



# Fair Lending Protections: Be Aware of Lending Discrimination

Fair Housing Advocates of Northern California

# FAIR LENDING PROTECTIONS

## LENDING DISCRIMINATION

Fair housing laws protect people from discrimination when renting or buying a home, getting a mortgage, or engaging in other housing-related activities. The most important fair lending laws protecting consumers are the federal Fair Housing Act (FHA) and the Equal Credit Opportunity Act (ECOA). Fair lending laws guarantee the same lending opportunities for everyone.

The Fair Housing Act (FHA) prohibits real estate professionals and lenders from considering your race, color, national origin, religion, sex/gender, familial status, or disability during a real estate transaction.

Lending discrimination can occur at any stage of the homebuying process, even before the application process begins (during the advertising or information-sharing phase, during the loan application, underwriting or loan approval process, or during the loan administration).

### How Lending Discrimination Can Occur

Lending discrimination can take different forms:

**Differential treatment** occurs when equally qualified individuals are treated differently based on their membership in a protected class (such as higher mortgage rates).

**Disparate impact** occurs when a lending policy, which may appear neutral, disproportionately affects loan applicants of protected classes (such as minimum mortgage loan amounts).

**Redlining** occurs when lenders discriminate against a location, which usually affects members of protected classes. Historically, some lending institutions had maps with red lines delineating neighborhoods in which they would not do business, such as Black or Latinx neighborhoods.

### Responsible Parties Liable for Fair Lending Violations

Real estate agents & brokers, lenders, insurers and appraisers, homeowner or condominium associations, maintenance & administrative staff, architects, builders, developers, and engineers and other housing professionals are liable for fair lending violations.

## Fair Housing Advocates of Northern California

Tel: (415) 457-5025  
TDD: (800) 735-2922



1314 Lincoln Avenue, Suite A  
San Rafael, CA 94901



[www.fairhousingnorcal.org](http://www.fairhousingnorcal.org)  
[fhanc@fairhousingnorcal.org](mailto:fhanc@fairhousingnorcal.org)

Wheelchair accessible  
Se habla español

## Our Mission

To ensure equal housing opportunity and educate the community on the value of diversity in our neighborhoods.

Note: This material is based on work supported by the Department of Housing and Urban Development (HUD) under FHIP grant # FEOI210037. Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of HUD.

# FAIR LENDING PROTECTIONS

## Prohibited Activities Based on Membership in a Protected Class

- Refusing to make a mortgage loan
- Refusing to provide information regarding mortgage loans
- Imposing different terms or conditions on a mortgage loan, such as different interest rates, points, or fees
- Charging excessive fees
- Steering an applicant toward a bad mortgage loan product
- Providing inferior servicing on a mortgage loan

## Examples of Lending Discrimination

- Denying a mortgage or charging higher interest rates because the property is located in a minority neighborhood (known as redlining)
- Providing a different customer service experience to mortgage applicants based on their protected class
- Refusing to consider a mortgage applicant's disability-related income, such as SSI or SSDI
- Giving a borrower a loan with less favorable terms based on a protected class
- Refusing to provide mortgages to women on maternity leave, regardless of their return-to-work date or income while on leave.

## How to Protect Yourself from Lending Discrimination

- Make sure you understand the underlying lending and mortgage approval guidelines.
- Do research on what the lender requires in terms of credit scores and income requirements.
- Don't be afraid to ask questions.
- Be aware of red flags such as being treated differently in person and over the phone, being denied a mortgage even though you think you qualify, or being discouraged from applying.
- Shop around and contact at least 3 lenders. Compare interest rates, income and credit requirements, and lending guidelines.

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***“Lending discrimination can occur at any stage of the home-buying process, even before the application process begins”.***

## PROTECTIONS UNDER FAIR HOUSING LAWS

Federal fair housing laws protect your right to live in the place of your choice. They prohibit discrimination on the basis of a person's race, color, national origin, religion, sex/gender (including gender identity/expression), familial status (children under the age of 18 in the family), and mental or physical disability.

California state laws include additional protections, prohibiting discrimination on the basis of age, ancestry, citizenship, sexual orientation and gender identity/expression, immigration status, primary language, marital status, source of income (including housing choice vouchers), or any other arbitrary reason.

# FAIR LENDING PROTECTIONS

## PREDATORY LENDING

### What Is an Abusive Loan

An abusive loan (also known as a predatory loan) is a loan that takes advantage of a borrower and that the borrower may not be able to repay. Predatory lenders often employ aggressive sales tactics and exploit a borrower's lack of understanding of financial transactions. They use deceptive or fraudulent actions and are not transparent during the loan process, often withholding important details about the loan. Abusive lending at its worst can ruin your credit and cause you to lose your home.

Once you have signed the loan documents, it can be difficult or impossible to get out of the loan. Any loan can include fees, interest rates, or contract terms that are predatory or harmful. Make sure you understand ALL parts of your contract. Consumers have access to translated documents in five major languages at no charge. (Ask your lender about translated materials.)

### How to Recognize an Abusive Loan

This can be very difficult. Ask what you will have to pay each month to repay the entire loan and make sure that you can afford those payments. Know the answers to the following questions. Remember that someone making you a loan is NOT doing you a favor – they are conducting a business transaction. Insist that you sign your escrow documents in an escrow office with an experienced escrow officer who speaks your language; an escrow officer is qualified to explain the terms of your loan and find answers to your questions. Don't sign with just a notary present. Seniors, borrowers who are members of fair housing protected classes, low-income consumers, and people with damaged credit should be very careful when choosing their loans.

### Know the Answers to These Questions:

#### Q: What Is the Annual Percentage Rate (APR)?

Ask for the loan APR. The APR is a way to compare the costs of a loan in terms of a percentage, taking the interest rate into account, along with other costs – processing fees, discount points, and other fees/charges. The APR is not the same as the interest rate. (The interest rate is the interest expense on your loan only.)

## THE EQUAL CREDIT OPPORTUNITY ACT (ECOA)

The ECOA prevents lenders from discriminating against credit applicants based on factors unrelated to their ability to repay. Specifically, ECOA protects consumers from lending discrimination based on race, color, religion, national origin, sex/gender, marital status, age, public assistance, or the exercise of any rights under the Consumer Credit Protection Act. ECOA applies to any person or entity that participates in a credit decision including banks, credit unions, retailers, and finance companies. The law covers a variety of loans, such as car loans, credit cards, mortgages, student loans, and small business loans.

# FAIR LENDING PROTECTIONS

## **Q: What Is the Monthly Housing Payment? What Does It Include?**

Ask what the monthly payment will be. The monthly payment includes principal and interest, and it may include property taxes and home insurance. If it only includes principal and interest, you are responsible for paying taxes and insurance separately.

## **Q: What Fees Am I Being Charged?**

Get all the details about your loan – your loan estimate should outline all the expenses related to the loan (escrow, lender, title, county tax, appraiser fees, and so on). Ask about fees that you don't understand. The closing costs are usually 2 to 5 % of your loan amount.

## **Q: Is There a Pre-payment Penalty? How Much and for How Long?**

This is a penalty for paying your loan off early. If there is a big pre-payment penalty, you may have to pay thousands of dollars to refinance a better loan later, so avoid such loans.

## **Q: Is There a Balloon Payment? When Is it Due and How Much Is It?**

Some loans appear manageable because you aren't really paying off all the principal, and a large amount will come due all at once in a few years. This is generally a danger sign, especially if the lender didn't volunteer the information. Avoid loans with balloon payments, unless you are sure you can pay them off or refinance before they are due.

## **Preventive Measures to Prevent Predatory Loans**

- Shop around and talk to at least 3 lenders.
- Don't be afraid to ask questions.
- Be honest about your income and expenses. And make sure you can afford the monthly payments.
- Be an educated consumer. Do research and talk to experts.
- Always read before you sign and don't sign blank documents.
- Avoid loans with balloon payments and prepayment penalties.
- Avoid loan flipping (requests to refinance again and again, generating more and more fees), unless you know lower interest rates will save you money.
- Don't let anybody pressure you or intimidate you. A good loan officer is always happy to answer all of your questions until you are completely comfortable.
- Be wary of excessive and suspicious fees.
- Be wary of unsolicited offers to refinance, or of services such as mortgage life insurance or home improvements.
- Say "no" to deals that sound too good to be true – they probably are.

## **WHAT TO DO IF YOU SUSPECT LENDING DISCRIMINATION OR PREDATORY LENDING:**

**Contact Fair Housing Advocates  
of Northern California:**

[www.fairhousingnorcal.org](http://www.fairhousingnorcal.org)  
(415) 457-5025  
TDD: (800) 735-2922

**Contact HUD National  
Discrimination Hotline:**

[www.hud.gov](http://www.hud.gov)  
(800) 669-9777  
TTY: (800) 877-8339

**Submit a complaint with the  
Consumer Financial Protection  
Bureau (CFPB):**

[www.consumerfinance.gov/  
complaint](http://www.consumerfinance.gov/complaint)  
(855) 411-CFPB (2372)