HMDA, HOUSING SEGREGATION, AND RACIAL DISPARITIES IN MORTGAGE LENDING

Charles M Lamb, Ph.D.
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Housing segregation and discrimination remain persistent problems in America. This Article first explores the passage of the Home Mortgage Disclosure Act (HMDA) of 1975 and its 1989 amendments to clarify their objectives and requirements for providing data to the public that potentially may be used to combat redlining and lending discrimination in the nation’s housing market. Given this background, the Article then relies on HMDA data to investigate the following question: Are racial minorities in America’s largest metropolitan statistical areas (MSAs) less likely to receive conventional mortgages than government-insured mortgages if they reside in more segregated metropolitan areas? The analysis indicates that housing segregation has a significant negative effect on African Americans receiving conventional, but not government-insured mortgages, thereby distinguishing them from Asians, Hispanics, and whites. If blacks are unlikely to receive conventional mortgages in more segregated areas, this suggests that highly segregated MSAs are likely to remain segregated in the future along black-white lines and that African Americans will continue to be the most segregated racial group in the country. Based on this analysis, we conclude that

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HMDA should be amended to require additional data from commercial banks in order to determine the extent to which lending discrimination is actually occurring, thus perpetuating—and possibly even increasing—housing segregation in the United States.

INTRODUCTION

Housing is a vital aspect of American life, yet housing segregation and discrimination persist. First, consider housing segregation. Scholars have demonstrated that residential segregation remained widespread following the passage of the Fair Housing Act of 1968 and that it has only modestly decreased since the 1970s. Moreover, black-white residential segregation continues to be very high. Between 1980 and 2010 whites and blacks remained the most segregated racial groups in the United States, with African

4. Id. at 1, 4-10.
Americans often being hypersegregated. In addition, Asian and Hispanic segregation has changed little since the 1980s. With President Barack Obama’s public support, the Department of Housing and Urban Development (HUD) therefore released new regulations in July 2015 in order to attempt to reduce persistent levels of residential segregation.

Scholars have also shown that housing discrimination persists. Wienk and his colleagues initially demonstrated significant levels of discrimination against African Americans in residential sales and rentals. Later, confirming and extending those results, Turner, Struyk, and Yinger estimated that the overall incidence of discrimination against African Americans was 53 percent for renters and 59 percent for homebuyers, compared to 46 percent for renters and 56 percent for Hispanic buyers. Then, in 2002, Turner and her colleagues found that although some forms of discrimination had diminished, it was still a problem. Their “best estimate” of discrimination, which reflects the extent to which whites were consistently favored over their minority partners, ranges from 17 percent for African American homebuyers to 25.7 percent for Hispanic renters.” More recently, in 2013, Turner and another research team concluded that minorities continued to face subtle yet noteworthy forms of housing discrimination, even though the most

5. As Massey and Denton define hypersegregation, “Not only are blacks more segregated than other groups on any single dimension of segregation, they are also more segregated across all dimensions simultaneously.” Douglas S. Massey & Nancy A. Denton, Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions, 26 DEMOGRAPHY 373, 373-74 (1989). For more recent findings, see Douglas S. Massey & Jonathan Tannen, A Research Note on Trends in Black Hypersegregation, 52 DEMOGRAPHY 1025 (2015).


flagrant forms of discrimination had clearly decreased since Congress passed the Fair Housing Act in 1968.11

These studies of levels of housing segregation and discrimination are mainly conducted by sociologists and economists, relying on large statistical datasets. However, it is relatively rare that legal research explores questions of fair housing and residential segregation using comprehensive data.12 In response, we attempt to fill part of this research gap by focusing on one research question: Are racial minorities in America’s largest metropolitan statistical areas (MSAs) less likely to receive conventional mortgages than government-insured mortgages if they reside in more segregated metropolitan areas? Focusing on the years 2000, 2005, and 2010 and relying on a rich Home Mortgage Disclosure Act (HMDA) dataset, these results indicate that racial minorities in America’s 102 largest MSAs in 2000, 2005, and 2010 were less likely to receive conventional than federally-insured mortgages if they resided in more segregated areas?13 We focus specifically on housing segregation and the likelihood that different racial groups receive government-insured mortgages versus conventional mortgages. Note, however, we cannot assess the degree to which lending discrimination occurs because HMDA data do not permit an analysis of lending practices that constitute discrimination under federal law.14 In this context, caution must be used in interpreting HMDA data because there are a number of individual mortgage applicant traits that are unknown in this dataset, such as the borrower’s credit score and history; total assets in checking, savings, and


13. Our focus is on recent years, but mortgage lending discrimination can be traced back to the 1930s. See Robert G. Schwemm & Jeffrey L. Taren, Discretionary Pricing, Mortgage Discrimination, and the Fair Housing Act, 45 HARV. CIV. RIGHTS-CIV. LIB. L. REV. 376, 385-87 (2010).

retirement accounts; and number of dependents. Race may therefore have been irrelevant in many instances as lending institutions relied on legitimate financial considerations in denying mortgage applications.

Given this focus, our research relies on data disclosed by American lending institutions under HMDA, originally passed by Congress in 1975. As amended in 1989, HMDA requires the disclosure of data not only on the amount and location of mortgage loans but also on some of the characteristics of applicants and borrowers, including their race, ethnicity, and gender. These data can then be used to help prevent lending institutions from discriminating against particular neighborhoods when loan applications are made and lessen the imbalance of credit distribution across racial, ethnic, and gender groups. As would be expected, HMDA data has been used in both sociological and economic research. Yet, again, it is relatively rare that legal research has relied on this data.

The Article proceeds as follows. Part I presents an overview of HMDA’s early legislative history. Part II analyzes how HMDA’s legal meaning evolved from its original passage in 1975 to its 1989 amendments which had important civil rights implications. The background provided in Parts I and II clarify HMDA’s objectives and requirements while setting the stage for our empirical analysis and recommendations for amending HMDA. Part III then surveys the literature on mortgage lending and relates it to this research. After presenting our research design in Part IV, Part V provides our statistical results on mortgage lending disparities to different racial groups during 2000, 2005, and 2010 based on HMDA data. Finally, we state our conclusions and recommend that HMDA be amended to require such basic things as applicants’ total financial assets, credit scores and history, number of dependents, value of the property to be purchased, and size of down-payments required. This additional data from commercial banks can be used to determine the extent to which lending discrimination is actually


occurring in America, thereby perpetuating and perhaps even increasing racial residential segregation.

I. HMDA’s Legislative History

HMDA was originally introduced by Senator William Proxmire (D-WI) in 1975. Senate hearings were held in early May 1975 and included a variety of witnesses who both supported and opposed the legislation. Hearings in the House were held over the following two months and also included a substantial number of witnesses. Although the proposal’s provisions remained largely the same after the hearings, they did produce some notable changes to the bill that addressed specific concerns raised by both factions. Aside from affecting the bill, the hearings provide insights into the motivations and concerns of different groups, institutions, and associations and how their testimony shaped the bill.

A. Initial Senate Provisions and Hearings

The opening statement of the initial Senate HMDA bill declares that banks had not always provided mortgages to certain neighborhoods from which they had collected deposits.18 It additionally notes that the purpose of the act is to provide communities with the means to determine for themselves whether their local depository institutions are providing mortgage funds commensurate with that community’s particular needs.19 Thus, the opening statement implied that a community, at least in part, was responsible for deterring lending discrimination by publicly examining bank-lending policies, thereby putting the onus on the public to use the statistical data made available by HMDA.20 These two passages set the tone for the bill by indicating that the proposed law would hold banks at least partially responsible for the dearth of credit opportunities in many communities. As shown below, these statements provided the focal point of the banking industry’s

19. Id. at 6.
objections to HMDA because of their perceived implications for lending institutions.

The main provision of the Senate HMDA bill required that each depository institution disclose to the public, upon request, the number and total dollar amounts of mortgage loans made by that institution in the preceding fiscal year as well as the number and total dollar amount of outstanding loans owed to the institution in the preceding fiscal year. Each institution was additionally required to make available the number and total dollar amounts of savings accounts held by that institution and the number of savings accounts opened and the amount of money at the close of the preceding fiscal year. Furthermore, the bill initially required this data to be available at every branch of a depository institution.

The second provision explained how this data should be “clearly and conspicuously” provided. It required that the information the first provision disclosed also be shown with the appropriate zip code for each mortgage and savings account in the branch’s metropolitan statistical area (MSA). For mortgagees who secured their mortgage with property outside the MSA and savings account holders with addresses outside the MSA, their data would be displayed by the relevant county and not a zip code.

The third requirement of the Senate HMDA bill related to instances in which a depository institution did not have a home or branch office in an MSA. It required that the number and dollar amount listed in the first provision be specified along with the relevant zip code for “mortgages secured by property located outside the State in which the institution is located” and for savings accounts with addresses outside the state. Another requirement was that the depository institution disclose “the number and dollar amount of mortgage loans which [were] insured under title II of the National Housing Act or title V of the Housing Act of 1949 or which [were] guaranteed under chapter 37 of title 38, United States Code” and the

22. *Id.* at 7.
23. *Id.* at 6.
24. *Id.* at 7.
25. *Id.*
26. *Id.* at 8.
27. *Id.* at 8, 9.
number and dollar amount of mortgages made to people who did not plan on living in that property. Cumulatively these provisions required depository institutions to make available to the public at every one of their branches the number of mortgage loans, savings accounts, and their respective values that an institution had and to categorize this data geographically in the form of a zip code.

Hearings by the Senate Committee on Banking, Housing, and Urban Affairs generated testimony by an array of neighborhood and national associations as well as the National Association for the Advancement of Colored People (NAACP), Illinois Governor Dan Walker, banking and mortgage interest groups, and Professor George Sternlieb of Rutgers University. Importantly, the committee also consulted several government agencies, including HUD, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board (the Board), and the Federal Home Loan Bank Board (FHLBB). The witnesses were predictably divided into two main camps. Neighborhood associations, national advocacy groups (excluding banking groups), Governor Walker, and the Federal Housing Administration (FHA) were the chief proponents of the legislation. Conversely, the FDIC, the Board, the FHLBB, and banking advocacy groups were the foremost opponents.

The principal argument in support of the enactment of HMDA centered on the problem of redlining in urban areas, its contribution to urban decay, and how a data disclosure bill like HMDA would allow communities to monitor depository institutions and their

28. *Id.* at 9.

29. Among others, these included the Metropolitan Area Housing Alliance (Chicago), the People Acting Through Community Effort (Providence), the Alliance of Concerned Citizens (Milwaukee), the Coalition of Neighborhoods (Cincinnati), the Coalition to End Neighborhood Deterioration (Indianapolis), and the East Oakland Housing Committee (Oakland).

30. There were only three advocacy groups: the NAACP, the National Urban League, and the National Committee Against Discrimination in Housing (NCDH).

31. These included the National Association of Mutual Savings Banks, the National Savings and Loan League, the United States League of Savings Associations, and the American Bankers Association.

32. Redlining refers to “the practice of refusing to make loans or otherwise denying financial assistance for housing in particular areas.” SCHWEMM, supra note 2, § 18:4 at 22-23.
lending practices. Viewing HMDA through the prism of redlining, every neighborhood association witness insisted that HMDA data would be a means to monitor their own local depository institutions to prevent redlining and thus stave off urban decline. Theoretically such public supervision would make local depository institutions more responsive to the needs of their depositors in local communities. Most of these witnesses also supported identifying loans by census tract over zip codes because census tracts were perceived to be more uniform in the types of housing and neighborhoods they covered. This uniformity would allow for a better analysis of a bank’s lending patterns and aid in determining the existence of redlining.

HUD's position on the Senate HMDA bill proved to be somewhat of an outlier. In certain instances it claimed that lending institutions deserved more blame than indicated in the purposes section of the bill. However, HUD seemed willing to compromise on sections of the bill that would have assisted communities in actually making a case that their lending institutions were disinvesting in their neighborhoods. First, HUD thought the charge against lending institutions—that they were not lending enough to neighborhoods where their depositors lived—and the proposed remedy was too narrow. Instead, HUD officials argued that the bill

33. See, e.g., the testimony of Governor Walker of Illinois, Hearings on S.1281, supra note 18, at 26-27; Gale Cincotta of the National People's Action on Housing and of the Metropolitan Area Housing Alliance, id. at 173-76; William O'Grady of the Coalition of Neighborhoods in Cincinnati, id. at 336-38; and Ann Hanlon of the Coalition to End Neighborhood Deterioration of Indianapolis, id. at 346-48.

34. See, e.g., the testimony of Gale Cincotta of the National People's Action on Housing and of the Metropolitan Area Housing Alliance, id. at 173-76; William O'Grady of the Coalition of Neighborhoods in Cincinnati, id. at 336-38; Ann Hanlon of the Coalition to End Neighborhood Deterioration of Indianapolis, id. at 346-48; and Paul Boyd, of the Oak Park Community Organization, id. at 416-17.

35. See e.g., the testimony of Theodore Snyder of the Alliance of Concerned Citizens of Milwaukee, id. at 292; and Frances Matarrese of the East Oakland Housing Committee, id. at 420.

36. See, e.g., the testimony of William O'Grady of the Coalition of Neighborhoods in Cincinnati, id. at 338; Ronald Brown, director of the Washington Bureau of the National Urban League, id. at 523; and William Taylor, director of the Center for National Policy Review at the School of Law at Catholic University, id. at 530.

37. See the testimony of Edward Holmgren, executive director of NCDH, id. at 537-38.

38. Statement of Robert Elliot on behalf of the Secretary of HUD, id. at 17-19.

39. Id. at 18.
should require lending institutions also to include data on geographical investment patterns.\textsuperscript{40} Furthermore, HUD maintained that a lender’s obligation does not change according to a pattern of deposits. Rather all lenders should perform a constructive role in a lending market.\textsuperscript{41} This was in direct contrast to the position many of the neighborhood associations took, which instead emphasized that some amount of saving deposits held by a local depository institution should be reinvested into that institution’s local community.

However, there were several provisions that HUD did not support. Notably, it rejected a provision in the bill that would have required lending institutions to indicate the source and amount of deposits in a bank.\textsuperscript{42} Additionally, HUD did not support a distinction being made between lending institutions inside and outside of an MSA or including the entire set of HMDA-required data in each bank branch.\textsuperscript{43} In its view, all reports should be uniform, and it would be sufficient for a bank branch to merely house HMDA data pertinent to its specific operations with a master copy housed at a bank’s home office.\textsuperscript{44}

Like the law’s proponents, the FDIC, the Board, the FHLBB, and banking advocacy groups all made essentially the same arguments against enacting HMDA. First, they vigorously rejected the assertion that banks had an obligation to lend deposits back to their local communities.\textsuperscript{45} They feared that HMDA would set a precedent in which they would eventually be required to ration credit through geographically imposed restraints. The implication of a geographical lending obligation was, therefore, anathema to bankers and their advocacy groups. It was neither their responsibility nor necessarily wise business practice to only make loans back to their depositors when more lucrative and sounder returns were available elsewhere. Instead, they reasoned, they should lend money where it was most needed in accordance with free-market principles, thus ensuring

\textsuperscript{40} Id.
\textsuperscript{41} Id.
\textsuperscript{42} Id.
\textsuperscript{43} Id.
\textsuperscript{44} Id.
\textsuperscript{45} See, e.g., the testimony of Arthur Burns, Chairman of the Federal Reserve System, id. at 20-21; Thomas Bomar, chairman of the Federal Home Loan Bank Board, id. at 590; Grover Hansen of the National Savers and Loan League, id. at 822; and John Perkins, of the American Bankers Association, id. at 885-86.
credit mobility. They further insisted that banks had a fiduciary responsibility to make sound investments, and in certain cases that precluded lending in certain geographic areas, which could be viewed as unsafe investments. To require lending based on specific patterns of bank deposits would change banking practices and possibly endanger the health of those banks.

Second, and contrary to the bill’s opening statement, banking interests rigorously denied that they engaged in redlining practices and that they were the root cause of urban decay and the decline of neighborhoods. Instead, they reasoned, disinvestment was merely the final link in a series of events leading to the decline of a neighborhood, which was preceded by various urban ills, such as reductions in infrastructure investment, the decline in public services as well as “crime, poverty, delinquency, vandalism, and other social problems.” Another popular line of argument was that neighborhood associations or other groups, either inadvertently or maliciously, would misinterpret the disclosed HMDA data to make redlining claims. The data, they contended, was not sufficient to determine whether redlining was occurring and its use would skew the results of any study. This was due to HMDA data’s exclusion of other important variables that factor into a lending decision. Consequently the disclosure data would be misconstrued and force banks to make unsound investments that would harm the bank’s health and its depositors’ money.

46. See, e.g., the testimony of Arthur Burns, Chairman of the Federal Reserve System, id. at 20-21; William Beasman, representative of the National Association of Mutual Savings Banks, id. at 808; and John Perkins, of the American Bankers Association, id. at 887.

47. See, e.g., the testimony of William O’Connell, public relations counsel of the United States League of Savings Associations, id. at 871-73; and John Perkins, of the American Bankers Association, id. at 885.

48. See, e.g., the testimony of Frank Wille, Chairman of the FDIC, id. at 19-20 Senate Hearing; Thomas Bomar, chairman of the Federal Home Loan Bank Board, id. at 590; and William O’Connell, of the United States League of Savings Associations, id. at 872.

49. Statement of Frank Wille, Chairman of the FDIC, id. at 19.

50. See, e.g., the testimony of Frank Wille, Chairman of the FDIC, id. at 19-20; Arthur Burns, Chairman of the Federal Reserve Board, id. at 20-21; Thomas Bomar, Chairman of the Federal Home Loan Bank Board, id. at 592; and William Beasman, representative of the National Association of Mutual Savings Banks, id. at 810.
B. Initial House Provisions and Hearings

The House bill that included mortgage disclosure provisions had three titles. The first two dealt with the regulation of interest rates and the electronic transfer of funds.\footnote{51} Title III, the Mortgage Disclosure Act of 1975, dealt specifically with lending institution disclosure.\footnote{52} As a result, we will focus only on the findings, purpose, and provisions of Title III.

Title III, in almost identical language to the Senate’s bill, stated that Congress had found “depository institutions had sometimes failed to provide adequate home and business financing on a nondiscriminatory basis from all neighborhoods and communities from which those institutions receive deposits.”\footnote{53} The law’s purpose was to allow citizens and public officials to determine whether depository institutions were meeting their obligation to the credit needs of the communities where they were located.\footnote{54} Although Congress’s finding was not strongly worded, the finding and the purpose of Title III nonetheless provoked condemnation from the banking community. As we saw in the Senate hearings and as we shall see below, this was due to the lending institutions’ perception that they would be forced to make risky loans in neighborhoods surrounding their branches instead of making safer and more profitable loans elsewhere.

The House bill’s disclosure provisions were similar to those in the Senate bill. For example, the House proposal required that at each branch of a depository institution a copy be made available for inspection by the public of the number and total dollar amounts of commercial and residential loans, the number and total dollar amounts of those types of loans made by that institution that year, the number of savings accounts held by the institution, and the number of savings accounts opened that year and total dollar amounts of them at the end of the year.\footnote{55}

\footnote{52} Id. at 10.
\footnote{53} Id.
\footnote{54} Id.
\footnote{55} Id. at 11-12.
The principal difference between the House bill and the Senate’s was that the House proposal required the use of census tracts as opposed to zip codes when detailing the location of a loan.\textsuperscript{56} Aside from that, the other requirements for presenting data, indicating which mortgages were insured federally, and noting mortgages made to people who did not intend to live at the property were quite similar to those outlined in the Senate’s bill.\textsuperscript{57}

A wide variety of witnesses were present at the House’s Committee on Banking, Currency, and Housing hearings, but their composition was quite similar, and in some cases the witnesses were the same on both the House and Senate sides. For instance, bankers and representatives of banking associations were invited to testify along with congressional representatives, neighborhood groups, mayors, city councilmen, the California Realtors Association, former government officials, Professor George Sternlieb, the FHA/HUD, the FHLBB, the Board, the Comptroller of the Currency, the Treasury Department, and the FDIC.\textsuperscript{58} Not surprisingly, the witnesses broke again into the two main camps that existed in the Senate hearings and largely mirrored their previous arguments.

In keeping with prior themes, the proponents of Title III mainly claimed that the disclosure of mortgage-related data would help citizens determine if depository institutions were meeting their charter obligations to depositors.\textsuperscript{59} Furthermore, it was suggested that the public availability of this information would allow citizens groups to negotiate with those institutions deemed not to be lending in adequate amounts.\textsuperscript{60} In contrast to the Senate version, the inclusion of the census-tract specification in the proposed legislation was lauded as a way to specify the disclosed data while minimizing the geographic disparities inherent in a zip-code-based categorical

\textsuperscript{56} Id. at 12-13.

\textsuperscript{57} Id. at 12-14.

\textsuperscript{58} Id. at III-IV.

\textsuperscript{59} See, e.g., the testimony of Governor Walker of Illinois, id. at 180; Father Albin Ciciora, president of the Citizens Action Program, id. at 169; Monsignor Geno Baroni, president of the National Center for Urban Ethnic Affairs, id. at 167; and Gale Cincotta, National People’s Action on Housing and Metropolitan Area Housing Alliance, id. at 126-28.

\textsuperscript{60} See the testimony of Horace Johnson, councilman of Buffalo, New York, id. at 236.
Many advocates additionally claimed that a bank did have a general charter-related obligation to lend money back to their local depositors, but this was usually tempered with the concession that there should not be a “dollar-to-dollar return on savings.”

The detractors of Title III also made closely related arguments, the most common of which rejected the implication that depository institutions have an obligation to lend to certain geographical areas based on a pattern of deposits. Being required to lend on that basis would negatively affect the flow of capital from surplus to shortage areas while possibly imperiling a bank’s fiscal health. Another popular argument against Title III was that the data could be misinterpreted due to the exclusion of important applicant characteristics, such as credit rating or income, or that such data would be insufficient for drawing reliable conclusions. Additionally, it was said that the costs of implementation would be significant and that any benefits of disclosure would not be worth it. A final and familiar line of attack was that depository institutions were not responsible for the onset of urban decay due to

61. See, e.g., the testimony of Gale Cincotta, National People's Action on Housing and Metropolitan Area Housing Alliance, id. at 129-30; and John Moakley, a Representative in Congress from the State of Massachusetts, id. at 518.

62. See, e.g., the testimony of Gale Cincotta, National People's Action on Housing and Metropolitan Area Housing Alliance, id. at 127; and Walter Fauntroy, Representative in Congress from D.C., id. at 530.

63. See, e.g., the testimony of William Beasman, President of the Savings Bank of Baltimore and Chairman of the Committee on Mortgage Investments of the National Association of Mutual Savings Banks, id. at 20; Tom Scott, President of Unifirst Federal Savings and Loan Association and Legislative Chairman of US League of Savings and Loan Association, id. at 36-37; and James Smith, Comptroller of the Currency, id. at 888-89.

64. See, e.g., the testimony of Tom Scott, President of Unifirst Federal Savings and Loan Association and Legislative Chairman of US League of Savings and Loan Association, id. at 36-37; Milton Semer (actually supportive of the overall bill, but credit flow was a concern), Deputy Administrator and general counsel of the Housing and Home Finance Agency, id. at 321; and James Smith, Comptroller of the Currency, id. at 888-89.

65. See, e.g., the testimony of Tom Scott, President of Unifirst Federal Savings and Loan Association and Legislative Chairman of US League of Savings and Loan Association, id. at 36-37; Dr. George Sternlieb (supported Title III overall), director of the Center for Urban Policy Research at Rutgers University, id. at 322; Robert Holland, Governor of the Board of the Federal Reserve System, id. at 715; and Frank Wille, Chairman of the FDIC, id. at 997.

66. See, e.g., the testimony of Rex Morthland, Chairman of the Board of the People's Bank and Trust Co and on behalf of the Americans Bankers Association, id. at 57; Merton J. Matz, President of the Metropolitan Federal Savings and Loan Association of Eastern Pennsylvania, id. at 672; and Frank Wille, Chairman of the FDIC, id. at 998.
disinvestment but rather that there were multiple causes and that disinvestment was just a symptom of the overall problem.67

II. THE LEGAL EVOLUTION OF HMDA’S MEANING

A. The HMDA Act of 1975

When HMDA was finally passed into law the overall effect was largely similar to that provided in bill form; namely, it ensured the disclosure of the number of mortgages and their amounts made and held by a financial institution, thereby remaining true to the law’s initial purpose in aiding public determinations of whether reasonable amounts of home loans were being extended back to a financial institution’s community.68 However, there were some notable changes that the congressional hearings had directly influenced. In the findings and purposes section an important change in language resulted in Congress noting that depository institutions had responsibilities to their communities because of their charters.69 Previously the wording had not been specific as to why this responsibility existed between a bank and its depositors, and in response to the banking industry’s concerns, the findings and purposes section declared that nothing in HMDA should be interpreted to “encourage unsound lending practices or the allocation of credit.”70

Additionally, the provisions requiring each branch office to carry a copy of the HMDA reports was struck; instead, the report needed to be available for inspection and copying at the home office and at least one branch office in every MSA where a depository institution existed.71 This was a departure from the requirement that a copy be held in every branch office and symbolized a win for those arguing that implementation would be expensive. Also, the Senate provision

67. See, e.g., the testimony of Lewis Bell, General Administrator of Hamilton Reliance Savings Association, id. at 676; James Smith, Comptroller of the Currency, id. at 889; Stephen Gardner, Deputy Secretary of the Treasury, id. at 962; and Frank Wille, Chairman of the FDIC, id. at 997.


70. Id. at § 2801(c).

71. Id. at § 2803 (a)(1).
for the use of zip codes was removed except in cases where the use of census tracts proved to be too costly, then a zip code would be acceptable.\(^72\) The House’s inclusion of census tracts for primarily identifying mortgage data prevailed.\(^73\)

Importantly, lending institution reports were only required to list the number and total dollar amounts of mortgages originated or purchased.\(^74\) The final law did not require data on the number and dollar amounts of savings accounts a bank held.\(^75\) Nor did it require the disclosure of the number and dollar amounts of outstanding mortgages or the number of savings accounts opened that year and the balances of those accounts as required in previous incarnations of HMDA. It also omitted any requirements regarding commercial real estate loans that the House bill would have required.

\textbf{B. From Community to Individual Rights}

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) contained landmark revisions to HMDA’s requirements, changing its focus from a law based on community rights to one based on individual rights. FIRREA was primarily concerned with reforming the savings and loan industry after its crisis in 1980s and 1990s. However, Representatives Joseph Kennedy (D-MA) and Henry Gonzalez (D-TX) added an amendment updating HMDA’s disclosure requirements.\(^76\) It was emphasized that the amendment could be used to collect mortgage data and, thus, alleviate discrimination against minorities in the mortgage market.\(^77\)

The Kennedy-Gonzales amendment required mortgage lenders to disclose the income, race, and gender of all its applicants in its reports, regardless of whether they received a mortgage.\(^78\) Specifically, it required “the number and dollar amount of mortgage

\begin{itemize}
\item \(^72\) Id. at § 2803 (a)(2).
\item \(^73\) Kleinman & Berger, supra note 20, at 980.
\item \(^74\) 12 U.S.C. § 2803 (b)(1)(2).
\item \(^75\) Kleinman & Berger, supra note 20, at 979-80.
\item \(^76\) Allen Fishbein & Ren Essence, The Home Mortgage Disclosure Act at Thirty-Five, in MOVING FORWARD: THE FUTURE OF CONSUMER CREDIT AND MORTGAGE FINANCE 150, 166 (Nicholas P. Retsinas & Eric S. Belsky eds. 2011).
\item \(^77\) ADAMS & REESE, FIRREA HANDBOOK 514-15 (2d ed. 1990).
\item \(^78\) See, e.g., Brown, supra note 12, at 925; Schwemm & Taren, supra note 13, at 376, 388.
\end{itemize}
loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, and gender. In contrast to the passage of the original HMDA legislation in 1975, the 1989 amendment was specifically tailored to individual rights, thus turning HMDA into a more effective regulatory tool. The amendment additionally extended disclosure to all mortgage lenders, which included any bank, credit union, or savings association.

Requiring the disclosure of those individual-applicant characteristics in the 1989 amendments significantly shifted HMDA’s focus. No longer would HMDA only include contextless data on the number and dollar amounts of mortgages; instead, the characteristics of the individual applicant would be recorded as well, thereby allowing future studies to begin analyzing the prevalence of redlining and other potentially segregative or discriminatory practices lending discrimination more accurately. This subtle shift would also prove to conform much more easily to the fact that in American jurisprudence individuals have rights, not communities.

However, the focus of this Article transcends the concerns of Representatives Kennedy and Gonzalez for it proposes that HMDA be amended again to require additional disclosures by commercial lenders. Specifically, commercial lenders should be required to disclose the following information about mortgage applicants: total financial assets; credit scores and history; number of dependents; value of the property to be purchased; and the size of down payments required. Part III, which surveys the existing literature on mortgage lending disparities and discrimination, suggests the need for this empirical analysis in Part V and our ultimate proposal for amending HMDA.

III. THE LITERATURE AND THIS STUDY

Numerous scholars have provided valuable insights into how lending practices in America have led to residential segregation over

80. Fishbein & Essene, supra note 76, at 166.
time. From this literature it is apparent that the real estate and housing industries have long possessed considerable power that has been used to promote their own economic interests to the detriment of basic principles of equal housing opportunity. In particular, realtors have practiced blockbusting and steering for decades in order to maintain the color line in the residential market, thereby boosting their profits. Similarly, for decades major housing developers and housing interest groups supported the use of restrictive covenants and related practices that excluded African Americans and other groups from newer subdivisions and emerging suburban communities with large numbers of white residents.

Based on this literature, one might suspect that the real estate and housing industries have influenced commercial banks to segregate minorities into particular neighborhoods. For example, Weaver’s classic study found that realtors tended to “discourage financial institutions from making loans on properties bought by Negroes in white neighborhoods; they attempt, usually successfully, to prevent financial institutions from financing new, large-scale housing developments for Negroes in white areas; or they press FHA to reject construction for Negroes in or adjacent to white neighborhoods.”

It is also possible that the real estate and home-building industries have quietly encouraged financial institutions to


83. See SCHWEMM, supra note 2, at §§ 13:15-13:7, 17:1-17:3. Blockbusting has typically involved lower- and moderate-income white residential areas where minorities can afford to purchase homes. Blockbusting occurs when a realtor sells a house to a minority and then passes the word around the area that minorities are moving in. See Note, Blockbusting, 59 GEO. L. J. 170 (1970). By suggesting to other whites that they need to sell their homes before neighborhood change sets in and property values decline, realtors have reaped large profits as more homes are placed on the market. By contrast, steering is a practice whereby real estate agents show properties to minorities seeking to purchase or rent housing only in overwhelmingly minority, racially changing, or deteriorating neighborhoods. See Note, Racial Steering: The Real Estate Broker and Title VIII, 85 YALE L. J. 808 (1976).


85. WEAVER, supra note 82, at 215-16.
practice redlining, which resulted in even more residential segregation.

A. *Empirical Research*

Yet the above studies are typically anecdotal accounts. Of scholars who have used HMDA data to investigate mortgage lending, Munnell and colleagues conducted one of the first important studies.86 They show that between 1991 and 1993 African Americans and Hispanics in the Boston metropolitan area were more than twice as likely to be denied conventional mortgages than were white applicants with similar characteristics. More importantly, Munnell and associates collected additional data from Boston lending institutions on other variables—data on variables not required by HMDA—that would be needed to conclude that mortgage applicants’ race helped to explain racial disparities in mortgage lending.87 Armed with this additional statistical evidence, these authors concluded that “race still played a significant role in the mortgage lending decision.”88

Other empirical studies, typically relying on HMDA data, have similarly concluded that a large disparity exists across different racial groups in America in terms of who receives mortgage money.89 As an illustration, Canner and Smith report that 33.9 percent of African Americans who applied for conventional home-purchase mortgages in 1990 were denied loans, compared to 21.4 percent of Hispanics but only 14.4 percent of whites.90 Again, however, most of these studies stop short of explicitly claiming that discrimination is the cause of these disparities. For example, Squires and O’Connor examine mortgage lending in Milwaukee and find large disparities based on race, yet they emphasize that caution is necessary when

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86. Munnell et al., supra note 16.
88. Id., at 51.
using and interpreting HMDA data: “Because there is no information on the credit record of the borrower or condition of the home, it is difficult to determine from HMDA reports the extent to which racial disparities in lending reflect discrimination, legitimate risk-based underwriting and pricing, or other factors.”

Likewise, Hunter and Walker find that minority applicants for conventional mortgages are held to a higher standard than are white applicants, even if they have the same credit rating, and that minority applicants with high debt ratios are less likely to receive conventional mortgages than are white applicants with similar debt ratios. However, Hunter and Walker use the concept of “cultural affinity”—the idea that white bank officials lack familiarity with people of other races or ethnicities and culturally identify with white applicants—to explain their findings, not discrimination per se.

Other prominent studies involving mortgage lending have recently appeared, but they relate to topics not addressed in this Article. For example, Brown discusses the history of lending discrimination in the United States by showing that the disparities in subprime lending that African American borrowers experience result from reverse redlining by lenders. Race is said to have a significant

91. GREGORY D. SQUIRES & SALLY O’CONNOR, COLOR AND MONEY: POLITICS AND PROSPECTS FOR COMMUNITY REINVESTMENT IN URBAN AMERICA 5 (2001); see also Canner & Smith, supra note 90, at 393.


93. See Charles W. Calomiris, et al., Housing-Finance Intervention and Private Incentives: Helping Minorities and the Poor, 26 J. MONEY, CREDIT & BANKING 634 (1994), which originally developed and tested the cultural affinity hypothesis.


95. Brown, supra note 12, at 912-23. See also Regina Austin, Of Predatory Lending and the Democratization of Credit: Preserving the Social Safety Net of Informality in Small-Loan Transactions, 53 AM. U. L. REV. 1217 (2004); Raymond H. Brescia, Subprime Communities: Reverse Redlining, the Fair Housing Act and Emerging Issues in Litigation Regarding the Subprime Mortgage Crisis, 2 ALBANY GOV’T L. REV. 164 (2009). Reverse redlining is a predatory lending practice involving too much access to credit from banks rather than too little. It occurs when lenders focus on minorities not for purposes of refusing
effect on the likelihood that a borrower will receive a subprime loan. African American borrowers were more likely to receive a subprime loan than were white borrowers, even when other factors relevant to the loan decision are held constant.\textsuperscript{96} In another study Rugh and Massey provide empirical support for the argument that residential segregation constitutes an important contributing cause of the foreclosure crisis.\textsuperscript{97} They find that the greater degree of Hispanic and African American segregation a metropolitan area exhibits, the higher the number of foreclosures it experiences.

B. Most Relevant Studies

Overall, then, no research examines our specific topic—the relationship between the level of segregation across a large number of MSAs and the likelihood that different racial groups will receive conventional versus government-backed mortgages. However, two studies seem to be the most relevant to this Article. First, Bond and Williams focus on the segregation variable in mortgage lending by examining how often whites and African Americans received conventional mortgages.\textsuperscript{98} Analyzing HMDA data from 1992-1999 and using a dissimilarity index, they maintain that government-insured loans and federal deregulation strongly contributed to the growth in mortgage lending to African Americans in the 1990s, even though blacks were less likely to apply for mortgages than whites. Bond and Williams find that black-white segregation decreases to a major extent when the percentage of conventional mortgages African Americans received increases relative to the share going to whites. They additionally conclude that segregation does not decline—but might actually increase—when applicants receive subprime and mobile home loans.

Second, Kuebler explores the relationship between the racial composition of neighborhoods and the granting of conventional

\textsuperscript{96} See also Calem, et al., supra note 94.
\textsuperscript{97} Rugh & Massey, supra note 17.
mortgages in 2006. Her results indicate that neighborhoods with low minority concentrations are significantly more likely to have loan applications approved than are neighborhoods with high minority concentrations. She also shows that neighborhoods with high African American populations were 12.4 percent less likely to receive mortgage approvals when compared to neighborhoods with average-sized black populations. Kuebler concludes that both an applicant’s race and the neighborhood’s racial composition in which the home is being purchased have a significant effect on the conventional mortgage lending. Yet there are four differences between this study and Kuebler’s: (1) this Article examines 102 MSAs nationwide, whereas she investigates the 12 largest MSAs in New England; (2) three years are included in this research, but Kuebler looks at only one year; (3) unlike Kuebler, this study distinguishes between the receipt of conventional and government-backed mortgages; and (4) this Article relies on an index of dissimilarity that is often used to measure segregation, whereas she relies on percent of minority population in an MSA.

IV. RESEARCH DESIGN

This literature leads us to posit the following hypotheses that we will explore with HMDA data:

Hypothesis 1: The more segregated the MSA, the less likely commercial banks will provide conventional mortgages to racial minorities in that area.

Hypothesis 2: Patterns of conventional and government-insured mortgages granted should differ substantially for racial groups

100. Id. at 41.
101. Id. at 43.
103. Kuebler, supra note 99, at 38, 40-42, 45-46. For an explanation of the index of dissimilarity, see text accompanying note 109 infra.
traditionally experiencing the most housing discrimination—African Americans and Hispanics as opposed to Asians and whites.

In order to construct our dataset, this Article relies on HMDA data provided on the website of the Federal Financial Institutions Examination Council (FFIEC). The scope of the research is limited by only collating mortgage data for the 102 largest MSAs for the years 2000, 2005, and 2010. This MSA-level mortgage data was divided into two types of mortgages: government-insured or conventional mortgages made by commercial lending institutions. Within this dichotomy, each MSA contained multiple variables, including the total number of applications submitted and received by African Americans, Asians, Hispanics, and whites. Additionally, our dataset includes the dollar amount of the mortgage requested and the dollar amount subsequently granted. Several variables available in the HMDA data are not included in this dataset.

Four dependent variables are constructed for each year in our data in order to analyze the relationship between segregation and the rate at which conventional mortgages are granted. For 2000, 2005, and 2010 we use a measure of the proportion of conventional mortgage loans received by each of the four racial groups. These measures are constructed directly from the HMDA data. The key independent variable in these models is the measure of racial segregation in the MSA. Black-White Dissimilarity, Hispanic-White Dissimilarity, and Asian-White Dissimilarity are continuous measures of the segregation between African Americans and whites, Hispanics and whites, and Asians and whites at the MSA level. These variables, constructed by William H. Frey, a demographer at the University of Michigan, measure the degree to which the minority group is

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104. The FFIEC was created in 1979 as an interagency body “responsible for developing uniform reporting systems for federally supervised financial institutions,” including banks responsible for reporting mortgage information required by HMDA. Available at http://www.ffiec.gov.

105. For example, information on American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, two or more minority races, joint (white/minority race), and joint (Hispanic or Latino, Not Hispanic or Latino) were not included. In certain instances, such as American Indian/Alaskan Native and Native Hawaiian/Other Pacific Islander, the variables did not constitute a large enough racial group in America on an aggregate level to warrant analysis. In other cases, FFIEC categories involving two or more minority races were not useful because of their vague definitions.

106. See, e.g., SQUIRES & O’CONNOR, supra note 91, at 30-32. Other studies compare the rate at which mortgage applications are accepted and the amount of those loans across different racial groups over time.
distributed differently from whites across the MSA. They range from 0 (which corresponds to no segregation) to 100 (complete segregation).

Controls are needed as well. Our first control, Median Income, is measured as the natural log of a categorical measure of the MSA’s median income level. Median income data for the MSA was collected from the Federal Financial Institutions Examination Council’s website on the Home Mortgage Disclosure Act website. The second control, Unemployment Rate, is the MSA’s overall unemployment rate. Unemployment rate data was collected from the United States Bureau of Labor Statistics website.

We should mention three caveats before presenting the results. First, these findings will need to undergo further analysis using more sophisticated models in future research. Second, as noted earlier, caution must be used in interpreting HMDA data because there are a number of individual mortgage applicant traits that are unknown in this dataset. Finally, it is possible that the robustness of the results could be influenced by the housing and financial crisis of 2008, when mortgage standards grew much tighter, as well as by variations in the number of individuals across different racial groups who applied for conventional and government-insured mortgages in 2000, 2005, and 2010.

V. RESULTS

A. Descriptive Statistics

Table 1 presents descriptive statistics for government-insured and conventional mortgages for African American, Asian, Hispanic, and white applicants in 2000, 2005, and 2010. To interpret Table 1, note that “GBM” refers to government-backed mortgages, and “CM” refers to conventional mortgages. Also note that “originated” refers to mortgages that the lender approved and the loan applicant accepted—what we will typically refer to as a mortgage “received” by an applicant. The data in this table are aggregated for all 102 MSAs included in our study.


108. See, e.g., Avery et al., 2011 Highlights, supra note 14; Been, et al., supra note 14; Bhutta & Ringo, supra note 14.
Table 1 shows the proportion of applicants from the four racial groups who received either a government-insured or conventional mortgage in 2000, 2005, and 2010. First we focus on 2000, when, across each racial group, about three-fourths of those who applied for government-backed mortgages received them. This is in sharp contrast to conventional mortgages, where fewer than half of the African Americans who applied actually received these mortgages, compared to a little over half of the Hispanic applicants. However, whites and Asians were clearly more successful at securing conventional mortgages in 2000: 69 percent of whites who applied received them, compared to over 71 percent of Asians.

Turning to 2005, Table 1 indicates that around three-fourths of white applicants received a government-insured mortgage that year, compared to more than 67 percent of African American, Hispanic, and Asian applicants. By contrast, a little over half of those who applied for conventional loans received them in 2005, except for whites, who had over a 70 percent success rate. Once again, in 2010 three-fourths of white applicants and over 65 percent of the African American, Hispanic, and Asian applicants received government-backed loans. At the same time, slightly over half of the African American and Hispanic applicants received a conventional loan in 2010, in comparison to 66.5 percent of Asian applicants and over 70 percent of white applicants.

![Table 1: Descriptive Statistics for Government-Insured and Conventional Mortgages by Racial Group 2000, 2005, 2010.](image-url)
We next add to our variables an indicator of how segregated the 102 MSAs actually are. Table 2 reveals the extent to which different racial groups were segregated in all of these MSAs in 2000, 2005, and 2010 by relying on a dissimilarity index, a measure developed and frequently used by sociologists. In the words of Massey and Denton, a dissimilarity index shows the degree to which different racial groups “are evenly spread among neighborhoods.” The higher the dissimilarity index, the greater the segregation between the groups under analysis.

Table 2: Descriptive Statistics for Segregation Measures

<table>
<thead>
<tr>
<th>Year</th>
<th>GBM Originated for</th>
<th>CM Originated for</th>
<th>Asian Applicants</th>
<th>Hispanic Applicants</th>
<th>White Applicants</th>
<th>Black Applicants</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Asian Applicants</td>
<td>.684</td>
<td>.201</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hispanic Applicants</td>
<td>.684</td>
<td>.113</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>White Applicants</td>
<td>.757</td>
<td>.106</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Black Applicants</td>
<td>.534</td>
<td>.057</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Asian Applicants</td>
<td>.665</td>
<td>.054</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hispanic Applicants</td>
<td>.578</td>
<td>.050</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>White Applicants</td>
<td>.705</td>
<td>.046</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Black Applicants</td>
<td>.658</td>
<td>.073</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Asian Applicants</td>
<td>.680</td>
<td>.082</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hispanic Applicants</td>
<td>.664</td>
<td>.071</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>White Applicants</td>
<td>.751</td>
<td>.047</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Black Applicants</td>
<td>.566</td>
<td>.108</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Asian Applicants</td>
<td>.665</td>
<td>.057</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hispanic Applicants</td>
<td>.556</td>
<td>.080</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>White Applicants</td>
<td>.711</td>
<td>.058</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

109. MASSEY & DENTON, supra note 102, at 20.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black-White Dissimilarity</td>
<td>58.427</td>
<td>12.405</td>
<td>26.8</td>
<td>85.7</td>
</tr>
<tr>
<td>Hispanic-White Dissimilarity</td>
<td>43.901</td>
<td>10.815</td>
<td>22.6</td>
<td>65.6</td>
</tr>
<tr>
<td>Asian-White Dissimilarity</td>
<td>39.773</td>
<td>7.496</td>
<td>21</td>
<td>54.3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black-White Dissimilarity</td>
<td>56.722</td>
<td>11.974</td>
<td>25.65</td>
<td>82.4</td>
</tr>
<tr>
<td>Hispanic-White Dissimilarity</td>
<td>43.683</td>
<td>9.866</td>
<td>23.8</td>
<td>63.8</td>
</tr>
<tr>
<td>Asian-White Dissimilarity</td>
<td>39.736</td>
<td>7.428</td>
<td>20.8</td>
<td>52.55</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Variable</th>
<th>Mean</th>
<th>Std. Dev.</th>
<th>Min.</th>
<th>Max.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black-White Dissimilarity</td>
<td>55.026</td>
<td>11.742</td>
<td>21.9</td>
<td>81.5</td>
</tr>
<tr>
<td>Hispanic-White Dissimilarity</td>
<td>43.466</td>
<td>9.186</td>
<td>23.8</td>
<td>63.4</td>
</tr>
<tr>
<td>Asian-White Dissimilarity</td>
<td>39.700</td>
<td>7.535</td>
<td>20.5</td>
<td>54.4</td>
</tr>
</tbody>
</table>

As shown in Table 2, African Americans and whites were more segregated in the 102 MSAs in 2000 than were Hispanics and whites, and Asians and whites were the least segregated of these group dyads. The same pattern continues for 2005 and 2010, demonstrating what scholars have repeatedly found—that segregation persists in metropolitan America even though, in general, it has modestly declined in many of them over the past few decades.110

B. OLS Regression

Tables 1 and 2 indicate that substantial variation exists in the rate at which minorities receive conventional mortgages, but not in

110. See, e.g., Farley & Frey, supra note 102, at 23, 30; Logan & Stults, supra note 3, at 12.
the rate at which they receive government-insured mortgages. Therefore, to establish support for Hypothesis 1 and to understand the relationship between segregation within an MSA and the rate at which minority groups receive conventional mortgages, we estimate OLS regression models for 2000, 2005, and 2010.\(^{111}\)

Table 3 provides our model estimating the relationship between black-white, Hispanic-white, and Asian-white segregation and the percentage of mortgages received by racial groups. In 2000 there was an obvious relationship between the Hispanic-white dissimilarity index and the amount of conventional loans received by Hispanics but no substantial relationship for other racial groups. This relationship is not in the expected direction, and it tells us that as segregation increases by roughly 10 points, the percentage of Hispanic applicants who received conventional mortgages also rises by about 1 percentage point.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Black Applicants</th>
<th>Asian Applicants</th>
<th>Hispanic Applicants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dissimilarity Index</td>
<td>-.001 (.001)</td>
<td>.001 (.001)</td>
<td>.001* (.000)</td>
</tr>
<tr>
<td>Median Income Category (Logged)</td>
<td>.091* (.052)</td>
<td>.057 (.039)</td>
<td>.128** (.052)</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>-.000 (.008)</td>
<td>-.008 (.006)</td>
<td>.014* (.008)</td>
</tr>
</tbody>
</table>

For an explanation of OLS regression and its interpretation, see JEFFREY M. WOOLRIDGE, INTRODUCTORY ECONOMETRICS: A MODERN APPROACH 22-67 (4th ed. 2009). For its application in other mortgage lending studies, see, e.g., Munnell et al., supra note 16, at 33-43; Rugh & Massey, supra note 17, at 638-44.
OLS regression results for the percent of conventional mortgages originated for African American, Asian, and Hispanic applicants in 2000. *** (p < .001), ** (p < .05), and * (p < .10) (two-tailed tests).

The proportion of conventional mortgages received by white applicants in 2000 is presented in Table 4, using segregation measures for all three minority groups. Black-white and Hispanic-white segregation are both positive and statistically significant. As segregation between African Americans and whites climbs by 10 points, conventional mortgages received by white applicants rises by 1 percentage point, and as Hispanic-white segregation climbs by 10 points, conventional mortgages received by whites rises by 2 percentage points. Substantively, if black-white segregation in an MSA grows from the mean of 58.4 to the maximum of 85.7, white applicants have a conventional mortgage increase of about 2.73 percentage points. Similarly, if segregation between Hispanics and whites in an MSA grows from the mean of 43.9 to the maximum of 65.6, white applicants receive a conventional mortgage increase of about 5.46 percentage points. Additionally, in 2000 our control for median income has a positive and statistically significant relationship with the proportion of conventional mortgages received by white, African American, and Hispanic applicants. As median income in an MSA rises, the percentage of conventional mortgages received by black, Hispanic, and white applicants also rises.

Table 4: Percent Originated for White Applicants

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median Income Category (Logged)</td>
<td>.113** (.035)</td>
<td>.128*** (.037)</td>
<td>.100** (.035)</td>
</tr>
</tbody>
</table>
Table 5 shows our results for 2005. As seen, segregation between African Americans and whites is negative and statistically significant, indicating that as segregation grows, the proportion of conventional mortgages received by black applicants decreases. Substantively, if segregation increases from the mean of 56.72 to the variable’s maximum of 82.4, conventional mortgages received by African American applicants decrease by 5.14 percentage points. The Asian-white segregation level is positive and significant. As segregation increases by 10 points, the percentage of conventional mortgages Asian applicants receive also rises by about 1 percentage point. However, note that Asian-white segregation ranges from a low of 20.8 to a high of 52.55 in 2005, only varying by about 32 points. By contrast, black-white segregation ranges from 25.65 to 82.4 that same year. The control for unemployment in 2005 has a negative and statistically significant relationship with the percentage of conventional mortgages received by African American, Asian, and Hispanic applicants. This shows that as the unemployment rate increases by 1 percentage point, the percent of conventional mortgages received by these groups decreases by roughly 1.7, 1.3, and 1.0 percentage points, respectively.

Table 5: Percent Originated in 2005

<table>
<thead>
<tr>
<th>Variable</th>
<th>Black Applicants</th>
<th>Asian Applicants</th>
<th>Hispanic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unemployment Rate</td>
<td>.003 (.005)</td>
<td>.003 (.005)</td>
<td>.001 (.005)</td>
</tr>
<tr>
<td>Black-White Dissimilarity</td>
<td>.001** (.001)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asian-White Dissimilarity</td>
<td>- .000 (.001)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic-White Dissimilarity</td>
<td></td>
<td>.002*** (.000)</td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>.440*** (.070)</td>
<td>.287*** (.072)</td>
<td>.228*** (.066)</td>
</tr>
<tr>
<td>N=102</td>
<td>R²=.18</td>
<td>R²=.14</td>
<td>R²=.24</td>
</tr>
</tbody>
</table>

OLS regression results for the percent of conventional mortgages originated for African American, Asian, and Hispanic applicants in 2000. *** (p < .001), ** (p < .05), and * (p < .10) (two-tailed tests).
Table 6: Percent Originated for White Applicants

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median Income Category (Logged)</td>
<td>.055** (.026)</td>
<td>.056** (.026)</td>
<td>.067** (.026)</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>-.011 (.004)</td>
<td>-.012 (.004)</td>
<td>-.010 (.004)</td>
</tr>
<tr>
<td>Black-White Dissimilarity</td>
<td>.000 (.000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asian-White Dissimilarity</td>
<td></td>
<td>.001 (.001)</td>
<td></td>
</tr>
<tr>
<td>Hispanic-White Dissimilarity</td>
<td></td>
<td></td>
<td>.000 (.000)</td>
</tr>
</tbody>
</table>
OLS regression results for the percent of conventional mortgages originated for African American, Asian, and Hispanic applicants in 2005. *** (p < .001), ** (p < .05), and * (p < .10) (two-tailed tests).

Table 7 shows the results from a series of models predicting the percent of conventional mortgages received by African American, Asian, and Hispanic applicants for 2010. In 2005 black-white segregation is negative and statistically significant. However, in 2010 as segregation increases from a mean of 55.02 to a maximum of 81.5, the percentage of conventional mortgages received by African American applicants decreases by roughly 7.9 percentage points. As in 2005, Asian-white segregation in 2010 has a positive and significant relationship with the percent of conventional mortgages Asian applicants receive. In 2010, as segregation climbs by 10 points, the percentage of conventional mortgages Asian applicants receive also increases by about 2 percentage points.

Table 7: Percent Originated in 2010

<table>
<thead>
<tr>
<th>Variable</th>
<th>Black Applicants</th>
<th>Asian Applicants</th>
<th>Hispanic Applicants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dissimilarity Index</td>
<td>-.003*** (.000)</td>
<td>.002** (.000)</td>
<td>.000 (.000)</td>
</tr>
<tr>
<td>Median Income Category (Logged)</td>
<td>.195*** (.056)</td>
<td>.006 (.030)</td>
<td>.163*** (.043)</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>-.004 (.004)</td>
<td>-.008*** (.002)</td>
<td>.002 (.003)</td>
</tr>
<tr>
<td>Constant</td>
<td>.405** (.126)</td>
<td>.669*** (.070)</td>
<td>.244** (.095)</td>
</tr>
<tr>
<td>N</td>
<td>102</td>
<td>102</td>
<td>102</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>R^2</th>
<th>.20</th>
<th>.17</th>
<th>.13</th>
</tr>
</thead>
</table>

OLS regression results for the percent of conventional mortgages originated for African American, Asian, and Hispanic applicants in 2010. *** (p < .001), ** (p < .05), and * (p < .10) (two-tailed tests).

Finally, Table 8 provides our results for white applicants in 2010. Just as in 2005, none of the measures of segregation of minority groups has statistically significant relationships with the proportion of conventional mortgages received by white applicants. Median income is positive and significant, and unemployment is again negative and significant.

Table 8: Percent Originated for White Applicants

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median Income Category (Logged)</td>
<td>.085** (.030)</td>
<td>.088** (.030)</td>
<td>.086** (.031)</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>-.005* (.005)</td>
<td>-.005* (.005)</td>
<td>-.005** (.005)</td>
</tr>
<tr>
<td>Black-White Dissimilarity</td>
<td>.001 (.000)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asian-White Dissimilarity</td>
<td>.001 (.001)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic-White Dissimilarity</td>
<td></td>
<td></td>
<td>.000 (.001)</td>
</tr>
<tr>
<td>Constant</td>
<td>.567*** (.069)</td>
<td>.567*** (.072)</td>
<td>.590*** (.068)</td>
</tr>
</tbody>
</table>

N=102 R^2=.16 R^2=.16 R^2=.25
OLS regression results for the percent of conventional mortgages originated for African American, Asian, and Hispanic applicants in 2010. *** (p < .001), ** (p < .05), and * (p < .10) (two-tailed tests).

CONCLUSION

In *Reitman v. Mulkey*, Justice William O. Douglas complained about housing discrimination in America during the 1960s:

Real estate brokers and mortgage lenders are largely dedicated to the maintenance of segregated communities. Realtors commonly believe it is unethical to sell or rent to a Negro in a predominantly white or all-white neighborhood, and mortgage lenders throw their weight along-side segregated communities, rejecting applications by members of a minority group who try to break the white phalanx save and unless the neighborhood is in the process of conversion or into a mixed or a Negro community.

Douglas then quoted a 1961 report by the United States Commission on Civil Rights regarding mortgage lenders:

The financial community, upon which mortgage financing—and hence the bulk of home purchasing and home building—depends, also acts to a large extent on the premise that only a homogeneous neighborhood can offer an economically sound investment. For this reason, plus the fear of offending their other clients, many mortgage-lending institutions refuse to provide home financing for housing in a ‘mixed’ neighborhood. The persistent stereotypes of certain minority groups as poor credit risks also block the flow of credit, although these stereotypes have often been proved unjustified.

Despite the assertions of Justice Douglas and the Civil Rights Commission, HMDA’s initial congressional hearings in 1975 virtually never mentioned individual civil rights in the mortgage lending process. Instead, the emphasis was overwhelmingly on a lending institution’s responsibility to lend some unspecified amount of its deposits back to its local community. Consumers would be able to scrutinize for themselves the mortgage lending patterns of their own banks. The legislation was partly conceived, therefore, as a way for communities to increase their leverage with their depository institutions, which would allow them to effectuate some sort of

113. *Id.* at 381-82.
change in their bank’s lending policies. As a federal law, then, 
HMDA was originally designed to allow individuals to monitor their 
depository institutions for their lending activity and, by extension, 
combat perceived redlining themselves through deposit withdrawals. 

However, in 1989 HMDA was transformed into a law with 
potentially significant civil rights implications. True, earlier there 
was an emphasis on redlining, but that was viewed more in the 
context of the impact of redlining in neighborhoods rather than the 
people—often people of color—who frequently occupied those 
neighborhoods. Fourteen years after the initial hearings and the 
passage of the original law, though, legally protected classifications 
were added in the 1989 Kennedy-Gonzales amendment to the 
FIRREA bill that required the disclosure by mortgage lenders of data 
on the income, race, and gender of all mortgage applicants. That data, 
in turn, has been widely used in civil rights and mortgage lending 
research.115

Against this backdrop, this Article reports the results of a 
statistical analysis that asks whether racial minorities in the nation’s 
102 largest MSAs in 2000, 2005, and 2010 were less likely to receive 
conventional than government-insured mortgages if they resided in 
more segregated areas. Mixed results are apparent for Hypothesis 1. 
In 2005 and 2010, as black-white segregation increases, the 
proportion of conventional mortgages received by African American 
applicants decreases. Yet in 2000, as Hispanic-white and Asian-white 
segregation increases, the proportion of conventional mortgages 
received by Hispanic and Asian applicants actually grows. Moreover, 
in 2000 as black-white and Hispanic-white segregation rises, the 
proportion of conventional mortgages received by white applicants 
also rises. Importantly, then, even though we cannot conclude that 
segregation of all minority groups is associated with a smaller 
proportion of conventional mortgages being granted to minority 
applicants, we can consistently say that as black-white segregation 
increases, the rate of conventional mortgages granted to blacks 
decreases, and this effect is larger in 2010 than it is in 2005. This 
evidence suggests redlining against African Americans and a 
disparate impact in violation of the Fair Housing Act of 1968,116 but it

115. See text accompanying notes 86-101 supra.

falls short of proving that discrimination is occurring without additional data on such things as the credit histories and total financial assets of black mortgage applicants that HMDA does not currently require.

The analysis additionally provides some support for Hypothesis 2. Black-white segregation is associated with a smaller proportion of conventional mortgages being received by African American applicants, but Asian-white segregation is associated with a larger proportion of conventional mortgages being received by Asians. This again suggests that the effect of segregation is different for different minority groups. As segregation increases for African Americans (the group traditionally most segregated and discriminated against), rates for conventional mortgages granted decrease, whereas for Asians (who have experienced less housing segregation and discrimination than blacks over the time period studied), rates for conventional mortgages granted increase as segregation increases. The difference between the two groups is highlighted by focusing on the data for African Americans in 2010. If one compares the effect of segregation in its minimum observed value in 2010 to its maximum observed value that same year, we would expect black applicants to receive fewer conventional mortgages at a rate of roughly 17.88 percentage points, compared to about 6.8 percentage points for Asians, and less than 1 percentage point for Hispanics. Again, this finding suggests that some banks are practicing redlining specifically against African Americans in violation of federal law but does not prove it.

Overall, then, the most important finding of this research relates to African Americans, namely that level of segregation in an MSA has a significant negative effect on blacks receiving conventional mortgages in those metropolitan areas. It is important that this conclusion be viewed in the context of a major finding of scholarly research over the past generation—that even though residential segregation, in general, has decreased since the 1970s, black-white segregation continues to be very high. The present Article ultimately helps us understand why blacks and whites remain so segregated. The analysis shows that segregation has a significant

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117. Logan & Stults, supra note 3, at 22.
118. Id. at 1, 4-10.
negative effect, specifically on African Americans receiving conventional mortgages in the nation’s 102 largest MSAs. From this we conclude that the segregation of blacks and whites in different neighborhoods in metropolitan America remains a prominent civil rights issue. In particular, if African Americans are unlikely to receive conventional mortgages in more segregated MSAs and large numbers of whites in those same metropolitan areas continue to segregate themselves from blacks, those MSAs are likely to continue to be segregated in the future, primarily along black-white lines, and hypersegregation will continue among blacks.\footnote{How can these findings be explained? Two explanations suggested by the literature appear to be the most promising.\footnote{First, discrimination by financial institutions, particularly through redlining, could provide part of the explanation, together with the fact that lending discrimination laws—and fair housing laws generally—do not appear to be well enforced.\footnote{The redlining literature has frequently concluded that lending institutions have historically refused to make loans to applicants in certain neighborhoods, especially if they contain large African American populations.\footnote{This denial of conventional mortgages and other types of housing-related loans not only intensifies segregation and contributes to the decline of specific neighborhoods, but it also probably increased black reliance on government-backed mortgages between the late 1990s and 2010.}} Second, economic disparities across racial groups could assist in explaining the results.\footnote{Because median family income and total}}

119. See supra note 5.


122. See e.g., Dan Immergluck, Foreclosed: High-Risk Lending, Deregulation, and the Undermining of America’s Mortgage Market 47-55 (2009); Ross & Yinger, supra note 82, at 1-5; Squires & O’Connor, supra note 91, at 3-5.

family financial assets are considerably higher for white families than they are for black families, we might expect that a high percentage of African Americans would be segregated in poorer urban areas, leading to both racial and class segregation. In addition, we might anticipate that blacks would be forced to rely more heavily on government-insured mortgages because banks have higher standards for conventional mortgages in order to avoid risky investments and foreclosures that lack government backup. Similar expectations could apply to some of the nation’s growing Hispanic population, but less so to Asians. Nevertheless, Logan found that income disparities across the four racial groups do not explain the fact that minorities are more likely to live in poorer neighborhoods than are whites. In particular, he concludes that “the low incomes of blacks are not the main source of either residential segregation or disparities in the neighborhoods where they live. A central new finding is that blacks’ neighborhoods are separate and unequal not because blacks cannot afford homes in better neighborhoods, but because even when they achieve higher incomes they are unable to translate these into residential mobility.”

From a civil rights perspective, all of this suggests a clear need to amend HMDA once again. The Fair Housing Act of 1968 as well as various other federal, state, and local laws prohibit lending institutions from discriminating on the basis of race in the granting of mortgages. At the same time, proving housing discrimination is a complex, challenging job. In the field of mortgage lending, that job cannot be achieved without data on basic economic considerations that lending institutions rely on in making mortgage decisions. And although HMDA does not require banks to provide the kind of data essential in establishing discriminatory lending practices, some empirical studies either conclude or strongly suggest that racial discrimination does indeed exist in mortgage lending in America.


125. Id. at 15.


We therefore argue that it is in the public interest for HMDA to be amended to require that lending institutions make public data on such fundamental things as applicants’ total financial assets, credit scores and history, number of dependents, value of the property to be purchased, and size of down-payments required. Banks gather this data before they grant a mortgage, and it should be relatively easy to introduce this data in their lending disclosure forms. Banks have repeatedly insisted that lending discrimination does not occur. The inclusion of these and other relevant data would help to clarify the extent to which this is true and assist future research on housing discrimination and segregation in the United States.