

# **Lending and the Fair Housing Act**

Discrimination in mortgage lending is prohibited by the Fair Housing Act. The Act makes it unlawful to engage in discriminatory practices based on race, color, national origin, religion, sex, familial status or handicap (disability). Examples of discrimination in lending include:

- Refusing to make a mortgage loan
- Refusing to provide information regarding loans
- Imposing different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminating in appraising property
- Refusing to purchase a loan or setting different terms or conditions for purchasing a loan

## **Pre-Application Discrimination**

Prior to applying for a loan, many consumers contact lenders to inquire about mortgage lending and financing options available to them. The information they receive at this stage, may determine whether they decide to enter the home buying market or will determine the parameters of their housing search. Therefore, it is crucial that potential homebuyers obtain full and fair access to information about mortgage financing.

To determine whether minority homebuyers receive the same treatment and information as whites at the pre-application phase of the loan process, the Urban Institute, under contract with HUD, conducted a study using the paired testing technique. In the paired tests, two individuals of different races who were equally qualified in every way were matched together. Posing as homebuyers, the two then inquired about the availability and terms for home mortgage loans. The pilot test results have shown that in both Los Angeles and Chicago, African American and Hispanic homebuyers face a significant risk of receiving less favorable treatment than equally qualified whites when inquiring about mortgage financing.

## **Subprime Lending**

Subprime loans are intended to make homeownership possible for many families who have blemished credit histories or who otherwise fail to qualify for prime, conventional loans. Data shows that blacks are much more likely than whites to get a subprime loan, and many of the borrowers who take out these loans could qualify for loans with better rates and terms. In one government study, in African American neighborhoods, 51% of the refinanced mortgages were subprime; compared to only 9% in predominantly white neighborhoods. Because of this troubling data, subprime loans can raise fair lending concerns. It is important, if you are offered a subprime loan, to shop around and make sure you are getting the most favorable loan terms possible for your situation. If you are offered a subprime loan even though your credit history qualifies you for better terms and you have reason to believe that discrimination was a factor, you can contact HUD to file a fair housing complaint.

### **Predatory Lending**

Some lenders, often referred to as predatory lenders, saddle borrowers with loans that come with outrageous terms and conditions, often through deception. Elderly women and minorities frequently report that they have been targeted, or preyed upon, by these lenders. The typical predatory loan is: (1) in excess of those available to similarly situated borrowers from other lenders elsewhere in the lending market, (2) not justified by the creditworthiness of the borrower or the risk of loss, and (3) secured by the borrower's home.

### **Examples of predatory lending:**

- Excessive fees – A predatory mortgage has high and hidden loan fees, often in excess of 5% of the of the total loan amount.
- Selling properties for much more than they are worth using false appraisals.
- Encouraging borrowers to lie about their income, expenses, or cash available for down payments in order to get a loan.
- Knowingly lending more money than a borrower can afford to repay.
- Charging high interest rates to borrowers based on their race or national origin and not on their credit history.
- Charging fees for unnecessary or nonexistent products and services – examples of types of products a lender may try to pressure a consumer to add on: fire and hazard insurance, life insurance, disability insurance, and insurance where premiums are paid in advance.
- Pressuring borrowers to accept higher-risk loans such as:

- Balloon loans
- Interest only payments
- Steep pre-payment penalties – can keep a borrower trapped in a bad loan with no ability to refinance
- Targeting vulnerable borrowers to cash-out refinance offers when they know borrowers are in need of cash due to medical, unemployment or debt problems.
- "Stripping" homeowners' equity from their homes by convincing them to refinance again and again when there is no benefit to the borrower.
- Mandatory arbitration – makes it illegal for the homeowner to take legal action against their lender; only right the borrower has is to take their grievances to arbitration.

### **Tips for Consumers:**

- Get information about the prices of other homes in the neighborhood. Don't be fooled into paying too much.
- Shop for a lender and compare costs. Be suspicious if anyone tries to steer you to just one lender.
- Do NOT let anyone persuade you to make a false statement on your loan application, such as overstating your income, the source of your down payment, failing to disclose the nature and amount of your debts, or even how long you have been employed. When you apply for a mortgage loan, every piece of information that you submit must be accurate and complete. Lying on a mortgage application is fraud and may result in criminal penalties.
- Do NOT let anyone convince you to borrow more money than you know you can afford to repay. If you get behind on your payments, you risk losing your house and all of the money you put into your property.
- Never sign a blank document or a document containing blanks. If information is inserted by someone else after you have signed, you may still be bound to the terms of the contract. Insert "N/A" (i.e., not applicable) or cross through any blanks.
- Read everything carefully and ask questions. Do not sign anything that you don't understand.

### **Filing a Complaint**

If you have experienced lending discrimination, you can visit HUD's [housing discrimination complaint website](#) to file a complaint or learn more about the

complaint process.

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