Will any courageous politician stand up for the lenders who provide mortgage funding, and the future mortgage borrowers who will have to pay for asymmetrical regulation and consumer protection run amok? We need a “lender’s bill of rights”.

Consumer protection that will backfire: The latest in a myriad of proposals aimed at punishing lenders for making bad mortgage loans is one by a San Francisco based group called “Mortgage Resolution Partners”. They claim that condemning[[1]](#footnote-1) so-called underwater mortgages and taking them out of the hands of private lenders and bondholders is "the only practical way to modify mortgages on a large enough scale to solve the housing crisis." By housing crisis we can assume they mean the fact that housing prices do not always go up; but if they do go up consumers get to keep the houses, and if they go down, the lenders get to keep them, akin to “heads I win, tails you lose” in a coin toss. The fact that such proposals come out of California is no surprise.[[2]](#footnote-2)

That politicians continue to pound lenders without regard to the impact on future borrowers suggests only one thing; that many they think all the mortgage money must have come from King Midas who has unlimited resources and his greed and avarice were/are so blatant that he deserves to be on the losing end of all mortgage contracts. Last, they must believe that King Midas will continue to have an interest in such investments in the future without concern for government forced contract modifications or interference in the market.

The implications of regulations adding fees to lenders prior to foreclosure, forcing attempts at loan modifications, forcing delays in the foreclosure process or eviction process all cost money that will eventually be based onto future mortgage borrowers, otherwise only riskless mortgages with extremely conservative loan to value ratios will be made, come to think of it, not far from the current underwriting.

What does the market need? A lender's bill of rights! Here are some suggested principles for such a document that future mortgage borrowers and all politicians should be forced to read and sign.

Lender’s Bill of Rights/Future Borrower’s Bill of Rights and Neighbor’s Bill of Rights

1. Whatever money I borrow I will pay back along with interest due.
2. I believe that a contract is binding and I really do need to try and understand what it says about default and interest rates and what payments I owe.
3. I understand that home prices do not always go up and I will not presume the highest price ever paid in my county is what my home is currently worth.
4. I understand I should live within my means.
5. I will not tell the lender that my tax return is not reflective of my real earnings since I now know that not everyone cheats. So I will not make up income sources that do not exist.
6. Whatever promises I make I will keep. This means taking care of the home like it was my own.
7. If I break my promises above and decide to stop paying on my mortgage and abandon my home I will provide a notice to the lender at least 90 days in advance so they can arrange to take care of the property and pay property taxes. I will also tell at least two neighbors just so that they can be sure things are kept up and I won’t hurt their property values as much.
8. If I abandon my house and stop making payments I approve the lender accelerating foreclosure immediately so my neighbors won’t be stuck with an empty home for so long.
9. If I rent out my home and stop making payments the tenant will need to understand they can be evicted immediately and I will insert such a clause into the lease contract which I expect the tenant to abide by without government modification.
10. If I walk away from my home when I can actually make the payments because my equity disappeared I understand that I will not be allowed to get a new mortgage for at least five years and the next time my mortgage rate may have a surcharge.
1. Eminent domain is a well-tested power by local government to get a court order to take over a property it deems either blighted or needed for the public good. [↑](#footnote-ref-1)
2. See also the discussion on the Homeowners Bill of Rights, now taken on as a primary goal of the Occupy LA movement. See for example <http://www.whittierdailynews.com/news/ci_20816700/occupy-la-protestors-rally-at-calderons-montebello-office>. [↑](#footnote-ref-2)