Predatory Lending

Protect Yourself Against Predatory Lending!

Some tips for New Jersey Consumers

Don’t Pay Too Much for Your Mortgage Loan
Be Sure to Shop Around

- The rates for loans vary significantly. It is important that you shop around to get a sense of what lenders are offering. It’s the only way you can learn whether your loan is properly priced.
- Advertised rates are usually for “A-Paper” customers (customers with the best credit histories). If your credit history has some blemishes, the cost of your loan will probably be higher. The question is whether the higher rate is competitive, that is, whether it is comparable to the rates offered by other lenders to borrowers with comparable credit histories and other underwriting factors. Is the cost properly and fairly related to the higher risk for the lender?
- Rates can also vary based on the number of discount points you pay (the higher the points you pay, the lower the rate should be). Sometimes paying more points makes sense but you should carefully weigh the benefits. For example, if you are going to refinance in a few years, it will probably be more expensive to buy down the rate with points than to pay fewer points and a higher rate. In any event, make sure you know how many points you will pay and how much of a reduction in rate you will receive for the points.
- Rates may vary based on the type of loan, that is, whether it is fixed rate or variable rate. Usually variable rate loans are lower at the time the loan is made but they may fluctuate during the term of the loan whereas a fixed-rate loan does not fluctuate.
- Rates may vary based on other underwriting factors, for example, the term of the loan (is it for 10, 15, 20 or 30 years?), and the ratio between the amount of the loan and the value of the property (the loan-to-value ratio).

Be Wary of High Up-Front Fees

- Predatory lenders commonly try to collect substantial up-front fees. This can lock you into an unwise deal.
- Before you pay any up-front fees, you need to know, in writing, the amounts of the fees to be charged, whether they are refundable, and the conditions under which they may be refunded.
- If you finance the up-front closing costs, they will be added to the amount you must repay the lender. Also, it has the effect of lowering the equity remaining in your home.
- Some predatory lenders encourage borrowers to refinance often. If the borrowers do, the up-front fees can quickly eat through the equity in the borrowers' homes. Before refinancing, be sure that you really need to recast your existing loan.

Do Not Rely On Verbal Representations

- Predatory lenders may make favorable verbal representations to induce you to take a loan but then present less favorable terms at the closing table.
- Get all of the major terms of the loan (interest rate, points, closing costs, monthly payments amounts and the term of the loan) in writing as soon as you begin seriously considering a loan product.

Review Closing Documents Carefully Before Signing Be Cautious

- Signing mortgage loan documents obligates you to make a substantial commitment of funds over many years.
- Ask questions if any provisions are not clear to you. Make sure you are satisfied with the explanations.

- If you are uneasy about any aspect of the transaction, do not proceed until your concern is resolved.
- Be attentive to the details.
- Do not sign documents if they contain blanks that have not been filled in.
- You may wish to have the closing documents reviewed by your attorney or examined by another knowledgeable person.
- Current state and federal laws provide you rights in connection with mortgage transactions. Be very cautious about waiving any of these rights unless you fully understand what is involved.

Make Sure that You Can Make the Monthly Payments

- A mortgage loan creates a lien on your residence. If you fail to make payments, the lender has the right to foreclose and seize the property. Therefore, when you take out the loan, you should be very confident that you could make the monthly payments.

If There Is a Problem

- Remember your Three-day Right of Recession. The federal Real Estate Settlement Procedures Act provides that borrowers have a right to rescind a real estate contract within three days of closing. If the loan is rescinded, the lender must refund all fees collected.
- You may wish to file a complaint. Generally, mortgage lenders are required to be chartered or licensed in order to make residential mortgage loans. This places them under direct regulation and supervision by a government agency. For example, the New Jersey Department of Banking and Insurance regulates all licensed mortgage lenders in the state and state-chartered depository institutions. If you wish to file a complaint against an entity regulated by the Department, call (609) 984-2777.

WHERE TO FILE A COMPLAINT

Various types of financial services providers are regulated by different government agencies. To avoid delay in resolving your complaint, you should file it with the agency that regulates the financial services provider that gave rise to your complaint.

❍ To file a complaint against a state-chartered bank, state-chartered savings bank, state-chartered savings and loan association, state-chartered credit union, or any licensed lender doing business in New Jersey, contact the NJ Department of Banking and Insurance at NJDOBI, Office of Consumer Finance, PO Box 040, 20 West State Street, Trenton, NJ 08625. (1-800-446-7467) You may download a complaint form from our web page at www.njdobi.org

❍ To file a complaint against a federally-chartered bank, contact the Office of the Comptroller of the Currency (OCC) at Customer Assistance Group, 1301 McKinney Street, Suite 3710, Houston, TX 77010. (1-800-613-6743)

❍ To file a complaint against a federally-chartered savings bank or federally-chartered savings and loan association, contact the Office of Thrift Supervision (OTS) at 10 Exchange Place, 18th Floor, Jersey City, NJ 07032. (1-800-253-2181). OTS also jointly regulates with NJDOBI state-chartered S&L's.

❍ The Federal Reserve Bank jointly regulates with NJDOBI state-chartered banks that are members of the Federal Reserve System. For State-chartered member banks in northern New Jersey, contact the Federal Reserve Bank of New York at 33 Liberty Street, NY, NY 10045 (212-720-5000). For state-chartered member banks in southern New Jersey, contact the Federal Reserve Bank of Philadelphia at 10 Independence Mall, Philadelphia, PA 19106-1574. (215-574-6116)

❍ For institutions insured by the Federal Deposit Insurance Corporation (all state- and federally-chartered banks, savings banks, and savings and loan associations) contact the FDIC at 20 Exchange Place, NY, NY 10005. (800-334-9593). For institutions insured by the National Credit Union Administration (all state and federally-chartered credit unions) contact the NCUA at 1775 Duke Street, Alexandria, VA 22314. (703-518-6300)

❍ To file a complaint involving a violation of the New Jersey Consumer Fraud Law, *N.J.S.A.* 56:8-1 *et seq*., contact the Division of Consumer Affairs within the NJ Department of Law and Public Safety, at Division of Consumer Affairs, 124 Halsey Street, Newark, NJ 07102. (800-242-5846)

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