

AMERICAN PREDATORY LENDING AND THE GLOBAL FINANCIAL CRISIS

ORAL HISTORY PROJECT

Interview with

Kathy Floyd

Bass Connections

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PREFACE

The following Oral History is the result of a recorded interview with Kathy Floyd conducted by Sam Wolter on November 19th, 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.

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Interviewee: Kathy Floyd
Interviewer: Sam Wolter

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Sam Wolter: So to start, I'd like to just to establish a little bit about your background. I believe that as you mentioned, you earned your bachelor's degree from the University of North Carolina and your MBA [Master's of Business Administration] from Georgia State University.

Kathy Floyd: Correct.

Sam Wolter: It looks like you were involved in advocating for the elderly almost your entire career. What led you to your interest in this field? And what drew you specifically to your role as the advocacy director with the Georgia AARP [American Association of Retired Persons]?

Kathy Floyd: My interest really was more on the healthcare side and I've always been interested in politics. I can remember handing out campaign buttons on the school bus in the first grade. I have always been involved in politics. My mom brought me a board game as a teenager called "Power Politics." I couldn't get any of my friends to play. It was so frustrating. So I've always had this interest, but, really, when I hit thirty, I decided to kind of change my direction. I had been working for an investment firm and really getting more into health care issues. And a lot of the interest was around Medicare, Medicaid, and I worked for Families USA. And, because of that exposure, I got more information about the impact on seniors and that ended up leading me to AARP, so, I had an interest in healthcare and its impact on vulnerable populations, [that] was really where that started from.

Sam Wolter: How did you then get interested in the predatory lending work?

Kathy Floyd: Well, I really do have a passion for those that are more vulnerable, those that are at risk. And a lot of the abuses were targeted, for mortgage lending, were targeted at older African American women as a matter of fact, and so that really piqued my interest and AARP made the commitment to get more involved. And as the advocacy director for Georgia, then that got me more involved and I attended trainings and got more interested in it.

Sam Wolter: And kind of going off your comment about how you saw these schemes targeting elderly African American women—can you explain a bit more how and why predatory issues were particularly salient to seniors? What sort of issues were they facing? Was it similar to ones that would come up later in 2007, 2008, or was it those sort of schemes where they were trying to strip equity for home improvements, or a bit of everything?

Kathy Floyd: A lot of it was stripping the equity out with home improvements. AARP actually had a series of focus groups around the country on the issue, and one of them was held in Atlanta. I was actually able to go and sit behind the mirrored wall and watch. And they interviewed people that had been taken advantage of. And I remember distinctly an

older African American woman say that she was in her neighborhood sitting on her front porch and saw this good-looking Black child who was in college working the neighborhood and came up to her on her porch and wanted to talk to her and started talking to her about what repairs need to be done on her house. And she was so impressed with him and [he] ended up selling shoddy work and getting a second mortgage on the home that was almost paid for. That was a lot of what we were seeing at that point in time.

Sam Wolter: So moving ahead to 2002, when the Georgia Fair Lending Act was introduced, well, [Georgia] Governor Barnes' version, can you talk about how you learned about that legislation and got involved?

Kathy Floyd: Well, at AARP we had started training volunteers on an education campaign. When AARP commits to an issue, they put more effort into it. It was really great to have an education campaign and an advocacy campaign. And so the state office trained thirty-some volunteers from around the state to talk in their local neighborhoods about predatory lending, what it meant, what the risks were. And so we trained these volunteers early on and had them out talking. We had a newsletter gathering information from them and doing more recruiting and all of that happened as a buildup to the legislative session when a bill was introduced. Of course, Georgia had model legislation from AARP, which was really, really helpful. And so, Governor Barnes' staff looked at that legislation and took some key parts out of that model legislation with what he introduced. So it was a true grassroots campaign to educate people about what was going on. And as a veteran of a lot of campaigns, when you have good words, it's so powerful and "predatory lending," whew, such a good term, that was easy to capture people and be able to explain what was going on for sure.

Sam Wolter: ... So in this model legislation, were there any particular issues or areas of abuses you were trying to focus on....?

Kathy Floyd: Well, it was based on... the model, but it was based on what North Carolina had passed and the folks from the Center for Responsible Lending were part of our group and part of our conversations. I worked a lot during that whole process with Mike Calhoun and also Keith Ernst who's now with the FDIC [Federal Deposit Insurance Corporation]. Mike and Keith came down to Atlanta and did a lot of work hands-on with a lot of the details. Now, AARP had experts in Washington that would support the state offices too. So I, as a lobbyist and an organizer, had a lot of the specific support from AARP in Washington and then Mike and Keith. I know that there were a range of abuses that the bill tried to attack, assignee liability was a big one.

Let's see, yield spread premiums—I can't remember the entire list, but it was taking what was causing problems and trying to address those in the legislation. Now, one of the things that we looked at through the process and were really hoping to include was some kind of judicial foreclosure. Georgia has a very quick foreclosure process and it's caused a lot of problems. And so that's another thing that the advocates were interested in, but our Speaker of the House at that time in Georgia, Tom Murphy, Democrat, was totally opposed to judicial foreclosure. And so that, throughout the process, became a total roadblock. And so the advocates had to give up on that part of

the bill, because there was no way to get it through the House with the Speaker so totally opposed to it. But—I'm more [whom] legislators talk to and getting AARP members, regular folks in the districts, to talk to their legislators and that whole thing, instead of the subject matter expert.

Sam Wolter: So kind of going off that advocacy piece, once the legislation is introduced and the lobbying and advocacy is in full swing, how would you describe your overall vision for the advocacy strategy that you were making to legislators?

Kathy Floyd: Well, they were hearing from bankers and in fact, the folks that we had out doing presentations and educational series around the state would call me and say, I was talking at my local Rotary [Club] and this banker I know said to me, "Oh, well, we have to make money, and you can't cut off our ways to make money." They bring up something and then I'd have to explain, "Well, here's what that really means." And so we had done a lot of back and forth about that, but our strategy was really trying to get regular people to weigh in with their legislators to try and counter some of the big money that was going on on the banking side.

Sam Wolter: Speaking of that banking side, did you feel there were any valid concerns among the opposition that needed to be addressed, and then just generally, what were your views of the mortgage brokers and the other opponents lobbying against the bill?

Kathy Floyd: Well, this was really directed at subprime. And so trying to explain to people that —... you're talking to brokers that are looking at prime loans, your credit is fine. This [law] is for a particular class of loan. Now I read back over some of the op-eds and some of the articles that I had archived and it's interesting that the conversation about assignee liability and how, "Oh, that's just impossible and, oh, they can't sell these packages." If you follow the accountability all the way down the line, well, I think that looks a little different now than it did in, 2003, [or] 04, 05, 06.

I think we see that a little differently, and it's amazing how Bill Brennan, who was with the [Atlanta] Legal Aid Society, who is one of my heroes, just such a fabulous, fabulous advocate. Bill talked about what a problem this was and knew that this is what's going to happen if changes weren't made. And he talked about the bundling of the loans and how that was so different than you knowing your banker and your banker knowing what the properties were and understanding that if this mortgage was in trouble, then this is why it's in trouble. And how far apart that became and how separate that the process became. He really saw the future and saw the problems that were going on.

And I tell you that [at] one of the hearings that they had, some of the legislators just laughed and made fun of him. And they were [saying], "You're an attorney. Why aren't you making money instead of making nothing with this ridiculous fight." And, I mean, it's such the wrong priorities in life. I mean—it was incredible, but he just was an amazing advocate. And of course, Karen [Brown, also from the Atlanta Legal Aid Society] worked with him.

Sam Wolter: ... Were you immediately concerned about repeal and amendment or was there kind of a honeymoon period?... And relatedly did the predatory lending experience lead you to get involved in Governor Barnes' reelection campaign [in 2002]?

Kathy Floyd: Unfortunately, AARP can't take a position and—that's one of the downsides of the way 501(c)3, 501(c)4 are set up, is then you can't tell the story. And so we weren't able, at that point to tell seniors what a fabulous thing he had done for them. So it did restrict [AARP]. I mean, I supported him personally and was in touch with him after he lost when he went to work for Atlanta Legal Aid. And then he supported an organization I served on the board of, Georgia Watch, who's also a good organization for consumers. But no, because of the restrictions, we were not able to tell that story.

Sam Wolter: And once Governor Sonny Perdue won [in November 2002], did you have any optimism that the legislation would stand or [did] you immediately have the sense that this is going to come under attack? What was your reaction after that?

Kathy Floyd: Well, it's interesting because it plays into the change in the legislature. So, when Perdue won ... Democrats controlled the House and Democrats controlled the Senate and a Democrat was Lieutenant Governor. And so Perdue, as soon as he won, they were calling Senators to try and flip the Senate. And one of those Senators was Senator Don Cheeks from Augusta. And so, I had the opportunity to sit in his office and hear him tell me about getting that phone call. It was four of them that flipped and were able to flip the Senate [to a Republican majority]. And so that greatly increased Perdue's power having that situation in the Senate. But then, Senator Cheeks became a champion on trying to preserve some good parts of the Fair Lending Act.

He had a proposal which Freddie Mac signed off on and said it would answer their problems and didn't roll back as much stuff, but then the bankers took the opportunity to say, "Okay, it's all bad, so we can get more done. We can get a bigger bite of the apple. Oh, are we going to get a bigger bite of the apple now?" And so the House ended up being the one that had a worse bill. And that ended up being by one vote, ended up being what passed unfortunately. And I can tell you, I was—we were watching it, Senator Cheeks was trying to decide when he was going to bring the bill up [for an agree or disagree]. And he was trying to keep his supporters on the floor [so he could get a disagree and insist on the Senate version which was his bill]. And he was like, "Okay, it's getting close to lunch." We call it up, while so-and-so's out to lunch and it was really, really tense there. And I had to chase a Senator who was going out to see—NASCAR was there that day and they had two racecars outside the capitol and he's [saying] "Oh no, I got to get my picture taken with the NASCAR drivers." And it was like, Ah we need you. And so I remember that day and it passed by one vote, there it was defeated. His bill was defeated and the House bill passed by one, one vote, unfortunately.

Sam Wolter: It sounds both from press accounts and from other folks we've interviewed that the AARP was very involved in the advocacy campaign the second time around. I was curious if you could describe how your advocacy campaign here differed, if at all, from the original campaign to enact the legislation and if it was the same coalition, or if you had new or different partners?

Kathy Floyd: Well, I mean, it was very different because to pass the bill, we had help on the second floor [where the Governor's office is located]. And Governor Barnes was totally for it, understood it. He, in fact, I remember when it was trying to get passed he invited early one morning before the session started a whole group of Democratic legislators to the Governor's mansion early in the morning to make it clear to them this is why this is important. And so Mike and Keith [from CRL] were there set up in his office, having all of that support was completely different than the next year when you didn't have that access. And, in fact, when Senator Cheeks was trying to decide when to bring it up, you could see Perdue pulling Senators off the Senate floor going down to the second floor to meet with him.

So he was actively putting the pressure on them to pass the House bill. You could stand on the third floor and watch them being summoned and going down to his office. We watched them and kept up with who they were. You didn't have the power of a Governor behind you. In fact, he was definitely pushing and working on the opposite side, but I mean, that came down to a State Senator telling the huge lie is how that all worked out.¹ "Oh, we've got a letter coming." And of course the letter came and the letter said we'd be fine, Freddie Mac would be fine with Senator Cheek's version. You don't need all this other, but he was able to prevail just telling a lie. And he is now, he's got some big job now. I just saw recently where Senator Stephens is head of some—he went on to bigger things, told the big lie, and just went on to bigger things.

Sam Wolter: And what did you make of this state inspector general refusing to investigate? Senator Vincent Fort requested the inspector general to investigate that. Did you have any knowledge of that, or was there any sense that that might yield real results?

Kathy Floyd: No. What I remember is Center for Responsible Lending had conversations with somebody up in either Fannie Mae or Freddie Mac and they were on vacation in France and were willing to—there was a Democratic Senator from Columbus, GA who tried to get the Senate to patch through this official from France on the telephone to say, "That's not what we're going to put in our letter," but he was not able—the Republicans control the Senate. He was not able to get approval to patch through this official, this person high up who was in France. So that's the part that I remembered that just that Senator tried and tried different ways to get the message through to counter the lie from Senator Stevens

Sam Wolter: And jumping backwards a little bit, even before the Senator Stevens fax fiasco. I was curious about your recollections of the Standard and Poor's announcement in January 2003 that it would not rate securities containing mortgages covered by the GFLA [Georgia Fair Lending Act] and how that was viewed as a real turning point. I was

¹ On March 6, 2003, the final vote to amend the GFLA was called after Senator Bill Stephens stated on the Senate floor that Freddie Mac, one of the largest purchasers of Georgia home loans, had decided it would pull out of the Georgia market in two days unless the GFLA was amended. Senator Stephens said that Freddie Mac had prepared a letter to this effect and that it would arrive via fax within thirty minutes. The Senate then voted 29-26 to amend the GFLA. The letter did not arrive until five days later, and did not make the ultimatum described by Senator Stephens. For further information, see Badertscher, Nancy, and Rhonda Cook. "Charges Fly After Lending Revision." *The Atlanta Journal-Constitution*, March 24, 2003, sec. B1.

curious if you could discuss that a bit and—was this something that you expected the opposition to focus on or was that sort of an unexpected attack?

Kathy Floyd: I remember in the fall most of the criticism revolved around VA [Department of Veterans Affairs] loans, some FHA [Federal Housing Administration], but mostly VA loans and a lot of complaints that veterans are not going to be able to get loans. You've made it impossible for them to get loans. And there was a public hearing. We heard from members, AARP members, that were concerned. And so we delved into kind of what, what was actually going on and how was this, and really felt that the problem was they were charging—the fees were too high, that's what was going on is this other layer of broker was charging fees and it was too high. But they had such a sympathy around, veterans that we figured, okay, this is something we're going to have to give on. And so that was kind of where we saw that, but I can't remember if we had any warning about the S&P [Standard and Poor's] announcement or not. It made a huge difference for sure.

Sam Wolter: And as the other rating agencies piled on and it was getting covered in the press did these messages and this narrative, did it create pushback or concern among AARP members and constituents?

Kathy Floyd: Oh, sure. I worked for AARP for 19 years and there really was a trust among AARP members until healthcare. I think that really that became—I lived through that whole Obamacare and all. I think until there, there was a lot more trust about if AARP said this is bad, then it's bad. Now I think that there's still a lot of trust there, but AARP took a hit with healthcare reform unfortunately, unfairly. But for sure now, in general, when I was with AARP, you'd have about half the members are Democrats, half were Republicans, but in the leadership, Republicans did not like AARP very much and it's much more popular among Democratic leadership than among Republican leadership. So when I left AARP and became the director of the Georgia Council on Aging—I had the same values but I heard from legislators, “Oh, I don't even want her walking into my office, oh, I don't want them in the office.” And a lot of that was the fallout from healthcare reform.

Sam Wolter: And did national AARP—were they affected at all by the rating agencies' decisions? Did they back off their support or anything after the rating agencies got involved?

Kathy Floyd: There were some discussions, but the advocacy folks stayed strong. In fact, I found an email when I was looking back from part of the leadership wondering how strong should our standing be now and all, but AARP stood strong and the organization really does give some independence to its states. So as long as the state office wanted to stay strong they would support you in staying strong. They really do listen to the state folks, as far as this is going to cause us problems or this is worth the fight, that kind of thing. So, I do remember we had a little bit of heartburn, but they supported the state staying strong.

Sam Wolter: Karen Brown described the whole role of the rating agencies as “catastrophizing” the situation. And I was curious, how did you try to counter that narrative either to your supporters or to legislators? Did you try to focus on the specifics and the details or take it more general as like, “This is the right thing to do?” How did you counter that “the sky is falling” message?

- Kathy Floyd: Well, I know that we concentrated on the message, “Show us one person who qualifies that can't get a loan.” And so the sky is falling. Counter: okay, “show us, bring us one person, show us one person. What are these numbers? You don't have numbers.” I know that was one of the counters that we used and I'm sure that there was some more detail. I know that—there was a feeling that that they [the rating agencies] were part of the problem, making their own money....
- Sam Wolter: ...[I]f you had to explain why you thought the GFLA was so rapidly passed and then so rapidly amended and basically gutted, what would you say were the main reasons for that rapid rise and fall?
- Kathy Floyd: Changing from Barnes to Perdue.
- Sam Wolter: Is there anything—even with that change in office, is there anything you would've changed about the advocacy strategy, either for AARP specifically or the broader coalition that you think you would have done differently knowing what you know now?
- Kathy Floyd: We had the educational campaign that went on in passing the law. And if you'd been able to keep that running and keep that going that might've had an interest, because like I say, it was, it was really close. We're talking about one person. So, I think more on that education side, more on the grassroots side, and better counters to what the arguments were. But we had an excellent champion [Governor Barnes], we had a Republican champion who understood what was going on [Senator Don Cheeks]. [Barnes] was a former banker, so he knew what the deal was. It just, it was hard. Yeah. And ... I have definitely told people that Georgia would have gone through the recession much, much better if they hadn't been able to do this in 2003.
- Sam Wolter: There's another claim that's sometimes thrown out there that in contrast to the North Carolina anti-predatory legislation, the Georgia effort didn't secure enough buy-in from bankers and mortgage lenders and other finance industry folks. What do you make of that argument? Is that just sort of after the fact rationalization? Or do you think there was sufficient engagement?
- Kathy Floyd: Well, we don't have a comparable entity like the Center for Responsible Lending. We don't have a community group that high profile that makes the kinds of loans, the good loans that they do. So, I think—you were not going to get any of the main banking folks. I mean, I have friends that are banking lobbyists. I like them a lot. But [have] gone head to head, like I say, with payday loans and payday loans is not even their deal, but they all stick together because it's a foot in the door. And so you're not going to, the major ones, you're not going to turn them.
- Sam Wolter: After the GFLA was defanged, what sort of anti-predatory legislation or initiatives did you focus on after that?
- Kathy Floyd: Well, I went back and saw that in 2009, Senator Bill Hamrick in the Senate had a bill, I think it was SB 53 was something that we worked on, got passed in the Senate, and I can't remember what, I cannot remember what protections it added back, but it didn't

make it to the House floor. I think it came out of committee, but then they never scheduled it to go to the House floor. So, there were efforts and Hamrick is a Republican. He went on to—he's now a judge. So, there was that concerted effort as you started to see some of the problems that were going on. And I know that Bill Brennan and Mike and Keith had the stats on the number of loans that were going to, I can't remember what the term is, but hit that cap where they were going to start bumping, the rate was going to start skyrocketing. And that looked scary. We were not successful in getting that done.

Sam Wolter: ... Going back to the GFLA, I'm just curious what lessons you think that advocates and organizers could draw from it today? If there is anything useful for folks thinking about predatory lending issues or housing advocacy in general, if you thought there were any kind of lessons learned there?

Kathy Floyd: Well, I think simply—because of my work on these issues, I've become more interested in the financial side and I watched the whole fight to get the federal bureau [the Consumer Financial Protection Bureau] established and I've read Elizabeth Warren's books. So, it's very complicated. I mean, it's always so complicated, but the more you can simplify, the better you're going to be. It's—people want to know what time it is, they don't want to know how the watch works. Our theme of our campaign for the original bill was, “They didn't tell me I could lose my house, they didn't tell me I could lose my home.” So that, keeping it, trying to simplify it, meeting people where they are instead of trying to move them over here is—I think that's a lesson, a lesson learned.

Sam Wolter: ... [W]ere other points about the Georgia episode that I didn't ask about or that you wanted to discuss?

Kathy Floyd: Okay. Well, a key figure when they were rolling it back, when Perdue and folks were rolling it back, was Patrick Flood with HomeBanc². Most of their loans were interest only and he came to the capitol. He gave the Republican party something like \$40,000 and they treated him like a king. I mean, they shepherded him around, he testified about how they're going to go out of business if this law isn't changed. And this is a guy doing interest only loans. I mean, oh my gosh. Now, they ended up going out of business in 2007, thank goodness, which you could predict, but, oh my gosh, to see this guy. And I think that he had on Gucci loafers, walking around being just treated like a king at the legislature because he was the CEO and, oh my gosh, it was just emblematic of what was going on. The way he was treated and his whole approach was just a metaphor for what was going on.

I told you about the focus groups. I had a really good experience. Senator Fort got Reverend Joseph Lowery³ to come to the capitol. I don't know if he told you about that day. Since Senator Fort was on the Senate side, he asked me to take Reverend Lowery down on the House floor, which was a huge honor for me. So we went after the session was over, we went on the House floor to talk to some African American legislators and

² HomeBanc Mortgage Company, a now-defunct lender.

³ Reverend Joseph Lowery was a prominent civil rights leader who founded the Southern Christian Leadership Conference with Dr. Martin Luther King, Jr.

we were specifically going to talk to Representative Calvin Smyre, who has just been nominated to be Ambassador to the Dominican Republic. Calvin Smyre is a longtime legislator and was a supporter of Obama and a high-profile legislator. And so we went down to talk to him and I'm just standing back watching and Reverend Lowery starts talking to him about the bill and Representative Smyre says to him, "Well you know Reverend, I am a banker," and Reverend Lowery said, "But you're a Black man first." And, oh my gosh, that was such a wonderful experience to be a part of.

... And he ended up voting the right way. So Reverend Lowery had his impact for sure. Now another thing, so there was a public hearing. This must have been in the fall leading up to—in the late fall of 2002, African American subprime lenders arranged and had a public hearing at the capitol with the message that the bill was going to put them out of business. Room is packed, they're complaining, complaining, complaining. Senator Fort addressed them and gave a really good counter to what they were talking about, but then a Representative, Representative Able Mable Thomas. She legally changed her name to Able Mabel. She's incredible. She got up, and I wish I had a recording of her speech. It was a stem winder. Oh, it was fabulous. "You are sitting there talking about money in your pocket and you are throwing your grandmothers who raised you in your community, who raised us? It's our grandmothers, and you are throwing your grandmothers under the bus. What are you doing?" It was, it was fabulous. I've complimented her on it since then. And she says, "I don't remember it." I said, "Well, you were fabulous. You were fabulous." So, that was a speech to remember...she was moved by their greed and it was fabulous.

Sam Wolter: ... So the concluding questions that we end with everyone are kind of just big ones about 2007, 2008, because we like to get—everybody has a different explanation. So over the last decade, we've seen a number of narratives emerge to explain the financial crisis. How do you understand what caused that crisis?

Kathy Floyd: I think the separation between the mortgage and the property that it's attached to and who ultimately owns it. And so that bundling and selling without really being tied to what's going on underneath is to me, a lot of the problem. I did find a column that a local reporter wrote saying that when we look at what caused [the crisis] then Governor Barnes and Governor Perdue should be who the feds interview about where this started, because what went on in Georgia is the start of what caused the problems. So, like I say, I can send some of these to you if you're interested.

...I don't know if you saw Henry Unger, who was a great reporter at the *AJC* [*Atlanta Journal Constitution*]. And Maureen Downey who is now, she switched to education. I was sad when—she's still doing a fabulous job, but she did some really good op-eds. But when Perdue had his signing ceremony, they wouldn't let Henry in the room.

...The House Banking [Committee] had a hearing and they only heard from the banking side. And then they ended the hearing and I was ready to testify and several advocates were ready to testify. And Henry came to me afterwards and so I said something about this is a travesty for democracy or something like that. And he put it in the paper and the chair of the Banking Committee [Rep. Johnny Floyd] called me, had me come in his office the next day and said, "You know, Kathy, you know I'm going to give y'all a

chance. You know, I'm going to give you all the chance to talk, we're gonna schedule, we don't give you a chance." I said "okay, okay. Well, we just, you know, we want our chance, we want our chance to talk." His name was Floyd and I used to call him cousin. But yeah, he was—Henry putting that in made sure that the advocates got our chance to say our parts.

Sam Wolter: Looking back on the crisis over a decade later, what do you see as its most important lesson for state level policy makers?

Kathy Floyd: Lesson for state policy?

Sam Wolter: Yeah.

Kathy Floyd: Yeah. I think the juxtaposition is good for people to look at as far as 2002, 2003, 2008. We didn't have to wait long to see the impact. And so policy changes do have, they do have impact and it is helpful to see what can happen.

[END OF SESSION]