

What is Predatory Lending?

consumer***brief***

Predatory lending is the use of unfair and abusive mortgage lending practices that result in a borrower paying more through high fees or interest rates than his/her credit history warrants. Due to the complexity of mortgage transactions, it is often difficult to tell the difference between a legitimate and predatory loan.

The New Jersey Home Ownership Security Act, which became law in 2003, provides New Jersey citizens with some of the strongest safeguards in the nation. The law is designed to stop predatory lending practices and keep homeowners from unfairly losing their homes and assets. Amendments enacted in July 2004 confirmed the law's central provisions which provide homeowners with strong protections from predatory lenders while ensuring access to credit for New Jersey consumers.

The law protects consumers by, among other things:

- prohibiting high-cost home loans with balloon payments*;
- giving victims the right to protect themselves and recover damages for violations of the law; and
- placing tough restrictions on lenders that offer high-cost home loans.



(* A balloon loan is one in which the monthly payment is not intended to repay the entire loan. The final payment is a large lump sum of the remaining principal and is called a "balloon payment.")

Predatory lending practices have included:

- Charging excessive interest rates not justified by the risk involved.
- Charging and financing excessive points and fees.
- Loaning money based on the value of the property, when it is evident that a borrower will be unable to repay the loan.
- Packing loans with additional products like credit insurance or club memberships.
- Aggressively and deceptively selling single-premium credit insurance.
- Charging extended prepayment penalties that trap people into high-interest loans.
- Conspiring with home improvement contractors to solicit loans on damaging terms and/or paying contractors directly, leaving the borrower no way to ensure that the work is done.
- Inflating the appraisal value of a house.
- Using "mandatory arbitration" clauses that deny borrowers their rights in court.
- Misrepresenting the terms and conditions of loans.
- Using harassing and intimidating collection techniques.
- Targeting high-cost loans to vulnerable borrowers, including the elderly, low income and minority families.
- Flipping, or repeated refinancing, which results in fee revenue for the lender and no benefit to the borrower.

Continued

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HERE IS WHAT YOU SHOULD KNOW.

- Think twice before borrowing against your home. Be sure you know what the payments are going to be and that you can make them.
- Shop around. Get at least three written quotes for up-front costs, interest rates, terms of the loan and monthly payments.
- Do not trust ads promising “No Credit? No Problem!”
- Do not give in to high-pressure sales tactics.
- Do not take the first loan you are offered.
- Remember, a low monthly payment is not always a “deal.” Look at the total cost of the loan.
- Be wary of promises to refinance the loan at a better rate in the future.
- Avoid balloon payments. The monthly payment may be small, but the big “balloon” payment that comes due at the end of the loan period could be far beyond your means to repay.
- Under the Truth-in-Lending Act, borrowers can change their minds for any reason – even no reason – within three days of signing a contract in which their homes are offered as security. But remember – three days is not a long time. It is better to research and be comfortable with all aspects of your loan before you sign.
- Avoid high interest rates, penalties for early payoff of your loan and monthly payments you cannot afford.
- Do not sign a blank document or anything you do not understand, even if they cancel the loan offer.
- Ask questions if you do not understand the loan terms, and show the documents to someone you trust.
- Be wary of telemarketers or door-to-door salespeople who contact you out of the blue offering bargain loans and claiming that your bad credit is no problem.
- Avoid lenders recommended by home improvement contractors.

If you feel that you have been victimized, please contact the New Jersey Division of Consumer Affairs at 800-242-5846 or 973-504-6200 (if calling from outside the State of New Jersey). You may also contact the New Jersey Department of Banking and Insurance at 800-446-7467.

In addition, report your experience to the Federal Trade Commission (“F.T.C.”), which monitors predatory lending scams and frauds on the national level. The F.T.C. can be reached, toll free, at 1-877-FTC-HELP (382-4357) or you may write to: Federal Trade Commission, CRC 240, Washington, DC 20580.



For online consumer information on buying a home, go to www.hud.gov/topics/buying_a_home which is a page on the Web site of the U.S. Department of Housing and Urban Development.

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