

# **Fair Housing: Predatory Lending Abuses**

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## **Predatory Lending: What is it?**

Predatory lending is the practice of preying on, or taking advantage of, an individual or group of people that may have a difficult time buying or refinancing a home such as people who may be poor, uneducated, elderly or in the protected classes (race, religion, national origin, color, disability, familial status, gender).

### **What is the issue?**

- Certain groups of people are denied their dream of owning a home.
- These same groups are forced to accept lending that is subprime.
- Homeowners are at risk of losing their homes or financial security.

## **Predatory Lending: Who is at risk?**

- Low-income families
- Minorities
- Seniors
- Persons with disabilities

### **What is a prime loan?**

“In conventional lending [prime loans], you're dealing with borrowers with high credit scores, solid income and single-family residences -- basic [well qualified]

borrowers..."

### **What is a Sub-prime loan?**

"...in subprime, you're dealing with people who can't prove any income, have low [credit] scores, have had bankruptcies, have way too much credit or need higher loan to values on their property."

--Charlie Cartwright, LenderBase Corp.

Consider that subprime lenders grade customers the same way that elementary school teachers grade children. Depending on an applicant's credit score, debt-to-income ratio, ability to verify income and other variables, a lender or broker assesses a letter grade that typically ranges from "A+" down to "D." The loan officer then charges a rate appropriate to that category. Because the distinctions between categories are often slight, borrowers can move up the scale without much effort.

For example, lenders tend to grade people based on how many times they were 30 or 60 days late with their mortgage payments in the past year. Having two "30-day lates" might push them into the "A-" category while having just one would keep them in the "A" zone. As a result, a customer who was late twice, but one of the late payments was 11 months ago, can improve a notch by just waiting a few extra days to borrow. By doing so, that customer could save a half a percentage point, or 50 basis points, on the interest rate, according to pricing sheets wholesale lenders send to mortgage brokers.

### **So...Sub-prime loans...**

provide credit to persons with past credit problems, insufficient credit history, previous bankruptcy, spotty employment, and others that do not meet credit standards in the prime (conventional) loan market.

### **Subprime Loans and Minorities:**

- In five years increased by 10 percent.
- Three times more likely in a low-income neighborhood than in high-income.
- Five times more likely in black neighborhoods than in white.
- Two times more likely in high-income black neighborhoods than in low-income white .

From 1993 to 1998, the # of subprime refinancing loans increased ten-fold. Subprime loans are three times more likely in low income neighborhoods than in high-income neighborhoods. Subprime loans are five times more likely in black neighborhoods than in white neighborhoods. Racial disparity is so great that homeowners in high-income black areas are twice as likely as homeowners in low-income white areas to have subprime loans. -HUD No. 00-75

### **Subprime loans and Seniors:**

Seniors become targets because:

- “cash-poor” even though “asset-rich”
- Limited financial resources (income)
- Limited knowledge about financing alternatives
- Large or unexpected bills for medical expenses or repairs on their older homes

### **Predatory Lending: Who does it? (Not an exclusive list.)**

- Appraisers
- Mortgage brokers/bankers
- Home improvement contractors
- Lenders/Bankers
- Real estate agents
- Savings and loans
- Credit unions

### **Predatory lenders: What do they do? (Not an exclusive list.)**

- False appraisals.
- Encourage false information.
- Lend more than can be repaid.
- Charge more interest based on race or national origin.
- Charge for unneeded products and services.
- Pressure borrowers to accept higher-risk loans.
- Target vulnerable borrowers.
- Refinance again and again (called “flipping”).
- Pressure to refinance and charge high interest rates.
- Encourage borrowers to sign blank forms.

1. Sell properties for more than they are worth using false appraisals.
2. Encourage borrowers to lie about their income, expenses, or cash available for down payments in order to get a loan.
3. Knowingly lend more money than a borrower can afford to repay.
4. Charge high interest rates to borrowers based on their race or national origin and not on their credit history.
5. Charge fees for unnecessary or nonexistent products and services.
6. Pressure borrowers to accept higher-risk loans such as balloon loans, interest only payments, and steep pre-payment penalties.
7. Target vulnerable borrowers to cash-out refinances offers when they know borrowers are in need of cash due to medical, unemployment or debt problems.
8. Strip homeowners' equity from their homes by convincing them to refinance again and again when there is no benefit to the borrower.
9. Use high-pressure sales tactics to sell home improvements and then finance them at high interest rates.

### **More Abusive Practices... (Not an exclusive list.)**

- Single premium credit insurance.
- High fees.
- Prepayment penalties.
- Yield-spread premiums.
- Steering.
- Mandatory arbitration.
- Flipping.
- Balloon payments.
- Interest only loans.
- Higher interest rates.
- Debt shifting.
- Recommend subprime loans.

(For more information see [www.responsiblelending.org](http://www.responsiblelending.org))

1. Credit insurance premiums should not be financed into the loan up-front in a lump-sum payment.

2. Borrower should not be charged excessive points and fees for conventional, FHA or VA loans. Please check with your Department of Finance or HUD if you have questions or a suspicion that you are being charged excessive points.
3. Loans should not include prepayment penalties because prepayment penalties trap borrowers in high-rate loans, which too often leads to foreclosure, and prepayment penalties are hidden, deferred fees that strip significant equity.
4. Fees that lenders rebate to brokers in exchange for placing a borrower in a higher interest rate than the borrower qualifies for. Brokers originate over half of all mortgage loans and a small number of brokers are responsible for a large percentage of predatory loans.
5. Lenders should make sure that borrowers get the lowest-cost loan they qualify for.
6. Lenders should not allow clauses in the loan contracts that force the borrower into arbitration in the event of a dispute for wrongful practices.
7. Flipping of borrowers occurs through repeated fee-loaded refinancing. Lenders refinance subprime loans over and over, taking out home equity wealth in the form of high fees each time without providing the borrower with a net tangible benefit.
8. Balloon payments are a condition of a loan when a very large payment comes due a few years into the loan.
9. Interest only payments are loans where the borrower's payments only cover the interest portion of the loan and not principle.
10. Debt shifting is when unsecured debt is shifted into a secured mortgage.
11. When lenders recommend subprime loans for people who qualify for conventional loans.

### **What tactics do predators use?**

- "This is your only chance".
- "The Federal Housing Administration insurance protects you against property defects or loan fraud".
- "Refinancing can solve your credit or money problems".

- “You can only get a good deal on a home improvement loan if you finance with this lender”.

1. A lender or investor tells you that they are your only chance of getting a loan or owning a home. You should be able to take your time to shop around and compare prices and houses.
2. You are told that the Federal Housing Administration insurance protects you against property defects or loan fraud – it does not.
3. You are told that refinancing can solve your credit or money problems.
4. You are told that you can only get a good deal on a home improvement if you finance it with a particular lender.

### **Possible signs of lending abuses:**

- House costs more than similar ones in the neighborhood.
  - Sales contract or loan document has blanks or false information.
  - Cost or closing terms are different.
1. The house you are buying costs a lot more than other homes in the neighborhood, but isn't any bigger or better.
  2. You are asked to sign a sales contract or loan documents that are blank or that contain information which is not true.
  3. The cost or loan terms at closing are not what you agreed to.

### **Protect Yourself: be a smart consumer**

- Educate yourself about homeownership.
- Interview real estate professionals.
- Find out about the prices of comparable homes.
- Have the property inspected.
- Shop for a lender.
- Read everything carefully and ask questions.
- Watch that the cost doesn't increase.
- Don't be persuaded to make false statements.
- Don't be persuaded to borrow more than you can repay.

- Don't sign a blank document or a document containing blanks.
- Don't make false statements about your intention to occupy.

## **12 Tips On Being A Smart Consumer**

1. Before you buy a home, attend a homeownership education course offered by the U.S. Department of Housing and Urban Development (HUD)-approved, non-profit counseling agencies.
2. Interview several real estate professionals (agents), and ask for and check references before you select one to help you buy or sell a home.
3. Get information about the prices of other homes in the neighborhood. Don't be fooled into paying too much.
4. Hire a properly qualified and licensed home inspector to carefully inspect the property before you are obligated to buy. Determine whether you or the seller is going to be responsible for paying for the repairs. If you have to pay for the repairs, determine whether or not you can afford to make them.
5. Shop for a lender and compare costs. Be suspicious if anyone tries to steer you to just one lender.
6. Read everything carefully and ask questions. Do not sign anything that you don't understand. Before signing, have your contract and loan agreement reviewed by an attorney skilled in real estate law, consult with a trusted real estate professional or ask for help from a housing counselor with a HUD-approved agency. If you cannot afford an attorney, take your documents to the HUD-approved [housing counseling agency](#) near you to find out if they will review the documents or can refer you to an attorney who will help you for free or at low cost.
7. Be suspicious when the cost of a home improvement goes up if you don't accept the contractor's financing.
8. 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.

9. 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.

10. Never sign a blank document or a document containing blanks. If information is inserted into the loan document 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.

11. Be honest about your intention to occupy the house. Stating that you plan to live there when, in fact, you are not (because you intend to rent the house to someone else or fix it up and resell it) violates federal law and is a crime.

12. Make sure that your mortgage payment is no more than 30% of your **net** income. Make sure you include all of your expenses in determining the 30%.

**What can you do? Contact the following:**

U.S. Department of Housing and Urban Development (HUD)

1-800-669-9777

-or-

1-800-927-9275 (TDD)

Idaho Legal Aid Services

(208) 345-0106 in Boise local calling area, statewide toll-free 1-866-345-0106

**En español** llamada gratis estatal, 1-866-954-2591 o 454-2591 en la área local de llamadas en Caldwell

Intermountain Fair Housing Council

(208) 383-0695 in Boise



-or-

1-800-717-0695 (toll-free)

On the Web:

- [www.hud.gov](http://www.hud.gov)
- [www.responsiblelending.org](http://www.responsiblelending.org)
- [www.idaholegalaid.org](http://www.idaholegalaid.org)

### **For legal advice regarding senior citizens:**

Idaho Legal Aid's Senior Legal Hotline

Mon-Fri 9 am-12 pm and 1 pm to 4 pm

Statewide toll-free, 1-866-345-0106 or 345-0106 in the Boise local calling area

**En español** llamada gratis estatal, 1-866-954-2591 o 454-2591 en la área local de llamadas en Caldwell.

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[Predatory Lending Mortgages](#)

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