

From Gary Rivlin, *Broke, USA: From Pawnshops to Poverty, Inc. – How the Working Poor Became Big Business*; Harper Collins, 2010

[Chapter 11: “The Great What-If (Georgia 2002 – 2003)]

Over barbecue in a town that might as well be a suburban Mayberry, Roy Barnes, self-described good of boy, was telling me how close Georgians came to saving the world from itself in 2002. He still thinks about the bill he had signed into law during his final months as Georgia's governor, convinced that had it been allowed to stand, Lehman Brothers and Bear Stearns and the whole lot of them on Wall Street might not have been so quick to buy whatever junk a subprime mortgage lender was peddling. "I was just trying to put my momma's rule into law: You have to live with your choices," Barnes said in a drawl that calls to mind Andy confiding in Aunt Bee. "There had to be accountability. These banks; think about what would have happened if they knew they would have to pay a price for all those loans that were no good."

Vincent Fort, a black state senator who jokingly describes his politics as "neo-confrontational," told me more or less the same story in a conference room across the street from the state capitol. "I'll tell you what, man," he said in a deep bass voice. "You just had to see the way they came after us to know that we were on to something." Like the 1999 North Carolina law, the bill that Fort drafted and Barnes refined was aimed at clamping down on predatory subprime loans but went one critical step further. It dictated that any entity taking possession of a "high cost" subprime loan including a big investment bank on Wall Street that held it only long enough to sell it off in small tranches to municipalities, pension funds, college endowments, and anyone else in the market for a mortgage-hacked security was legally liable for the integrity of that loan. The law defined high cost as a loan carrying more than five percentage points in up-front costs or an interest rate more than eight percentage points higher than the rates on a comparable Treasury bill. Perhaps if they knew they might get sued, the banks might have taken at least a cursory look at a loan's terms before snapping it up on a secondary market and selling it off in small slices to investors as far away as Reykjavik and Berlin.

Eventually other states, including New York, would follow Georgia's lead and pass similar laws. And those states would then learn that there was another impediment in their way as they tried to crack down on the most reckless subprime lenders. But in Georgia, in 2002, a half-dozen years before the world would be lamenting America's subprime mortgage mess, lawmakers had devised if not the perfect prophylactic against financial disaster, then at least the beginnings of a solution. "In Georgia," Fort says, "of all places."

"I twisted arms," Roy Barnes said. "I called in favors. I had legislators out to the mansion every morning. I threatened everyone. It was the hardest bill I ever passed-and I changed the Georgia flag." And then, when the state's white majority denied Roy Barnes a second term that November because he sided with the blacks and the liberals and others seeking to erase the Confederate stars and bars from the Georgia state flag, Fort said, the real fight began.

Vincent Fort was teaching at Morehouse and other local colleges in the early 1990s when Bank of America announced it was shutting down branches in black neighborhoods around town, including one not far from his home in south Atlanta. Fort, whose specialty was black studies and the civil rights movement, had always stressed the centrality of economic institutions to the health of the black community. Fort began speaking out at community meetings around town and working with others to organize demonstrations. "We heat up on them pretty good," Fort recalled with a laugh. When the dust settled, black Atlanta still had several fewer bank branches but it also had a new leader, then in his late thirties. "I said then a day will come when we'll engage these folks again," Fort said.

That day came a half-dozen years later when he was nearing the end of his first term in the state senate. Andrew Cuomo, the HUD secretary, was coming to Atlanta for the first of five hearings he was holding around the country to investigate predatory lending. A friend of Fort who was helping to organize the event suggested he attend. Cuomo was already on record calling the issue of high-interest mortgages and excessive fees a "national crisis ... with a troubling racial factor." Fort decided to sit in.

Bill Brennan testified that day, as did one elderly African-American widow facing foreclosure and another seemingly on the verge of disaster. Fort had spent most of his first term championing an anti-hate law in Georgia but sitting in the audience that day he wondered how he could be on the sidelines when abusive lenders were targeting the city's black neighborhoods. A HUD study released shortly before Cuomo's visit found that a borrower living in a predominantly black community in 1998 was five times more likely to end up in a subprime loan as someone living in a community that was predominantly white. Even an upper-income African-American, the study found, was twice as likely to hold a subprime mortgage as a lower-income white homeowner. Worse, Fannie Mac had analyzed its portfolio of mortgages for that same year and discovered that half of all those paying the higher rates and fees on subprime mortgages qualified for conventional loans. Fort was so incensed by what he was learning that he stood up and audaciously declared that he would see to it that Georgia passed the country's strongest anti-predatory lending law.

"That would be my first mistake," Fort said with a deep rumbling laugh. A lobbyist with the Georgia Association of Mortgage Brokers sidled up to Fort and offered him his card. "He tells me how much he's looking forward to helping me with my legislation," Fort said. "And then from that point on, he and his folk would work tooth and nail against me."

Fort is on the short side, a portly man in oversized tortoiseshell glasses. He is bald and sports a graying beard. He can be an easy political foe to underestimate. The day we met he was wearing a white dress shirt marred by two large coffee splotches, a wide-lapel pinstripe suit he described as "very off the rack," and Rockport-style walking shoes. Even the cultured, refined way he speaks is more professor or preacher than state senator. "I think it really bothered a lot of these good of boys I was taking on that I wasn't a real politician," he said. "I didn't go out of my way to be aggressive but at no time was I going to stoop or bow."

Those first months would be an education. Fort had assumed Bank of America's

decision to shut down branches around town was a cost-saving measure. Only once he dove headfirst into the anti-predatory lending fight and started hanging around with the likes of Bill Brennan ("he would become a good friend," Fort said) did he learn that at the same time they were shutting down full-service branches, the big banks were purchasing subprime lenders. Bank of America, for instance, bought the subprime lender SP Financial Services during the 1990s. "It's not like these brand-name banks really fled our neighborhoods like we originally thought. They just replaced their branches in working-class neighborhoods with these off-brands making subprime loans to people and making enormous amounts of money," Fort said. "Citigroup, Bank of America, Wachovia, First Union they all did it." Was it any wonder, then, that the Federal Reserve showed that while the volume of conventional mortgages remained flat between 1993 and 2000, subprime loans grew sevenfold? Unsurprisingly, foreclosures spiked 68 percent through the second half of the decade despite a robust economy. In Atlanta, the numbers were even more shocking. The foreclosure rate between 1996 and 1999 fell by 7 percent for those holding a conventional home loan but it soared by 232 percent among those holding subprime loans.

Fort introduced his bill at the start of the 2001 legislative session. He might have chided himself for telegraphing his intentions but it probably wouldn't have made any difference. North Carolina had caught the industry by surprise but by 2001 the big banks and other lenders were ready. A few in the press had a good time with a Dallas-based conference that served as a kind of predator's ball, where what the New York Times described as a "swat team" of lobbyists formed, ready to parachute into any state wherever they might be needed. To beef up its political connections, Household Finance hired Thomas McLarty, Clinton's former chief of staff, and Connie Mack, the former Republican senator from Florida, to serve on a board of advisers and the big banks like Citigroup had their own teams of staff lobbyists at the ready.

The industry didn't try to beat back Fort's legislation so much as they tried to co-opt it. The Georgia Senate's Banking and Financial Institutions Committee passed a predatory lending bill carrying Fort's name but by that time it had been so thoroughly eviscerated it bore no resemblance to the legislation he had written. The Georgia House never even bothered voting on the measure. It was time for a Plan B.

By instinct, Fort was more community activist than politician. The day after the end of the 2001 legislative session, he headed to a CitiFinancial office in Clayton, one hundred miles away. There he stood next to an older black woman he said CitiFinancial "had put into one of the worst predatory loans I've ever seen." That would be the start of an unusual media campaign designed to sway an audience of one: Governor Barnes. "I knew I didn't stand a chance if I didn't bring Roy Barnes on board," Fort said. "I was doing anything I could think of to make sure he made this part of his legislative package in 2002."