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# MORTGAGE & LENDERS GUIDE

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**Don't Let Lenders Take Advantage  
Of You & Your Situation**

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# Table of Contents

What is Predatory Lending?.....2

What is Subprime Lending?.....2

Why is Predatory Lending a Fair Lending Issue?.....4

Why is Subprime & Predatory Lending a CRA Issue?.....5

Indicators of A Predatory Lender.....6

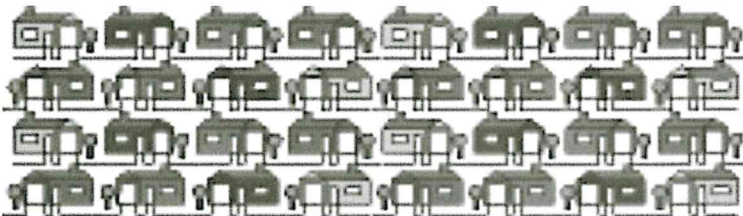
Are There Predatory Lenders in Our Community?.....8

Avoiding Predatory Lenders.....10

Think Twice About Using Your Home as Collateral.....12

Terms.....inside back cover

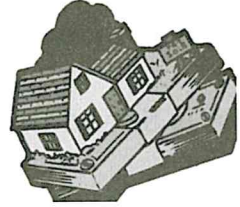
Assistance Providers.....back cover



## **What is Predatory Lending?**

Predatory lending is any unfair credit practice that harms the borrower or supports a credit system that promotes inequality and poverty.

Predatory lenders are loan sharks who often aggressively market to lower-income and minority communities, through mail, phone, TV, and even door-to-door sales. Elderly homeowners, in particular are frequent targets of some subprime home equity lenders, because they often have substantial equity in their homes, yet have reduced incomes. Advertisements promise lower monthly payments as a way out of debt. What they don't tell potential borrowers is that they will be paying more and longer. Worse yet, they will be entering a system that promotes a cycle of debt that has been compared to sharecropping, an economic system that is unequal and unfair.



The end result of these practices is to drain away the equity that borrowers have built in their homes over the years. Innocent people are losing their homes, their dreams.

## **What is Subprime Lending?**

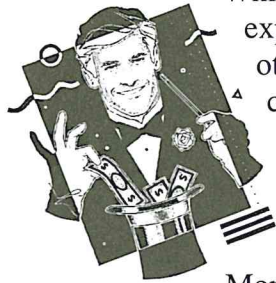
Subprime or “B&C” lending is lending that provides credit to borrowers with past credit problems, no credit or high debt at a higher cost than conventional mortgage loans.

Within the mortgage lending business, conventional loans are issued to those with good credit; “A” credit. Those with less than ideal credit are rated “A-, B+, B, B-, C+, C, and C-.” People who are not perfect from a credit worthy standpoint. Good subprime lending is clearly needed, and can be profitable without engaging in any predatory practices.

However, subprime loans are often given to borrowers with good credit. This is an unethical and predatory practice. Studies by Freddie Mac and Standard & Poor indicate that one third to one-half of the

“A-” subprime borrowers would have qualified for conventional “A” quality loans.

In many cases, those living in lower-income and minority neighborhoods, where traditional banking services are in short supply, tend to turn to subprime lenders regardless of their credit history.



While subprime lenders point out that they are expanding access to credit to individuals who otherwise would be shut out of the market and consumers whose credit histories make them too risky for conventional loans, such lenders are in a position to take advantage of the consumers in the weakest bargaining position.

Mortgage brokers originate over 50% of subprime loans. The higher the fees and interest rates, the greater their compensation. In many cases, brokers receive “kick-backs” for steering borrower’s loans into loans, which carry higher interest rates than necessary.

Credit life insurance pays off the principal of the loan amount should the borrower die. This protects both those who inherit the property and the lender from the loan not being repaid. It is more expensive while providing lower benefits. Credit life insurance is most often sold and financed with consumer finance and subprime loans, rarely with traditional A credit loans.

Credit life insurance is often financed to lower the monthly payments. Financing increases the overall cost by adding high interest rates and financing fees on the premium. By financing the equity is taken from the home upfront.

Lenders do not offer a variety of competitive insurance products to choose from because lenders often own or affiliate with a credit insurance company whose product they offer.

## Why is Predatory Lending a Fair Lending Issue?

The Fair Housing Act calls for equal treatment in terms and conditions of housing opportunities and credit regardless of race, color, sex, religion, national origin, handicap and familial status. The Equal Credit Opportunity Act requires equal treatment in loan terms and the availability of credit for all of these categories, as well as age, and marital status.

Examples of violations include such things as:

- Targeting African-American, Hispanic or elderly households for marketing of higher priced and unequal loan products. *For example: Targeting elderly borrowers who are cash-poor but equity rich for high cost home equity loans.*



- Treating individuals of protected classes differently than comparable credit worthy whites in the loan process. *For example: Giving an African-American borrower a higher-cost loan than a comparable white borrower.*



- Having policies and practices that have a negative impact on protected classes. *For example: Systematic discrimination that creates a separate and unequal credit system that traps borrowers into higher cost loans.*

## **Why is Subprime and Predatory Lending a CRA Issue?**

The Community Reinvestment Act (CRA) allows community groups to hold banks accountable for their lending to minority and low wealth neighborhoods. Banks regulated by CRA have a higher level of federal regulatory oversight and accountability for their lending practices.

Some banks covered by CRA own subprime subsidiaries. Yet these subsidiaries are not regulated for compliance with consumer laws by their parent company's federal regulator. Independent finance companies do not have regular consumer compliance reviews. A two-tier system has evolved of regulated and unregulated lending.

Subsidiaries and independent finance companies do not positively reinvest in the communities from which they have taken profits.

Community groups must use the spirit of CRA to hold subsidiaries and finance companies publicly accountable for lending in their neighborhoods.

### **Bank Subprime Subsidiaries**

- Bank of America is the largest subprime lender in the United States. It owns subprime lenders including NationsCredit, EquCredit, and First Franklin and finances many others.
- First Union owns The Money Store and finances other subprime lenders.

## Indicators of a Predatory Lender

### Marketing:

1. Aggressive solicitations to targeted neighborhoods
2. Home improvement scams
3. Kickbacks to mortgage brokers (yield spread premiums)
4. Racial steering to high rate lenders

### Sales:

5. Purposely structuring loans with payments the borrower can not afford
6. Falsifying loan applications (particularly income level)
7. Adding insincere co-signers
8. Making loans to mentally incapacitated homeowners
9. Forging signatures on loan documents (i.e., required disclosures)
10. Paying off lower income mortgages
11. Shifting unsecured debt into mortgages
12. Loans in excess of 100% LTV
13. Changing the loan terms at closing

### The loan itself:

14. High annual interest rates
15. High points or padded closing costs
16. Balloon payments
17. Negative amortization



18. Inflated appraisal costs
19. Padded recording fees
20. Bogus broker fees
21. Unbundling (itemizing duplicate services and charging separately for them)
22. Required credit or credit life insurance
23. Falsely identifying loans as lines of credit or open end mortgages
24. Force placed homeowners insurance
25. Mandatory arbitration clauses

**After closing:**

26. Flipping (repeated refinancing, often after high-pressure sales)
27. Daily interest when loan payments are late
28. Abusive collection practices
29. Excessive prepayment penalties
30. Foreclosure abuses
31. Failure to report good payments on borrowers' credit reports
32. Failure to provide accurate loan balance and payoff amount



(Source: William J. Brennan, Jr.'s statement to US Senate Committee on Aging March 16, 1998)

## Are there Predatory Lenders in our Community?

Lenders use several common practices to sell high-cost home-equity and refinanced loans to homeowners, regardless of their ability to repay the loan. Such as:

**Solicitations-** Heavy marketing in targeted neighborhoods, deceptively using mailings resembling government checks to get the consumers to open the envelope.

**Home Improvement Scams-** Working hand-in-hand with home improvement companies, which provide shoddy work and then saddle the homeowner with expensive loans. Or making loans in conjunction with home improvements that often never materialize.

**Rescuing-** Selling loans under the guise of “rescuing” homeowners from foreclosure, when merely saddling owners with more debt.



**Lending to People Who Cannot Afford the Loans-** Predatory Lenders give you a loan, based on the equity in your home, not on your ability to repay based on your income. Eventually the lender acquires the house by foreclosure, or refinances for additional fees.

**Disaster Loans-** Offering high-interest, disaster-related home loans.

**Unjustified High Interest Rates-** Seeking high profits, they may charge 12-28% interest.

**Balloon Payments-** The loan may be structured to require a balloon payment at the end, which is 85% of the original principal. This will cause the borrower to either default or refinance once more.

**Making Loans at More Than 100% of Value-** For example, the loan may be for 125% of the value. This can lock a consumer into

a high interest loan and at foreclosure; the consumer may have to surrender assets in addition to their home.

**Making Life Easier-** Consolidating debt into unaffordable home-equity loans, again under the guise, “making life easier”.

**Loan Flipping-** Encouraging you to repeatedly refinance the loan and often, to borrow more money. Each time you refinance, you pay additional fees and interest points. That only serves to increase your debt.

**Credit Insurance Packing-** The lender adds credit insurance to your loan, which you may not need, to increase the lender’s profit on a loan.

**Bait & Switch-** The lender offers one set of loan terms when you apply, then pressures you to accept higher charges when you sign to complete the transaction.

**Deceptive Loan Servicing-** The predatory lender doesn’t provide you with accurate or complete account statements and payoff figures. That makes it almost impossible for you to determine how much you have paid or how much you owe. You may pay more than you owe.

Much of the problem is related to the lenders ability to charge what they please. In most states, there are no limits on the points and fees lenders can charge.

*Borrowers pay mortgage brokers an average of \$1,500 to \$2,000 above what it costs to paint a modest sized house. But consumers wouldn’t dream of hiring a house painter without the price in advance and in writing.*

Some of these practices violate federal credit laws dealing with disclosure about loan terms, discrimination based on age, gender, marital status, race or national origin and debt collection.

## Avoiding Predatory Lenders

The following are tips to protect consumers against predatory lending practices and how to spot come-ons:

- ✓ Before you start looking for an equity loan (including those for reverse mortgages, bill consolidation or to stave off foreclosure) or home improvement loans, get free, independent loan counseling from your city or county's housing department, community or social group, credit counseling service, or recognized consumer advocacy agency
- ✓ Avoid door-to-door and direct mail pitches for home-equity loans and loans connected to unsolicited home improvement contracts. Instead get referrals from family members, friends, co-workers and others you trust.
- ✓ Avoid loans with high interest rates. Shop around to compare the going rates among credit unions, banks, mortgage lenders and brokers.
- ✓ Avoid come-ons that begin *"no credit" No job! Don't worry. You have plenty of equity in your home to qualify for a loan."* What really "qualifies" you for the loan with a disreputable company is your inability to pay it. When you fail to meet payments, they can legally take your home. **And they will.**
- ✓ Avoid interest-only, non-amortizing or partially amortizing loans. After you make years of payments you will still owe the money you borrowed, often as one large "balloon" payment at the end of the contract's term.
- ✓ Avoid loans based solely on your equity, rather than your ability to repay.
- ✓ Don't apply to lenders or brokers who require a high, non-refundable application fee. Never allow yourself to be pressured into signing a contract unless you've read and understand every word. If the offer is good today, it should be good tomorrow. Likewise, don't sign anything with



blank spaces. They could be filled in later with an amount you wouldn't agree to.

- ✓ Ask specifically if credit insurance is required as a condition of the loan. If it isn't, and a charge is included in your loan and you don't want the insurance, ask that the charge be removed from the loan document. If you want the added security of credit insurance, shop around for the best rates.
- ✓ Keep careful records of what you've paid, including billing statements and canceled checks. Challenge any charge you think is inaccurate.
- ✓ Check contractors' references when it is time to have work done in your home. Get more than one estimate.

When speaking with a lender, ask about the best loan for which you qualify. Compare:

- 1.) **The annual percentage rate (APR).** This takes into account not only the interest rate, but also points, mortgage broker fees, and certain other credit charges the lender requires the borrower to pay, expressed as a yearly rate.
- 2.) **The term of the loan.** How many years will you make payment on the loan?
- 3.) **The monthly payment.** What's the amount? Will it stay the same or change?
- 4.) **Is there a balloon payment?** This is a large payment usually at the end of the loan term after you have made several small payments. If you can't make the payment, you may be forced into another loan with additional closing costs.
- 5.) **Is there a prepayment penalty?** These are extra fees that may be due if you pay off the loan early by refinancing or selling your home.
- 6.) **Will the interest rate for the loan increase if you default?** If you miss a payment or pay late, you may have to pay a higher interest rate for the remainder of the loan.
- 7.) **Does the loan include a charge for any type of credit insurance such as credit life or disability? Is the insurance required as a condition of the loan?**

## Think Twice About Using Your Home as Collateral

If you need money to pay bills or make home improvements and think refinancing a second mortgage, or a home equity loan is the answer-consider your options carefully. If you can't make the required payments, you could lose your home as well as the equity you have built up. Don't let anyone talk you into using your home to borrow money you don't really need.

Not all loans or lenders are created equal. **Remember-** *unscrupulous lenders target elderly and low-income homeowners and those with credit problems. These lenders may offer loans based on the equity in your home, not on your ability to repay the loan. High interest rates and credit costs can make borrowing money using your home very expensive.*

### Early Warning Signs

Avoid any lender who:

- ✓ tells you, or requires you, to falsify information on the loan application.
- ✓ pressures you into applying for a loan or applying for more money than you need.
- ✓ pressures you into accepting monthly payments you can't make.
- ✓ fails to provide required loan disclosures or tells you not to read them.
- ✓ misrepresents the kind of credit you're getting. For example, calling a one-time loan a line of credit.
- ✓ promises one set of terms when you apply, and gives you another set of terms to sign-with no legitimate explanation for the change.
- ✓ tells you to sign blank forms – the lender says they'll fill them in later.
- ✓ says you can't have copies of documents that you've signed.



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## **ASSISTANCE PROVIDERS**

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**Consumer Credit Counseling**  
1-800-282-0515

**U.S. Federal Trade Commission**  
1-877-FTC-HELP (383-4357)

**Ohio Attorney General**  
1-800-282-0515

**Southeastern Legal Services**  
740-594-3558 or 1-800-626-3669

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The U.S. Federal Trade Commission offers  
an on-line complaint form to report mortgage  
fraud and questionable practices at:  
**[www.ftc.gov](http://www.ftc.gov)**

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**For information in Morgan County,  
please contact:**



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Specific questions should be addressed to the above or an attorney.

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