**OHIO RANKS FIFTH IN THE NATION
FOR THE NUMBER OF
SUBPRIME REFINANCING LOANS**

The Miami Valley Fair Housing Center
In The News, July 6, 2000

REMEMBER!
If it sounds too good to be true, it probably is.

EQUAL HOUSING
OPPORTUNITY

This booklet addresses some of the issues those seeking mortgage loans may face. The information provided herein is not meant to be all inclusive. Specific questions may be addressed by calling your local fair housing office, the organizations listed under assistance providers on page 19 or an attorney.

BEWARE OF THE PREDATORY LENDER

Predatory & Subprime Lending

City of Ashtabula Fair Housing Office

Division of Housing and Community Development
4717 Main Avenue
P.O. Box 339
Ashtabula, Ohio 44004 www.cityofashtabula.com

440-992-7152

OHIO RANKS FIFTH IN THE NATION FOR THE NUMBER OF SUBPRIME REFINANCING LOANS

The U.S. Department of Housing and Urban Developments' (HUD) "Classification of Subprime Lenders" ranks Ohio the fifth highest state in the nation for the number of refinancing loans made by subprime lenders.

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EQUAL HOUSING OPPORTUNITY

ASSISTANCE PROVIDERS

Department of Commerce
Division of Financial Institutions
614-728-8400
(Regulates state-chartered institutions, savings banks, savings and loans, credit unions, mortgage brokers, consumer finance companies, pawnbrokers and check-casher/lenders)

Attorney General's Office
Consumer Protection Section
800-282-0515
TTY 888-567-6881
www.ag.state.oh.us

Fannie Mae Foundation
202-274-8000
www.fanniemaefoundation.org
(can provide list of mortgage lending institutions and home buyer education providers)

COHHIO
(Coalition of Homelessness and Housing in Ohio)
614-280-1984 www.cohhio.org

Consumer Trade Council
1-800-282-0515

U.S. Federal Trade Commission
1-877-FTC-HELP (382-4357)

NOTES

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WHAT IS PREDATORY LENDING?

What makes a subprime lender different from a predatory lender? While most subprime lenders serve a need by targeting borrowers with sub-par credit histories, some go too far. Those that go too far are known as predatory lenders.

Abusive mortgage lending, or what has been dubbed "predatory lending", often leaves homeowners with substantial debt that they cannot afford or are unwise to assume. Predatory lenders go beyond risk-based pricing, and instead set loan terms high above what they need to offset costs and earn a return that compensates for the increased risk.

Ohio is not immune to this practice. In low-and moderate-income and minority communities throughout the state, one or two predatory lenders often dominate the market, while prime lenders are nowhere to be found.

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. Predatory lending harms the borrower and supports a credit system that promotes inequality and poverty.

TERMS

Discount points - One percent of the amount of the loan.

Origination fee - A fee made by the lender for making a real estate loan. Usually a percentage of the amount loaned, such as one percent.

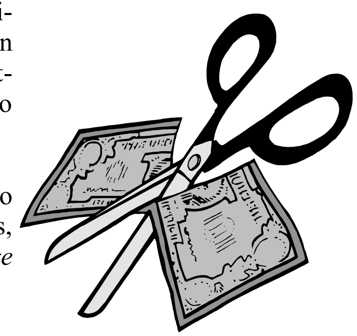
Balloon note - A note calling for periodic payments which are insufficient to fully amortize the face amount of the note prior to maturity, so that a principal sum known as a "balloon" is due at maturity.

Balloon - The final payment of a balloon note.

Prepayment penalty - A penalty under a note, mortgage, or deed of trust, imposed when the loan is paid before it is due.

Equity - The market value of real property, less the amount of existing liens.

Mortgage Broker - One who, for a fee, brings together a borrower and lender, and handles the necessary applications for the borrower to obtain a loan against real property *by* giving a mortgage or deed of trust as security. Also called a loan broker.



Closing Costs - Expenses incidental to a sale of real estate, such as loan fees, title fees, appraisal fees, etc. *(average $1,100 plus title insurance)*

LOOK FOR THE BEST LOAN

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?

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 the best credit—“A” credit. Those with less than ideal credit are rated “A-, B+, B, B-, C+, C, and C-.” Good subprime lending is clearly needed but it 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 **often unavailable**, tend to turn to subprime lenders regardless of their credit history. While subprime lenders point out that they are expanding access to credit for 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 and do take advantage of 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 **only if the borrower dies.** This protects both those who inherit the property and the

What is Subprime Lending?

lender from the loan not being repaid. It is more expensive than typical life insurance 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.

Although abuses vary among subprime lenders, the following list cites some frequent unethical and predatory practices of subprime lenders:

- Broker puts a borrower in an 8% mortgage loan even though the borrower qualifies for a 7% loan
- Borrower pays the broker a fee for originating the loan (brokers claim they have no fiduciary duty to the borrower)
- Lender pays the broker a "kick-back" (often called a yield spread premium or servicing release premium) based on the loan amount and interest rate charged to the borrower
- Lender typically adds a prepayment penalty to the loan to keep the borrower from refinancing the loan at a lower rate (often applied to high cost loans and not to prime credit products)

Avoiding Predatory Lenders

- ♦ 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. Then could be filled in later with an amount you wouldn't agree to.

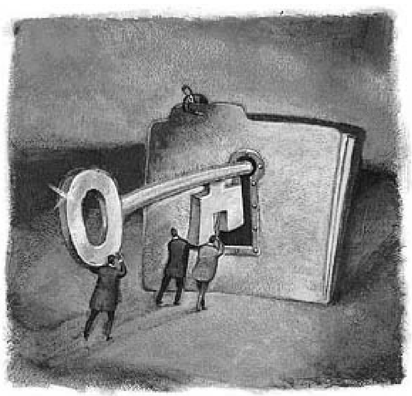
- ♦ Ask specifically if credit insurance is required as a condition of the loan. If it isn't, and a charge is included in your loan and you don't want the insurance, ask that the charge be removed from the loan document. If you want the added security of credit insurance, shop around for the best rates.

- ♦ 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.

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 and will legally take your home**.
- 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.

PREDATORY LENDING - A FAIR HOUSING ISSUE?

Homelessness ...is a problem for all of America. It is a problem for those of us in the Federal Government who know that the health of our country is only as strong as the compassion shown to our poorest citizens.

Henry G. Cisneros, 1996
Searching for Home: Mentally Ill Homeless People in America

EQUAL HOUSING OPPORTUNITY

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 trapping borrowers into higher cost loans.*

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 lower income 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 their 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.

Some 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.**
- **Citigroup owns Associates First Capital the second largest subprime lender in the country.**
- **First Union owns The Money Store and finances other subprime lenders.**

Predatory Lending in Our Community?

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 of "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 which 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.

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.

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 or making expensive 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 Loan - 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

USING YOUR HOME AS COLLATERAL?

All borrowers should beware— think twice before 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.

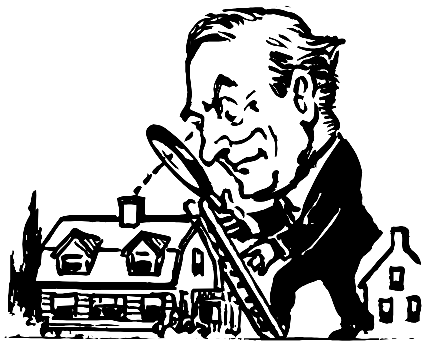
Not all loans or lenders are created equal. **Remember**- *unscrupulous lenders target elderly and low-income homeowners and those with credit problems. These lenders may offer loans based on the equity in your home, not on your ability to repay the loan. High interest rates and credit costs can make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

Avoid any lender who exhibits these warning signs:

- 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 (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
- Tells you to sign blank forms that will be filled in later
- Says you can't have copies of documents that you've signed

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

Loan:

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

Indicators of a Predatory Lender

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: Statement to the U.S. Senate Committee on Aging by William J. Brennan, Jr. on March 16, 1998