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OUR OPINIONS: Shelter from the storm
No bailout, two modest Senate bills offer help to Georgia homeowners facing foreclosure

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Staff

As a Marietta attorney who represents homeowners attempting to forestall foreclosure, Howard **Rothbloom** has run into a brick wall since Wall Street realized there was money to be made in bundling thousands of residential mortgages into pools and selling them to investors.

"It is virtually impossible for homeowners to identify from public records who it is who owns their loan," **Rothbloom** says. "Lenders should not be allowed to lurk in the shadows of the foreclosure marketplace."

Under the law, the holder of a mortgage note is the only one who can foreclose on the property, yet the trustee banks that oversee these mega mortgage pools routinely evade putting their names on the record. "When it is time for foreclosure, it's only fair and just that the homeowner know the identity of the forecloser," says Emory law professor Frank Alexander, author of "Georgia Real Estate Finance and Foreclosure Law." Knowing the legal owner is vital to negotiating with the lender and avoiding foreclosure.

A bill passed the state Senate this week that stops lenders, trustee banks and investment houses from hiding their involvement in foreclosures. Senate Bill 531 requires a public record naming the owner of a home loan. The Senate also passed Senate Bill 519, which extends the foreclosure notice requirement for troubled homeowners from 15 to as much as 60 days. That's critical in Georgia, where foreclosures can occur in a matter of weeks because of the weak consumer protections in the state.

The House ought to embrace these bills, which will assist homeowners in keeping their homes. And that's important, not only for the individual borrower, but to the state of Georgia's economic well-being, as well.

"Foreclosure is like a disease that undermines housing prices, consumer spending, construction jobs, the strength of the real economy, and the fiscal positions of state and local governments," says international economic law professor Timothy A. Canova of California's Chapman University School of Law. "Once this downward cycle takes hold, it is not an easy thing to revive the economy."

To forestall a housing collapse, the Federal Reserve announced this week that it's bailing out banks and investment houses with $200 billion in Treasury securities loans. It's only fair that the state Legislature do something for the other victims of the mortgage meltdown, the homeowners. These two Senate bills are modest in scope and involve no tax dollars.

Despite the government aid to banks, securities firms and hedge funds, there's resistance to assisting the borrowers, who instead are treated to tongue-clucking platitudes about "buyer beware" and "living above your means."

"A 'buyer beware' approach only serves to absolve those lenders that have engaged in such shady practices," says Canova. "The idea that the burden of this problem should fall exclusively on borrowers who entered into extremely risky loans -- such as adjustable rate mortgages with balloon payments, interest only, negative amortizations -- removes all responsibility from government for providing a fair and orderly marketplace. The subprime mortgage market became rife with deceptive and predatory lending practices."

The Federal Reserve has spent billions of dollars purchasing debt securities since August to bolster financial markets and improve the balance sheets of hedge funds and investment banks.

"These subsidies are never voted on by any state legislature or Congress, but it is bailout nonetheless," Canova says. "So apparently, it's ruthless competition for ordinary mortgage borrowers, but government subsidies and bailouts for large financial institutions."

Surely, the Legislature can do a little something to help ordinary citizens.

-- Maureen Downey, for the editorial board (mdowney@ajc.com)