INTERNET ARCHIVE WayBackMachine
FEB 2013 Close Help

FEDERAL TRADE COMMISSION
CONSUMER INFORMATION

Mortgage Discrimination

Mortgage discrimination is against the law. That's important to know if you are thinking about applying for a mortgage to buy, refinance, or make improvements to your home. According to the Federal Trade Commission (FTC), the nation's consumer protection agency, consumers who want to get a mortgage may want to research not only mortgage types and mortgage rates, but also their rights under federal laws in place to protect them from discrimination in the mortgage marketplace. Here's some information to get started.

The Equal Credit Opportunity Act

The Equal Credit Opportunity Act (ECOA) prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age, or whether you get public assistance. Creditors may ask you for most of this information in certain situations, but they may not use it when deciding whether to give you credit or when setting the terms of your credit. They are never allowed to ask your religion. Everyone who participates in the decision to grant credit or in setting the terms of that credit, including real estate brokers who arrange financing, must follow the provisions of the ECOA.

The Fair Housing Act

The Fair Housing Act (FHA) prohibits discrimination in all aspects of residential real-estate related transactions, including:

- making loans to buy, build, repair, or improve a dwelling;
- selling, brokering, or appraising residential real estate; and
- selling or renting a dwelling.

The FHA prohibits discrimination based on race, color, religion, sex, national origin, handicaps, or family status, which is defined as children under 18 living with a parent or legal guardian, pregnant women, and people securing custody of children under 18.

Lender Do's and Don'ts

If you are looking for a mortgage, by law, lenders must:

- consider reliable public assistance income the same way as other income.
- consider reliable income from part-time employment, Social Security, pensions, and annuities.

- consider reliable alimony, child support, or separate maintenance payments, if you choose to provide this information. A lender may ask for proof that you receive this income consistently.
- accept someone other than your spouse as a co-signer if one is needed. If you own the property with your spouse, he or she may be asked to sign documents that permit you to mortgage the property.

But lenders cannot:

- discourage you from applying for a mortgage or reject your application because of your race, color, religion, national origin, sex, marital status, age, or because you receive public assistance.
- consider your sex, race, or national origin, although you will be asked to disclose this information voluntarily to help federal agencies enforce anti-discrimination laws. A creditor may consider your immigration status and whether you have the right to remain in the country long enough to repay the debt.
- impose different terms or conditions on a loan — like a higher interest rate or bigger down payment — based on your sex, race, or other prohibited factors.
- consider the racial composition of the neighborhood where you want to live. This also applies when the property is being appraised.
- ask about your plans for having a family, although they can ask questions about expenses related to your dependents.
- use discriminatory factors when refusing to purchase a loan or when setting different terms or conditions for the loan purchase.
- require a co-signer if you meet the lender's standards.

Strengthening Your Application

Not everyone who applies for a mortgage will get one. Potential creditors are entitled to use factors like your income, expenses, debts, and credit history to evaluate your application for a mortgage. You may want to take some basic steps to strengthen your application to make sure that it gets full consideration.

- First — before you apply for a mortgage — get a copy of your credit report. A credit report includes information on where you live, how you pay your bills, and whether you've been sued or arrested, or have filed for bankruptcy. National consumer reporting companies sell the information in your report to creditors, insurers, employers, and other businesses that, in turn, use it to evaluate your applications for credit, insurance, employment, or renting a home.The Fair Credit Reporting Act (FCRA) requires each of the three nationwide consumer reporting companies — Equifax, Experian, and TransUnion — to provide you with a free copy of your credit report, at your request, once every 12 months. To order your report, visit annualcreditreport.com or call 1-877-

322-8228.

- Second, read your report to make sure the information in it is accurate and up to date. Credit reports sometimes include inaccurate information: for example, accounts that don't belong to you or paid accounts that might be reported as unpaid. If you find errors, dispute them with the consumer reporting company involved and tell the lender about the dispute.
- Third, give the lender any information that supports your application. For example, stable employment is important to many lenders. Perhaps you've recently changed jobs but have been employed steadily in the same field for several years. If so, include that information on your application. If you've had problems paying bills in the past due to a job layoff or high medical expenses, write a letter to the lender explaining the causes of your past credit problems. If you ask lenders to consider this information, they must do so.

Trying For the Best Loan Terms

Consider shopping with several lenders to compare the fees they charge. When comparing prices, remember to look at **all** fees charged on your loan, as well as the interest rate.

Some lenders may try to charge some borrowers more than others for the same loan product offered at the same time. Charges might include higher interest rates, higher lender origination fees and points, and/or higher broker origination fees and points.

Ask the loan officer or broker you are dealing with if the rate you're being quoted is the lowest offered that day. The loan officer or broker probably is basing the offer on a list of mortgage rates issued by the lender. Ask to see the list; it's often called a rate sheet. If the loan officer or broker refuses and you suspect you aren't being offered the lowest rates available, consider negotiating for a lower rate or going to another lender or broker.

Remember that negotiating is acceptable. Many of the fees for your loan, like origination, application, and processing fees, may be negotiable. Ask your loan officer or broker to explain each of the fees on your loan and whether there's any flexibility on the amounts.

What If Your Loan Application Is Denied

If your mortgage application is denied, the lender must give you specific reasons — or tell you that you have the right to ask for the reasons. The law gives you the right to:

- find out whether your loan is approved within 30 days of submitting your completed application. The lender must make a reasonable effort to get all the necessary information, like credit reports and property appraisals. If your application is rejected, the lender must tell you in writing.
- know specifically why your application was rejected. The lender must tell you the specific reason for the rejection or your right to learn the reason if you ask within 60

days. An acceptable reason might be: “your income was too low” or “you haven’t been employed long enough.” An unacceptable reason might be “you didn’t meet our minimum standards.” That’s not specific enough information.

- learn the specific reason why you were offered less favorable terms than you applied for, but only if you reject these terms. For example, if the lender offers you a smaller mortgage or a higher interest rate, you have the right to know why — as long as you don’t accept the lender’s counter offer.
- get a copy of the property appraisal from the lender. Mortgage applications may be turned down because of low appraisals. Review the appraisal. Check that it has accurate information and determine whether the appraiser considered illegal factors, like the racial composition of the neighborhood.

The lender may have rejected your application because of negative information in your credit report. If so, the lender has to tell you that, and give you the name, address, and phone number of the consumer reporting company that provided the information. You can get a free copy of that report from the consumer reporting company if you ask for it within 60 days. Otherwise, unless you order your free annual credit report from that particular consumer reporting company, expect to pay a fee. If your credit report has inaccurate information, the consumer reporting company is required to investigate items that you dispute. Those companies furnishing inaccurate information to the consumer reporting company also must reinvestigate items that you dispute. If you dispute the consumer reporting company’s account even after the reinvestigation, make sure that your credit report includes your summary of the problem.

If You Suspect Discrimination

Take action if you think you’ve been discriminated against.

- Complain to the lender. Sometimes you can persuade the lender to reconsider your application.
- Check with your state Attorney General’s office to see if the creditor violated state laws: Many states have their own equal credit opportunity laws.
- Consider suing the lender in federal district court. If you win, you can recover your actual damages and be awarded punitive damages if the court finds that the lender’s conduct was willful. You also may recover reasonable lawyers’ fees and court costs. Or you might consider finding others with the same claim, and get together to file a class action suit.
- Report any violations to the appropriate government agency. If your mortgage application is denied, the lender must give you the name and address of the agency to contact.

A number of federal agencies enforce the ECOA and the FHA. Determining which agency to contact depends on the kind of financial institution you dealt with.

For ECOA violations involving mortgage and consumer finance companies:
Federal Trade Commission
Consumer Response Center
Washington, DC 20580
1-877-FTC-HELP (1-877-382-4357)
TDD: 1-866-653-4261
The FTC generally does not intervene in individual disputes, but the information you provide may indicate a pattern of violations that the Commission would investigate.

For FHA violations:
Office of Fair Housing and Equal Opportunity
US Department of Housing and Urban
Development (HUD), Room 5204
Washington, DC 20410-2000
1-800-424-8590; TDD: 1-800-543-8294
For details about the Fair Housing Act, contact the Office of Fair Housing and Equal Opportunity.

You have one year to file a complaint with HUD, but you should file as soon as possible. Your complaint to HUD should include your name and address, the name and address of the person or company you are complaining about; the address or some other way to identify the housing involved; a short description of the facts that make you think your rights were violated; and the dates of the violation you are alleging. HUD will notify you when it receives your complaint. HUD also usually notifies the alleged violator of your complaint and allows the person to submit an answer; offers you and the alleged violator the chance to resolve your complaint voluntarily through a conciliation process; investigates your complaint and determines whether there is reason to believe the FHA has been violated; and lets you know if it cannot finish an investigation within 100 days of receiving your complaint.

For violations of the ECOA and the FHA:
Nationally-charted banks (National or N.A. will be part of the name):

Comptroller of the Currency
Consumer Assistance Group
1301 McKinney Street
Houston, TX 77010-9050
1-800-613-6743

State-chartered banks insured by the Federal Deposit Insurance Corporation, but not members of the Federal Reserve System:

Federal Deposit Insurance Corporation
Consumer Response Center
2345 Grand Boulevard
Suite 100
Kansas City, MO 64108

1-877-ASK-FDIC (877-275-3342)

Federally-chartered or federally-insured savings and loans:

Office of Thrift Supervision
Consumer Affairs
1700 G Street NW
Washington, DC 20552
1-800-842-6929; TTY: 800-877-8339

Federally-chartered credit unions:

National Credit Union Administration
1775 Duke Street, Suite 4206
Alexandria, VA 22314-3437
1-800-755-1030

State member banks of the Federal Reserve System:

Federal Reserve Consumer Help Center
P.O. Box 1200
Minneapolis, MN 55480
1-888-851-1920; TDD: 877-766-8533

For discrimination complaints against all kinds of creditors:

Department of Justice
Civil Rights Division
Washington, DC 20530

If you can't figure out which federal agency is responsible for the financial institution you dealt with, visit www.federalreserveconsumerhelp.gov or call 1-888-851-1920.

January 2009