

FAIR LENDING

West Penn Rural Fair Housing

What is Fair Lending?

- Fair, equitable, and non-discriminatory access to credit for consumers seeking to purchase or maintain their home

Is this "Fair" Lending?

- A national lender charges 4.5% interest on mortgage loans and closing costs of 1.5% of the amount borrowed. For mortgages for similarly qualified African-American and Hispanic applicants, the lender charges 5.5% interest and 3% closing costs.

What Laws Apply?

- Fair Housing Act (FHA) *
- Equal Credit Opportunity Act (ECOA)*
- Home Mortgage Disclosure Act (HMDA)
- Community Reinvestment Act (CRA)
- Truth in Lending Act (TILA)
- Real Estate Settlement Procedures Act (RESPA)
- Home Ownership Equity Protection Act (HOEPA)

Who is Protected?

Race		
Age		
Color		
Religion		
National Origin		
Sex		
Marital Status		
Disability		
Marital Status		
Age		
Income from Public Assistance		

What Lender Actions are Covered?

- Making or brokering loans to buy, build, repair or improve a home
- Selling an owner-financed home
- Selling an existing loan to a new lender or servicer
- Loan modifications and refinances, including reverse mortgages
- Appraising real estate for purposes of creating a loan

Is this "Fair" Lending?

- Mary, a recent college graduate, has obtained a great job and is looking to buy her first home. She has A+ credit. Ned, the loan manager at Mary's bank, asks whether she intends to have children, as that will affect her ability to repay and tells her because she has never had a previous mortgage, she will need her Dad to co-sign the loan.

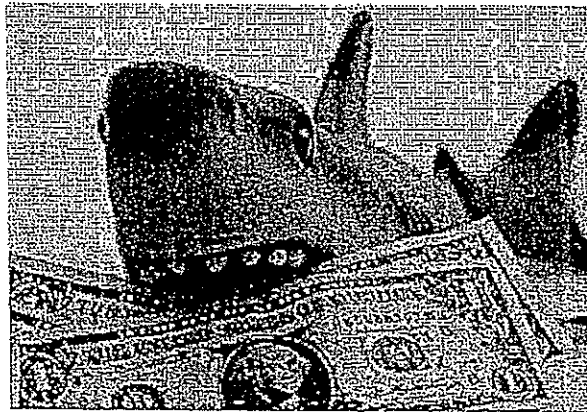
Lenders Must Not:

- Discourage you from applying or reject your application based upon protected status
- Consider your protected status in a loan decision
- Impose Different Loan Terms or Conditions because of protected class membership
- Consider the racial composition of the neighborhood
- Ask about your plans for having a family
- Use discriminatory factors when refusing to purchase a loan
- Require a co-signor if you meet the lender's normal credit standard
- Fail to inform about all available loan products for which the purchaser qualifies

Is this "Fair" Lending?

- Bob and Sue Miller, a young, white couple go to XYZ Bank to meet with Mr. Smith, the loan officer to discuss mortgage options. While there, he informs them of several different loan products for which they can apply. James and Ellen Jones, a young, African-American couple go to XYZ Bank and also meet with Mr. Smith, who informs them only about FHA loans.

Predatory Lending



What is Subprime Lending?

- Subprime lending is a provision of loans to households with imperfect or blemished credit. These loans carry higher interest rates with the justification that borrowers with higher risk factors should pay more to offset the perceived greater risk to the lending institution of advancing the loan.

What is Predatory Lending?

- No General Consensus on Definition
- One definition: An unsuitable loan designed to exploit vulnerable and unsophisticated borrowers.
 - Predatory loans are a subset of subprime loans
 - Predatory lending uses abusive lending practices that include approving a mortgage loan to someone who does not have the ability to repay. It also pertains to repeated refinancing of a loan charging higher interest rates and fees each time.

What is Predatory Lending?

- A predatory loan may have one or more of the following features:
 - Charges more in interest and fees than is required to cover the added risk of lending to borrowers with credit imperfections;
 - Contains abusive terms and conditions that trap borrowers and lead to increased indebtedness; and
 - Violates fair lending laws by targeting women, minorities, the elderly and other protected classes.

Redlining/Reverse Redlining

- Redlining: The practice of denying prime credit in a geographical area because of its racial or ethnic composition.
- Reverse Redlining: The targeting of an area for the marketing of predatory lending practices because of the race or ethnicity of its residents.

Discrimination with a Smile

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"As an alternative to the traditional 30-year mortgage, we also offer an interest-only mortgage, balloon mortgage, reverse mortgage, upside down mortgage, inside out mortgage, loop-de-loop mortgage, and the spinning double axel mortgage with a triple lutz."

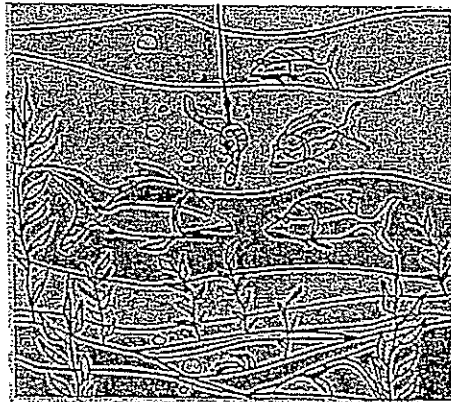
Red Flags

- High Closing Costs
- Balloon Payments
- Upfront Fees
- Telephone Solicitations, Door to Door Sales and High Pressure Tactics
- Credit Life or Disability Insurance Policies
- Penalties for Prepayment
- Unlicensed Lenders
- Documents with Missing Dates or Blank Spaces
- Brokers who ask you to Lie on an application in order to qualify
- A broker who recommends that you repeatedly refinance

Is This "Fair" Lending?

- Bessie is a 75 year old homeowner. She owes no mortgage on her property which is a 100-year old farmhouse with 20 acres. Sam Handyman knocks on her door one day and informs her that she needs a new roof and new windows. Bessie knows that the property could use a little TLC, but tells Sam that she hasn't had a loan in a long time and doesn't know how she would get the money. Sam tells her to contact his friend, who is a lender, to arrange for financing. Bessie calls the friend, Max Minion, who arranges for the loan and brings the paperwork to Bessie. Even though some of the information is missing, Max tells her to sign and that she won't be able to get the loan if she doesn't sign now. He also tells her that due to her age, she must agree to credit life insurance, but not to worry because the payment will be built in to the loan. Bessie later learns that the \$10,000 borrowed is \$20,000 with the insurance and costs and has a monthly payment that is unsustainable with her social security income.

A Note About Mortgage Rescue Scams



"Sure, it looks good. I see good.
Trust me, there's always a catch."

If it Looks too Good to be True...

- Watch out for the following language:
 - "Stop foreclosure now!"
 - "Get a loan modification!"
 - "Over 90% of our customers get results!"
 - "We have special relationships with banks that can speed up the approval process."
 - "100% Money Back Guarantee"
 - "Keep Your Home. We know it's scheduled to be sold—No Problem!"
 - "You don't have to keep making your payments"

How to Avoid Foreclosure Rescue Scams

- Beware of an individual or company that does the following:
 - calls itself "mortgage consultant," "foreclosure consultant," "foreclosure service," or something similar
 - Contacts or advertises to people whose homes are listed for foreclosure, including anyone who sends flyers or solicits door-to-door or by phone
 - Charges a fee before providing services, even if they promise a refund or "satisfaction guaranteed"
 - Tells the consumer to make mortgage payments directly to the individual (not the lender) or tells the consumer to stop making mortgage payments
 - Tells the consumer to transfer the property deed or title to the individual or company.

Another Note about Foreclosure Rescue Scams

- A Homeowner NEVER has to pay for foreclosure assistance
 - HUD-Certified Housing Counselors: 888-995-4673
 - Southwestern Pennsylvania Legal Services (a HUD-Certified Housing Counseling agency): 724-225-6170 or 877-725-4472

What if My Rights Have Been Violated?

- File a Complaint with HUD
 - One Year to File
- File a Complaint in Federal or State Court
 - Two Years to File

Possible Remedies (FHA)

- Out of Pocket costs and damages for humiliation, emotional distress and pain and suffering;
- Punitive Damages (Court Only)
- Civil Penalty (Fine)
- Affirmative Relief (Requires the lender to do something)
- Required fair lending training for lender
- Reimbursement for court fees and costs

Possible Remedies (ECOA)

- Actual Damages
- Punitive Damages limited to \$10,000
- Affirmative Relief
- Fees
- Costs

Does Anyone Actually Win?

- 9/14/2012: Bank of America settles case by disabled applicants who were asked to provide a Doctor's note documenting their disability. Each eligible applicant will receive \$1,000, \$2,500 or \$5,000.
- 7/12/2012: Wells Fargo settles case for \$175 million for steering African American and Hispanic applicants into subprime loans when they qualified for prime. \$125 million will be distributed to victims of this practice as identified by the Justice Department and \$50 million will be offered as direct down payment assistance to borrowers in communities where discrimination was identified.
- 5/31/2012: SunTrust Inc. Agrees to settlement of \$21 million for claims involving African American and Hispanic applicants who were charged higher fees. Victims in 34 states and the District of Columbia will receive payments.
- 12/21/11: Bank of America settles case against Countrywide (which it acquired) for \$335 Million for pricing and steering involving African American and Hispanic applicants. Individual compensation to vary based on how many victims identified; remainder to go to States' housing counseling and assistance agencies that assist those likely to be victims. ***

Who Can I Contact for Information?

West Penn Rural Fair Housing Lending Initiative

Southwestern PA Legal Services

45 E. Main Street

Uniontown, PA 15401

724-439-3591

877-725-4472



