

Predatory Lending

What is predatory lending?

Predatory lending is a term used to describe a wide range of unfair financial practices. Any lending practice that imposes unfair or abusive terms on a borrower. This is done through deceptive, coercive, exploitative or unscrupulous actions for a loan that a borrower doesn't need, doesn't want or can't afford. By definition, predatory lending benefits the lender and ignores or hinders the borrower's ability to repay the debt.

Predatory lending practices often try to take advantage of a borrower's lack of understanding about loans, terms or finances. They also prey on people who do not qualify for conventional loans or lines of credit due to credit problems, unemployment, and/or lack of collateral. These lenders target people in need immediate cash for emergencies such as paying medical bills, making a home repair or car payment.

What are the Common Predatory Lending Practices?

Equity Stripping - The lender makes a loan using the equity in your home as collateral regardless if you can actually make the payments. If and when you are unable to make the monthly payments, the lender commences a foreclosure action and takes your home.

Bait-and-switch schemes - The lender promises a loan or interest rate but then without good reason or under some false pretense, give you a different one. This usually involves a dramatic increase in the interest rate (often unaffordable). This higher rate does not take effect until some later date, sometimes even years, after you have begun to pay on the loan.

Loan Flipping - This involves a lender inducing a borrower to repeatedly refinance an existing mortgage. Fees are charged for both the new loan and a prepayment penalty on the old loan. Typically the fees are financed into the loan. While the borrower receives some money upfront; over time, they become hopelessly indebted and often ends in default and foreclosure.

Loan Packing - You receive a loan that has charges for services you did not ask or need and many times are not even aware of. This is commonly done with insurance products that are not necessary to you. These fees offer little if any value to you and only serve to increase the cost to you.

Balloon Payments - A common predatory practice is to offer a borrower a loan with lower monthly payments with a large payment due at the end of the loan term. Generally, a balloon payment is more than two times the loan's average monthly payment, and often it can be tens of thousands of dollars. Many times these balloon payments are "hidden" in the contract and often catch borrowers by surprise.

How can I tell if a loan is predatory?

There is no litmus test for what makes up predatory lending. Warning signs that you should be on the lookout for include:

- Extraordinarily high-interest rates
- Excessive origination and other loan fees
- Loan amounts exceeding the value of the collateral
- Single premium credit life
- Prepayment penalties that are not limited to the early years of the loan
- Financing points, fees, penalties, or other charges
- Mandatory arbitration clauses.
- Disability or unemployment insurance added to the loan principal
- Credit insurance that expires well before the loan does
- Needless refinancing or loan flipping
- Balloon payments
- Negative amortization
- Partnerships with shady home improvement contractors
- Any change to the loan terms at signing.

What can I do to protect myself?

The best defense against predatory lenders lies in educating yourself about their deceptive practices. Following is a list of some of the things to watch out for:

Unlicensed Loan Offers - Beware of loan offers through the mail, via telephone or door-to-door solicitations. Reputable lenders typically don't work this way. Make sure any lender you work with is licensed. It is okay to ask for proof.

Promises - Stay clear of lenders who promise that your loan will be approved regardless of your credit history or rating or who promise a different term than what is stated in the contract. Get a copy of your credit report, and have some idea of what you should qualify for.

Being Rushed or pressured to Sign - Do not let yourself be rushed into the loan process. Study the paperwork, and don't sign anything you don't agree with or understand. Take time to educate yourself on what exactly you are agreeing to.

High-Interest Rates and Fees - Question high-interest rates and fees. Refuse to accept payments you know you cannot afford. Decline any extra services "packed" into the loan, like credit or health insurance. Comparison shop and do research on how to find the best mortgage rates.

Blank Spaces in Documents - Do not sign any documents that contain blank spaces. Read loan documents carefully, and have them checked by a trusted friend or a lawyer, if possible.

What are some dos and don'ts to follow?

- Make sure you're working with a reputable company.
- Get referrals, contact information and meet face to face if possible.
- Get everything in writing and make sure you understand every detail before signing.
- Don't let anyone rush or intimidate you.
- Don't be afraid to ask questions.
- If you are unsure of something, DO NOT sign.
- Approach the situation confidently.

What are some helpful resources?

FBI Field Office, Mortgage Fraud White Collar Crime Supervisor

111 Washington Avenue, South, Suite 1100

Minneapolis, MN 55401-2176

Phone: (612) 376-3200

<http://minneapolis.fbi.gov/>

Office of the Attorney General Division of Consumer Protection

500 East Capitol Ave.

Pierre, SD 57501-5070

Toll-Free: (800) 300-1986 – South Dakota only

Phone: (605) 773-4400

Fax: (605) 773-7163

Consumer Complaint Form:

http://www.state.sd.us/attorney/applications/consumer_complaints/default.asp

<http://www.state.sd.us/attorney/divisions/consumer/filing/subcomplaint.htm>

HUD Field Office

Sioux Falls Field Office

2400 West 49th Street

Room I-201

Sioux Falls, SD 57105-6558

Phone: (605) 330-4223

Fax: (605) 330-4428

HUD Regional Office

Denver Regional Office

1670 Broadway, 23rd Floor

Denver, CO 80202

Phone: (303) 672-5440

Fax: (303) 672-5004

Better Business Bureau

600 Fourth Street, Suite 900

Sioux City, IA 51101-1750

Phone: (712) 252-4501

Fax: (712) 252-0285

E-mail: info@siouxlandbbb.org

<http://www.siuoxlandbbb.org>

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