FEDERAL TRADE COMMISSION

Consumer Information

consumer.ftc.gov

Mortgage Discrimination

Discriminating against someone who's trying to get a mortgage loan is against the law. Know your rights and what to do if you suspect discrimination.

Fair Lending Laws and Your Rights

Fair and equal access to credit and mortgage loans is an important way for people to build wealth and become home owners. Two federal laws can protect you against discrimination when you apply for a mortgage: the Equal Credit Opportunity Act (ECOA) (https://www.consumer.ftc.gov/articles/0347-your-equal-credit-opportunity-rights) and the Fair Housing Act (FHA).

When Is It Mortgage Discrimination?

It can be difficult to know if a creditor is rejecting your loan application, charging you more for a loan, or offering you less-favorable terms based on illegal discrimination — or if it's because of some weaknesses in your loan application. (Link to section Before You Apply) This is even more challenging because creditors often must ask you for (and evaluate) personal information — like your income, expenses, debts, and credit history. And, creditors may ask you to volunteer certain information that might seem discriminatory — for example, race, ethnicity, age, sex, and marital status (married, unmarried, or separated) — because it helps the government keep statistics that fight discrimination. You don't have to supply the information.

Equal Credit Opportunity Act

The ECOA applies broadly to any organizations or people who regularly extend credit. That includes banks, small loan and finance companies, mortgage companies, retail and department stores, credit card companies, and credit unions. The law makes it illegal for creditors to discriminate based on race, color, religion, national origin, sex, marital status, age, or because all (or part) of a person's income comes from public assistance or because the applicant has in good faith exercised a right under the Consumer Credit Protection Act (https://www.consumerfinance.gov/fair-lending/). Everyone who participates in the decision to grant credit, or in setting the terms of that credit, must comply with ECOA's prohibition against discrimination, including real estate brokers who arrange mortgage financing.

The Fair Housing Act

The FHA protects people from discrimination when they're engaging in housing-related activities. This applies to all aspects of residential real-estate transactions including making loans to buy, build, repair, or improve homes. This law makes it illegal to discriminate based on race, color, religion, sex, national origin, disability, or familial status. (Familial status refers to the makeup of your family, including whether your household includes children under the age of 18 or pregnant women).

Below are some examples of what is (and what is not) illegal mortgage discrimination under the ECOA and/or FHA.

With respect to mortgage loans, during the application process or when making a credit decision, a creditor

- **must not discourage you from applying** or reject your application for a mortgage based on these factors:
  - your race
  - color
  - religion
  - national origin
  - disability
  - familial status
  - sex
  - marital status
  - age
  - whether your income comes from public assistance or
  - whether you've acted on your rights under the federal credit laws
- **must not give you different terms or conditions** like a higher interest rate or higher fees (based on any of these factors)
- **must not deny you credit, like a mortgage**, set the terms of your mortgage, or impose different terms or conditions on your mortgage — like a higher interest rate or larger down payment (based on any of these factors)
- **must not consider the racial composition of the neighborhood** where you want to buy, refinance, or improve a house with money you're borrowing
- **must not consider your religion**
- **must not consider your race, sex, sexual orientation, or gender identity**
  - But they may ask you to voluntarily disclose this information because it helps federal agencies enforce anti-discrimination laws.

- **must not consider your national origin**
  - But they may consider your immigration status and whether you have the right to stay in the country long enough to repay the debt.

- **must not consider your age unless**
  - You're too young to sign contracts, which generally means under 18.
  - You're at least 62, and the creditor will favor you because of your age.
  - Your age is used to determine the meaning of other factors important to creditworthiness. For example, a creditor could use your age to determine if your income might drop because you're about to retire.
  - Your age is used in a valid credit scoring system that favors applicants 62 and older. A credit scoring system assigns points to answers you give on credit applications. For example, your length of employment might be scored differently depending on your age.

- **must not consider your disability**
- **must not consider whether you have a telephone account in your name**
  - But they can consider whether you have a phone at your residence.

- **may not ask for information about your spouse unless**
  - Your spouse is applying with you.
  - You are relying on your spouse's income or on alimony or child support income from a former spouse.
  - You live in a community property state.

- **may not ask about your plans for having or raising children**
- **may not ask if you get alimony, child support, or separate maintenance payments**
  - Unless they tell you first that you don't have to give this information if you aren't relying on these payments to get credit.
  - But a creditor may ask if you have to pay alimony, child support, or separate maintenance payments.

When evaluating your income, a creditor

- **may not refuse to consider reliable public assistance income** the same way as other income
- **may not discount income because of your sex or marital status.** For example
  - A creditor cannot count a man's salary at 100 percent and a woman's at 75 percent.
  - A creditor cannot assume a younger woman will stop working to raise children.

- **may not discount or refuse to consider some income** because it comes from part-time employment, Social Security, pensions, or annuities
- **may not refuse to consider reliable alimony, child support, or separate maintenance payments**
  - But a creditor may ask you for proof that you get this income consistently.

Before and During Your Mortgage Review

A lot of factors go into a creditor's decision to approve your mortgage application, and not everyone who applies for a mortgage will qualify to get one. The best time to improve your chances of getting approved is before you even apply.

Check your credit report. This is an important way to prepare before you apply. Creditors will look at your income, expenses, debts, and credit history (https://www.consumer.ftc.gov/articles/free-credit-reports) to make decisions about the strength of your mortgage loan application. Some of that information is in your credit report, and you want to make sure what's there is correct. If your credit report has inaccurate information, you can dispute those errors with the credit bureau.. (link to Disputing Errors in Credit Report article)

Clear up past due debts. Use the accurate information on your credit report to contact the companies you owe, verify the past due amount, and pay off or pay down the debt.

Estimate the monthly payment you can afford. Knowing this information upfront will help you apply for a loan that fits your budget.

Determine your down payment. The amount of your down payment can determine the type of loans you qualify for.

There's a lot more information about Shopping for a Mortgage (https://www.consumer.ftc.gov/articles/shopping-mortgage-faqs).

When your mortgage application is ready for review, the creditor has to look at whether you have reliable income and are likely to be able to pay back the loan.

The law says that creditors must consider these as reliable sources of income:

- funds you get from public assistance programs
- income from part-time employment, Social Security, pensions, and annuities
- alimony, child support, or separate maintenance payments, if you choose to share this information

A creditor may ask for proof that you get this income consistently.

If you meet the creditor's requirements, the creditor cannot require a co-signer. (A co-signer is someone who promises to pay the loan if the borrower misses any payments.) But if you'll own the property with your spouse, the creditor can ask them to co-sign the loan documents. If you need a co-signer, a creditor must accept someone other than your spouse as a co-signer.

If You Don't Get the Loan

There are a lot of factors that go into evaluating and approving mortgage loan applications. You might not be approved the first time you apply. If a creditor approves your loan, they must tell you **within 30 days** of getting your completed application.

If a creditor denies your application, they must:

- tell you and the reasons why in writing. You may have to ask for the specific reasons, but if you ask **within 60 days**, the creditor must tell you.
- give you the name and address of the agency to contact to report your concerns.

Review the reasons for the denial carefully. An **unacceptable** reason might be "you didn't meet our minimum standards." That's not specific enough and you'll want to ask for an explanation. If you have trouble getting an acceptable explanation, or you suspect discrimination, report it. [link to last section]

Acceptable reasons for rejecting your application might be "your income was too low" or "you haven't been employed long enough." Other acceptable reasons why people don't get loans include

- **There's negative information in your credit report**. If the creditor rejects your application because of information in your credit report, they must tell you that, and give you the name, address, and phone number of the credit bureau that gave the creditor that information. You can get a free copy of that report from the credit bureau if you ask for it **within 60 days**. (That's in addition to the free annual credit report that you can request from each of the credit bureaus through com (http://www.annualcreditreport.com/).) If your credit report (https://www.consumer.ftc.gov/articles/0347-your-equal-credit-opportunity-rights) has inaccurate information, the credit bureau is required to investigate items that you dispute (https://www.consumer.ftc.gov/articles/0151-disputing-errors-credit-reports). The companies that supply inaccurate information to the credit bureau also must reinvestigate the items you dispute. If you dispute the credit bureau's account even after the reinvestigation, make sure that your credit report includes your summary of the problem.

- **You have too many debts in relation to your income.** Your debt-to-income ratio is a percentage that represents the amount of your debts divided by your gross monthly income. This is the main way that creditors analyze whether you can manage the monthly mortgage payments. If the percentage of your debt compared to your income is too high, creditors may see lending you money as too risky because you might not be able to pay it back. The CFPB has more information on calculating your debt-to-income ratio.

- **The appraised value of the property might be too low.** An appraisal is a report by an expert, ordered by the creditor, to get an accurate evaluation of the property's value. If the appraisal turns out to be lower than the price you've agreed to pay for the property, the creditor won't approve the loan. Review the property appraisal to check that it has accurate information. You may be able to determine whether the appraiser considered illegal factors, like the racial composition of the neighborhood. For instance, you may be able see if the sales prices of comparable houses in your area are similar or higher than the appraised value of the home you're looking at. If not, the appraisal might have been based on llegal factors, like the racial composition of the neighborhood.

If a creditor offers you less favorable terms than you applied for, you also have the right to learn the specific reason why, but only if you reject the terms. For example, if the creditor offers you a smaller mortgage or a higher interest rate and you decide to accept those terms from the creditor, you don't have the right to know why the creditor offered you those terms.

If You Suspect Discrimination

If you think a creditor has rejected your loan application, charged you more for a loan, or offered you less-favorable terms based on illegal discrimination, there are steps you can take:

- **Report any violations to the appropriate government agency**. If the creditor declines your application, they must tell you the name and contact information for the agency to contact to report your concerns.
  - **File an ECOA violation complaint** at the Consumer Financial Protection Bureau (http://www.consumerfinance.gov/)'s website or call 855-411-2372.
  - **File an FHA violation complaint** on the U.S. Department of Housing and Urban Development's (HUD) (http://www.hud.gov/complaints) website or speak with a FHEO intake specialist at 1-800-669-9777 or 1-800-877-8339 (TTY). For details about the Fair Housing Act, contact the Office of Fair Housing and Equal Opportunity (http://www.hud.gov/fairhousing).
- **Report your concerns to the creditor.** Sometimes you can persuade the creditor to reconsider your application.
- **Check the site of your state attorney general's office** (https://www.consumerresources.org/file-a-complaint/) for information about the state's equal credit opportunity laws. You may be able to see if the creditor violated state laws.
- **Consider suing the creditor in federal district court.** If you win, you can recover your actual damages. The court might award you punitive damages under certain circumstances. You also may recover reasonable lawyers' fees and court costs. Or you might consider finding other people with the same claim, and get together to file a class action suit.

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