through a friendly committee chairman as a strike everything amendment. The idea that you would prepare the public to speak up against this became really challenging because they weren't proud of what they were doing. But they were going get the job done because it meant that they got more support.

Jon Rosen: You mentioned before how the payday lending issue and the mortgage issues are different, but did you see any through-line between those issues that your constituents were facing?

McCune Davis: Pretty much the same neighborhoods. That is what happened there. I think on the mortgage lending, the stories that I heard that were very distressing to me is that the essentially large – I've been saying mortgage brokers, I don't even know if that's the correct description to use – but the folks who were attempting to generate business sent people out into these communities. And they knew these folks had lived in these homes for many years and either interest rates were lower or mortgages were easy to get. They talked elderly people into refinancing their homes in order to send their grandkids to college. These were all well intentioned homeowners who just wanted that next step up the economic ladder. They mortgaged the homes only to find out they didn't have the income to make the payments, and they ended up losing their homes. That was the first phase that I saw. With the help of the folks in the Attorney General's office, we were able to put some protections in place, but we all know what happened as that came crashing down.

Jon Rosen: You mentioned the example of the elderly taking out a mortgage – or either the lender originators telling them that they should take out their mortgage so they can help their kid to go to college. Did you see any other tactics that these mortgage originators would use?

McCune Davis: They basically wrote loans to people without doing the due diligence that traditionally was done in order to get a mortgage. They pasted together all kinds of options to qualify folks who would not have qualified. Then, of course, the loans got chopped up and parceled out. It was a very bad time. And those very communities that were prospering based on generational acquisition of property and good jobs with decent wages and some retirement plans – we saw those very neighborhoods rapidly degrade. We saw people who had purchased homes because they had been doing well financially. And all of a sudden, they couldn't maintain the income to stay in the homes. Those were really hard changes to watch because those were families that had raised their kids there and could not stay. They were uprooted and had to make other arrangements.

Jon Rosen: Did you find that these originators were targeting certain communities generally?

McCune Davis: They were targeting minority communities, communities where the first language was different. There were folks who were not necessarily financially sophisticated. And they hired and sent in folks to talk to them who looked like them and spoke like them. So, it was clearly opportunistic and then became exploitive.

Jon Rosen: You worked on an effort to ensure that the loan originators were licensed like mortgage brokers. Can you talk a little bit about that?

McCune Davis: Yes…. We worked very hard to try to get that next level of protection in place so that there was accountability. These little companies would pop up, and they would send out folks to different areas just to basically produce the paper. And the more they produced, they got their fees. The integrity of the documents themselves didn't come into play. So, it was necessary to take that step, that further step, to build accountability into that part of the process, too.

Jon Rosen: With trying to regulate these loan originators, did you find that was a problem requiring interstate cooperation such that the originators couldn't just jump state to state depending on the regulation?

McCune Davis: That's one of my arguments that we had to use. We don't want to be the lowest common denominator because as states built up regulation around us, the opportunists would move to the place where they could get away with the most trouble. And way back, even before the time my family moved to Arizona, which was in the early sixties, there were all kinds of stories all over the country about people buying land in Arizona very, very inexpensively. Then [they were] coming out here and discovering that it was nothing but rocks and cactus, and nothing like they believed that they were purchasing. And we were basically saying, "Arizona's already a place that has a reputation of the bad deals. We don't want that to happen. We need to be able to assure families if they move here, that they're going to be able to purchase homes, keep those homes, and have some degree of integrity in the purchasing process." Those were interesting times.

Jon Rosen: Did you work or face any challenges with federal regulators and preemption issues?

McCune Davis: I think our problems were more on the Arizona level in that some of our regulators took the attitude that in the free market, let the buyer beware. There were options available to rescue people who got into situations, but some of our local regulators dragged their feet significantly and didn't offer those opportunities to people. We really had to keep the pressure on them to explain that other states were not suffering in the same way or to the degree that we were because they were using the resources available to them. I can't remember a specific preemption issue. There may have been some, but I think I always worked pretty close to the ground on Arizona-related issues.

Jon Rosen: When you were in the Arizona [legislature], you were the ranking member for the Committee on Banking, Insurance and Retirement. Can you just talk about your priorities, while you were ranking member?

McCune Davis: It's a funny story. Back in the late seventies, there were not very many women in the insurance industry. My husband at the time was being recruited to come to work for an insurance company. He looks at the offer, and he basically says, "it's a really good offer, but this is not for me." He says, why don't you do it? So, I went to work for a company called Bankers Life of Iowa. And I went through the process of getting licensed, and I was knowledgeable about life insurance and annuities and all of those kinds of things. It didn't fit very well with my Sociology degree. But I was willing to give it a try. I worked at that job for about two years. I also had two young kids at the time, and it didn't mesh well with my lifestyle of having to go home and put my kids to bed. Most people wanted evening appointments. So, it wasn't a fun time.

But I really did learn a lot about the industry. I learned about underwriting. I learned about sales techniques. I learned about sort of how to deal with objections. I got an inside view of how the industry worked. The company I worked for was conservative. It wasn't one of the crazy ones that was out there just twisting arms to sell product. When I went to the legislature, the committees were Banking and Insurance. I really started in that committee environment based on my experience with the industry and as an agent, but also as somebody who sort of saw the importance of the regulatory process. Then the banking issues came to life. That's when I had to do that same degree of learning.

It happened again when they started messing with the pension funds and started to try to change the underwriting in those funds as well, meeting investment requirements. I was fortunately a legislator who was interested in understanding the actions I was taking. As time went on, I would and could argue fully the benefits and the risks of the decisions being made. I got really angry and frustrated because so many of my colleagues who were promoting the changes were just reading scripts handed to them by the industry. I saw that erosion taking place too. And that made me really crazy because if you are elected to represent a community, then your job is to understand the consequences of the actions that you're taking. Over time, I saw the concern for the community diminish and concern for helping industry get the job done grow.

Jon Rosen: When you were working on these issues, were you able to find like-minded members for coalitions? Or were those coalitions different for different issues?

McCune Davis: … Because of the approach that I took, I was able to educate my colleagues. When a proposal came in – in Arizona legislature, we didn't have personal staff. While I was there in the House, I had an administrative assistant who worked for me and one other member. They took phone calls. They filled our books with the bills that were coming through. In order to have some assistance in terms of research, we had a staff that served the entire caucus. So, I didn't have somebody who I could go [to] and [have] do the research. What I found to be a good strategy was to use the knowledge I had and then direct the staff who worked on that committee to go and talk to the folks so I could build that coalition. It was knowing who in the community to talk [to] - really assess the proper impact and to then be able to respond and educate my colleagues so that they would stand with me rather than with the industry who was coming at them with pressure. That happened all the time. But oftentimes, there were members of the other caucus would never hear the counter-arguments to bills until after our caucus when we made the case for why the bills are bad bills. That was just our/my approach to things. I always had colleagues who were knowledgeable or knew where to go to help get the right information.

Jon Rosen: In 2009, the governorship in Arizona changed from Democrat to Republican. Can you talk about if that affected your ability to advocate for these issues?

McCune Davis: I'm trying to remember – Is that when Jan Brewer came in? In an interesting way, Governor Brewer didn't like these folks very much either. Her personal experience is really not that different than mine. I have a working-class family and all of those sorts of things. But it was really the Republican leadership who were intent on maintaining power that handed off the ability to raise money and bring in interest. And a couple of members of the Republican caucus who were very aligned with this industry and just worked really hard. What happened though, as we approached 2010, -Terry Goddard was still Attorney General, I believe. There was a loophole in the statute regarding lending, and it wasn't the payday lending statute.

It was the auto title lending. That industry's exploitive too. Their interest rates were in the 200% range. Up to that point, the industry operated in a way where, if they were going to give somebody a loan on their vehicle, they had to perfect a lien against that vehicle – which means they were mostly interested in lending on vehicles that had clear titles, or they had to notify the first lien holder in order to perfect the lien. And that had to be recorded with the Department of Transportation. So, there was a loophole in the law that essentially said that they could lend and that created a new mechanism whereby they took a photo of the title of the car and lent against the title or the registration. Those became registration loans. And they used the statute that remained.

And some of the payday lenders became auto title lenders, and that's really the sort of the evil actor right now, [and] since 2010 in Arizona. We've tried to reel them in, and we had a harder time with that because they were well-established, had relationships with Republican leadership, like the Speaker of the House, Jim Weiers, and his brother who was the Chairman of the Rules Committee. We were going up against people who made their living by making these loans. We tried, we never let up on them. They were very happy to see me leave the legislature.

Jon Rosen: For those kinds of issues, did you find that it was pretty split on party lines or was it more nuanced?

McCune Davis: We always found a few folks in the other caucus who were sympathetic to this. They were either folks from rural communities who had seen somebody lose their truck and not be able to make a living, somebody who was involved through their church, or they had to bail out a family and pay down a big loan in order to help somebody, or just somebody who understood what the negative impacts were. It was always down to the wire. It was a matter of one or two or three votes. We'd watch the lobbyists come in and take those one, two, or three members out to lunch right before the vote, hoping to flip the vote. Then I'd have to send one of my members in to sit with them until the vote was cast and make sure we didn't lose them. There was never an easy way to do the kind of consumer protection work we wanted to do. We tried, we really tried.

Jon Rosen: Did you ever try to work with industry groups in the sense of something like working with banks to oppose payday lending or something like that?

McCune Davis: The banks were not our friends because they were funding these companies. These companies were getting their capital through the main-line banks. I had a terrible conversation with somebody who I really respected, [who was] with one of the biggest banks in our part of the country, Wells Fargo. Because first of all, when they first started doing electronic banking, they were making offers on their website to people to get loans that were not your traditional loans that were actually reviewed in advance to determine whether somebody could pay them back. I walked a fine line there. I wanted to be respectful of the banking industry, but too often I bumped up against through their own corporate lending that was lending to these folks. They had lines of credit. So no, they were not helpful.

Jon Rosen: You worked on increasing funding for the Arizona Department of Financial Institutions (DFI), so that department and the Arizona Department of Justice could more adequately target predatory actors. Can you talk a little bit about that?

McCune Davis: Because Arizona's government tends to be very lean – in 2008-2009, when we had to do some pretty severe budget cuts, some of those agencies were left without the resources to do the kind of examinations that were needed to really identify or hold responsible the folks who are doing this kind of lending. Nobody would act on anything, unless there were multiple complaints. The companies, the bad actors, knew pretty much how much they could get away with. We watched what other states did – and we identified – when they would sanction a company. And then we'd go to look to see if that company was operating in Arizona. Our informal regulatory process was really to borrow the work done by other states. I think Colorado was very aggressive at that time. And in one case, there was a guy in Nevada, who was up in Lake Tahoe, lending money outrageously. Sure enough, we found his fingers in operations in Arizona, too. So, we asked the department to look at him. The normal, procedural examinations that would have been done routinely started happening less and less often. We had to pay attention to bad actors and work the issues that way.

Jon Rosen: In your view, what would a fully-funded Arizona Department of Financial Institutions, or just general consumer protection apparatus have looked like in Arizona?

McCune Davis: Before somebody got licensed, they would be able to demonstrate that they were a good character, that they had adequate finances and that they had knowledge to run the kind of company that they wanted to. Once established with licensure, the department would have had adequate resources to do routine examinations to make sure that their books were in order, but also to send somebody out to actually look at the interaction that they had with consumers, because that's the other place a lot of mischief was done. I have friends whose adult kids took out auto title loans or payday loans, and they'd go in and make a payment. They'd receive no receipt for it. The document that they would get, or the notation on the loan wouldn't reflect the payment. So, they would be paying and paying and paying on these loans.

It’s because the companies didn't properly train - even when the law said that certain procedures had to be followed. The company would intentionally not train their frontline staff to follow those rules. Only if they got caught would they go back in and make corrections. We looked at other cases in other states where the exploitation of vulnerable citizens happened because of either improper training, incomplete training, or implied processes in training. In other words, if the frontline employee could make friends with the person and just sort of guide them along, rather than following procedures, much of the accountability and protections went by the wayside. It's a bad way to do business.

Jon Rosen: Was the Department of Financial Institutions able to later go after some of these actors? Or was it mostly an uphill battle, in terms of ensuring that they could perform the job?

McCune Davis: … I'm thinking about what we have now, which is [that] Department of Banking has been rolled into a unit with the Department of Insurance. They have very little resources. I think other than what is required for compliance, my guess is that there's very little done on consumer protection. I am amazed at how well the employees, whose job is to do consumer support, actually do the work that they do because they're stretched thin and they don't have resources that they need. But we have a governor right now who believes that less government is better - streamline, takes pride in the fact that there are fewer state employees in every agency. [They] have combined them. Then, we have legislators. [David] Livingston is a good example currently, who is a member of industry and who has eviscerated the statutes around insurance regulation in the state. Much of what was there when I was there has gone now. Same thing with pensions and investment funds, the 401Ks, and the 403Bs – lots of the public funds were privatized or outside forces brought in. Those changes, though they have been good for the industry, have not always been good for the consumers involved.

Jon Rosen: Arizona was one of the states with the highest rates of foreclosure around the 2008 crisis. When did you start to notice that this was going to be a problem for your constituents?

McCune Davis: Probably early 2009, when we began to see the dynamics in neighborhoods change. Investors were going in and buying up homes as people got into trouble and couldn't make the payments. One of the current members of Congress, David Schweikert, was part of a big investment group who went in and bought up all kinds of properties and homes. He had ties to the industry, but somewhere they got funding and they went in and bought up all of these homes. These homes went from being neighborhoods that were owned by the people [who] live there and [they] became rental communities or mixed to the degree that the integrity of the neighborhood began to change where people were no longer taking pride in their homes. Many of these landlords were out of state landlords, they were investors. So, the idea that you would call your landlord to get your air conditioner fixed no longer was the case. The same thing with maintaining the exterior of property.

In that same timeframe, some of those homes were bought up by cartels that were moving undocumented folks through. And we would get calls from neighbors saying that the house has been empty for six months. Now, all of a sudden, there [are] cars pulling in, garage doors dropping, and 15 people in the homes. The exploitation just layered onto those neighborhoods. What were really good dynamic places to raise families changed to being a little bit riskier for families. I want to say it's evened out a little bit. It's gotten a bit better over time, but we know that the foreclosure crisis – the damage to the economy took years to recover. Arizona's economy didn't bounce back. It took time to get things back again. That was hard to watch.

Jon Rosen: When you returned to the Arizona House, you and other Arizona Democrats introduced the Homeowner Relief for a Strong Future package. Can you just talk a little bit about that effort?

McCune Davis: I'm not sure I can really remember the details of the package. I just know that we wanted to be sure that there were adequate protections in place so that what we lived through didn't happen again.

Jon Rosen: You advocated for a borrower's bill of rights... having lenders have to notify borrowers and modification negotiations. Can you just talk a little bit about that, and why it was necessary?

McCune Davis: Yeah. It was because people were being displaced from their homes without being given proper notice or any opportunity for due process. Yes, the banks, too, actually tie people's loans back to the original documents and they couldn't do it. They hadn't done what they needed to do in terms of protecting the integrity of the loan and –say, chain of evidence; that's not the right term. But people would come saying that they'd been notified of a foreclosure. We tried to get in touch with the bank to find out where things stood with those loans. And the banks could not give us information because the loans had been batched up and sold off to a secondary investor. The original lender couldn't remedy the problem. The only thing they could do was try to force the buyer out. We couldn't find the responsible person to be able to right the wrong. That's why the borrower's bill of rights was conceived. If you have lent money to somebody, there is collateral. They met the requirements of qualifying for the loan, but now you can't tell them what the status of their loan is. I mean, it was just completely unreasonable and irresponsible.

Jon Rosen: You advocated for ensuring there was current, accurate ownership information of property to ensure that law enforcement could handle crime. Can you talk a little bit about that?

McCune Davis: ... We think of crime as street crime, but in reality, we were looking at white-collar crime. We were looking at the kind of activity where if somebody could make money off a deal, they were putting the deal together and nobody was monitoring that. So, we wanted to absolutely make sure that those documents were traceable and [sent] back to a responsible party. During that period of time, I'd had a conversation with someone who worked in the Attorney General's office in State of Utah. So funny, when sometimes one conversation gives you an additional perspective on something that I'd never really thought about before. But he said that in [the] state of Utah, essentially, there was affinity fraud and that people made the offers specifically to people who they went to church with; people who they had social connections with, who they knew those families from little league or from some kid soccer.

The trust relationship that existed was *the* basis upon which the fraud occurred. Just like the case where investments are offered to people based on a group of people at a church, the Baptist [for example]. [In] Arizona, one of the big cases that Director of the Department of Financial Institutions, Felecia Rotellini, worked on [was] the Baptist fraud case. Those are exactly where these loans were coming from. So, the ability to document and trace back and begin to understand the dynamics of how this all happened was really an important step in that process.

Jon Rosen: You just mentioned affinity fraud…. Did you ever look at consumer community education, just to remedy that?

McCune Davis: We did. We supported every opportunity to expand consumer education. But the irony of that is that that was always the answer that the creepy lenders would offer us. They'd come in and say, "well, we'll do more consumer education." And we'd go and look at their work site. We would send somebody out just to go look around, and they'd have one poster on the wall that complied with the requirements of the consumer education. But it wouldn't be in Spanish, or it would be small font that wasn't readable. Somebody's walking in because they're having a personal crisis. They're not going to stop and read something on the wall, but they always came first with this "oh disclosure, we're going to tell them. We're going to make sure our consumers know." And my answer was, "I want to know that you're lending money to somebody who can pay that loan back in the time that the terms of the loan require. If that person cannot make that payment in that term, that is not an ethical loan."

We did a lot with consumer education. I worked with, I think, University of Arizona to develop some curriculum. We worked with anyone who would address the issue. …The media we did, frankly, and the campaign pushing back on the payday lenders, explain[ed] that what they were asking for was the ability to regulate themselves and repeating the high interest rate over and over and over again…. [We] explain[ed] that if you rolled over a payment, which these consumers were encouraged to do, that they ended up stretching the length of the loan out to the point where they would never pay it back. So, in a curious way, that campaign was probably the best educational tool we had.[1]

Jon Rosen: You proposed [the creation of a] House Subcommittee on foreclosures. Can you talk a little bit about that?

McCune Davis: We tried to really escalate the debate so that it wasn't just a matter of the regulators trying to address all of the problems that were there. I wanted a good examination of what our statutes were, so we would know what was working and where there were gaps. I don't believe that ever happened. We did it through other mechanisms and other means. That didn't end up being as effective [of a] strategy [as] we would have liked.

Jon Rosen: You called for some greater judicial review of foreclosures. Can you talk about why that was necessary?

McCune Davis: Because the documents weren't ethically created. People were being brought to court without adequate documentation. A consumer can't defend themselves against an action, if the actual action itself isn't built on sound principles and information. And that's why we asked for intervention in that area too. We were seeing, I think probably on the smaller loans - I don't know if it was on the home loans. [in]Justice of the Peace [courts]- were these default actions [that] were just being brought in batches [for the Justice of the Peace courts to administer].

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[1] The "campaign" McCune Davis is referring to was around Arizona Proposition 200, a ballot initiative would have allowed payday lenders to charge triple-digit interest rates. In 2008, Arizona voters rejected the proposition by a 2-1 margin.

These homeowners, or these borrowers, weren't given adequate notice. There was no demonstration that they'd received the notices. There had to be some additional interventions. Otherwise, the folks who had written the fraudulent loans in the first place could get defaults and these consumers could never get out from under them.

Then we had to deal with the bankruptcies and all of the things that families ended up having to do to get themselves back on solid ground. There were finally some mitigation measures put in place. There was some assistance, but by then we had a Republican governor and her appointees were never that receptive to helping consumers. Maybe that was the change… But the Director of Housing never really did what needed to be done to help our community. A part of it was because he was friendly with the banks. And some of the banks didn't want that kind of action to be taken because then those loans weren't going off their books and they wanted to clean up their mess quickly. So too much mischief.

Jon Rosen: Based on that, can you talk about your view of how the Arizona court system handled the mortgage foreclosure crisis, and what you thought about it?

McCune Davis: I don't know that I can recall specific things. I think when I described the lower courts - the JP [Justice of the Peace] courts probably is what I remember most. I'm not [getting] a whole lot of recall on the superior court activities. I think the Attorney General's office was doing most of that communication, sort of the educating that went on, and DFI [Department of Financial Institutions]. But I thought when there were decent cases put together that we were able to get some responses there. That's a very vague answer because that's exactly what I'm not remembering clearly.

Jon Rosen: Over the last decade, we've seen a number of narratives emerge about how to explain the financial crisis. How do you understand what caused the crisis?

McCune Davis: In my view, it was loosening of regulations for lending, improper processes, lending to unqualified borrowers, and doing it in opportunistic means. They basically used the old argument of having home ownership is something you need to do to stabilize your family and acquire wealth. But without the due diligence that's really required to make sure that that investment is a sound investment.

I watched families lose their homes. I watched some families hold onto their homes through very, very nerve-wracking processes. As I described it, I saw it more from the neighborhood level: the transition of stable communities turning into neighborhoods where the interconnectivity and the strength of people looking out for each other - turning into places to live, where people just resided in homes…. That cohesiveness in the neighborhoods was really lost. I guess that's where my sociologist brain kicks back in again. I know how important those safety nets are, and that's in addition to the financial loss and hardship on families. I think that's what we as a society lost was that interconnectivity.

Jon Rosen: Looking back on the crisis a decade later, what do you see as the most important lessons for state level policy makers?

McCune Davis: I think we do know now. The crash that crashed from high level all the way down to local level. I think there's clear understanding now that that kind of lending is not worth the effort. It's wrong. I think we do have some protections in place and I think that's essential. In fact, I have adult kids who purchased homes who now have to jump through hoops and more hoops and more hoops, but that's okay with me. I have a son who's an appraiser who understands the ethical responsibilities of actually linking the value of the purchase to the item that's being purchased. I can see it working now. I think that there are better protections in place because we certainly don't want to live through that again.

The other thing that I learned that I really want other people to understand is that it's not just poor people that get exploited. When we actually went in and looked at the business models – and I'm going back to the payday lenders here, but I think the other lenders aren't so different – they went looking for families who had income, but very little disposable income. These were not people who could buy themselves out of trouble. Once they were in economic trouble, they were in for the long haul. Having income and relying on that month to month to support your family, but not having substantial savings or not having the personal safety net to be able to pull yourself out of a tough situation was really an open door for these folks to exploit neighborhoods.

When I watched this pattern during the financial crisis where payday lenders were showing up in neighborhoods, I was amazed at where they were locating. Because it wasn't in places where people had no income. They were in places where people had reliable income, and they saw them as their target market. That's why I will never be convinced that these industries have value because they return nothing of value. They simply take from the community and bleed those communities dry, and those communities pay a huge price for that. It was hard lessons learned. We've put some protections in place. We need to keep them in place. When families make investments that really give them stability, we need to expand those opportunities, but do it right.

Jon Rosen: We're nearing the end of the interview. Is there anything else that I didn't ask about that you'd like to talk about?

McCune Davis: I'm not happy to see the lack of support for consumer protections that are out there. I'm now in a place [in] my life [that] has evolved now. I'm not working full time, but retiring and looking at long-term things. I don't have the stresses on me that young families do. What I want to say is that if we really want our communities to be stable, to raise children that grow up to be productive citizens, we have to have processes in place to help them maintain that stability. And that's what regulation is. That regulation isn't oppression, it's protecting an even playing field. It's giving families the ability to stabilize so that they can focus on bringing the resources forward to live productive lives and have healthy kids and assisting getting them trained for work and life. Every time we cut the legs out from under them with these economic crises, we go back to ground zero. … There's just absolutely nothing good about that. And I don't know. I want my state to offer good opportunities, not risks. And people will take risks and that's fine, but not at the expense of somebody's economic and mental health well-being.

Jon Rosen: Thank you so much, Representative McCune Davis. It was great to speak with you, and thank you so much for your time.

McCune Davis: I hope I shared some recollections. Those were hard times to go through. But I know that we fought the good fight, so that's the best I can offer. I hope [we] don't have to deal with all of that crazy stuff again, but thank you.

[END OF SESSION]