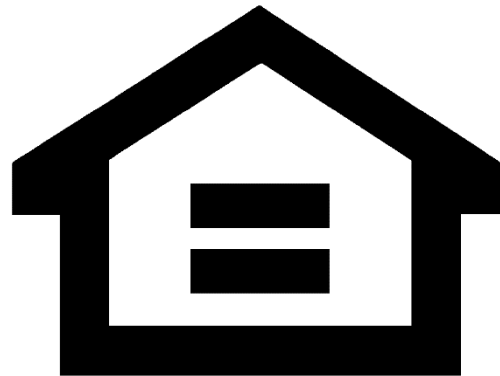


# **FAIR LENDING AND HOUSING ISSUES**



**EQUAL HOUSING  
LENDER**

*Information prepared by Clint Tsao, Howard Bank · February 2019*

## Common Terms and Definitions

**Mortgage Fraud**-not as easy since Dodd Frank but common practices include bait and switch on rate/term/price, bury details in mountain of documents to sign. Ex: switch to ARM or longer term/loan modifications/foreclosure rescue scams.

Prohibited under fair lending laws-

**Overt Discrimination**-blatant and openly discriminatory

**Disparate Treatment**-treating applicants differently. Does not require intent but rather the act itself and not intent.

**Disparate Impact**-a lender's policy even when equally applied to all its applications may have a negative impact on certain applicants. For example: a lender may refuse to do loans under \$60,000—impact on low income and lower value homes.

**Predatory Lending**-mortgage company profits from often illegal activities and does not benefit the homeowner. Losing home /ruined credit. Victimizes elderly and minorities and low-income. Costs Americans over \$9 billion/year.

-Characteristics-Steering and coercing, aggressive tactics not in borrower's best interest. Subprime loans are main example.

-Excessive Fees / costs-hidden in loan / inadequate disclosure

-Abusive Prepayment Penalties-trapped in mortgage by fees

-Loan Flipping-unnecessary refinances to make money

-Kickback to brokers (yield spread premiums)

-equity stripping of home value

-Unfair and deceptive marketing practices

**Redlining**-is the unethical practice of denying or charging more for services. Financial institutions would literally draw a red line on a map around the neighborhoods in which they did not want to offer financial services, giving the term its name.

## Five Federal Laws related to Fair Lending

<b>Antidiscrimination Laws</b>	<b>Fair Lending Related Laws</b>
<b>Fair Housing Act</b>	<b>Community Reinvestment Act</b>
<b>Equal Credit Opportunity Act</b>	<b>Home Mortgage Disclosure Act</b>
<b>Americans with Disabilities Act</b>	

**Housing Act of 1937**-most important housing law to that time.

**The Civil Rights Act of 1964**

**1968-THE FAIR HOUSING ACT**(Title VIII of Civil Rights Act)

**FAIR LENDING-Equal access to credit regardless of prohibited characteristics.**

- Refuse to make a mortgage loan or refinance a mortgage loan;
- Refuse to provide information regarding loans;
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees;
- Discriminate in appraising property;
- Refuse to purchase a loan or set different terms or conditions for purchasing a loan; and
- Discriminate in providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling or other financial assistance secured by residential real estate.

**1968- The Truth in Lending Act (TILA)**-requires lenders, including lenders in the mortgage industry, to disclose terms and cost of loans so that consumers can make informed choices about credit. Mostly covered in Reg Z. Later established QM rule.

**1974- Equal Credit Opportunity Act (ECOA)**-prohibits creditors from discriminating against any applicant on the basis of sex or marital status. Amended in 1976 to include the prohibition of discrimination based on race, color, religion, national origin, age, source of income or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. Also known as Reg B. Amended by Dodd Frank.

**1974- Housing and Community Development Act (HCD)**-prohibits discrimination on the basis of race, color, national origin, sex, or religion in programs receiving financial assistance from HUD's CDGB (Community Development Block Grant).

**1974- Real Estate Settlement Procedures Act (RESPA)-** prohibits kickbacks between lenders and third-party settlement service agents in the real estate settlement process. Even reciprocal referrals among these types of professions could be construed as a violation of RESPA. It requires lenders to provide a good faith estimate (GFE) for all the approximate costs of a particular loan and finally a HUD-1 (for purchase real estate loans) at the closing of the real estate loan. To combat unnecessary high service charges and kickbacks. Also known as Reg X.

**1975- The Home Mortgage Disclosure Act (HMDA)-** mandates financial institutions providing federally related mortgage loans annually reveal, by census tracts or ZIP code, how much they are loaning to specific geographical areas. This act serves as way to discourage **redlining**, or geographical discrimination, in the mortgage lending industry. Also known as Reg C.

**1977- The Community Reinvestment Act (CRA)**-designed to reduce **redlining**, the act encourages lending institutions to meet the needs of borrowers in the local communities including borrowers from low- and moderate-income neighborhoods.

**1988- The Fair Housing Amendments Act-** adds handicap and familial status (families with children) to the list of protected classes under Title VIII of the Fair Housing Act.

**1990-Americans with Disabilities Act (ADA)**

**2003-Fair Credit Reporting Act (FCRA)**-fairness, accuracy, and confidentiality in credit information. Amended by

**Fair and Accurate Credit Transactions Act (FACT)**-helps expand access to credit, accuracy of financial information and fight identity theft.



## ***2007-2009 The Great Recession in the U.S. and global markets***

**2008- Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act)**-to improve underwriting standards by the establishment of a registration system for mortgage originators. (NMLS)

**2008- Mortgage Disclosure Improvement Act (MDIA)**-wait *seven* business days after early disclosures before closing the loan; and wait an additional *three* business days if a change occurs that makes the APR in the early disclosures inaccurate beyond a specified tolerance.

**2008-The Housing and Economic Recovery Act (HERA)** establishes the **Federal Housing Finance Agency (FHFA)** responsible for the effective supervision, regulation, and housing mission oversight of Fannie Mae, Freddie Mac and the Federal Home Loan Bank System Since 2008, FHFA has also served as conservator of Fannie Mae and Freddie Mac.



## **2010- Dodd-Frank Wall Street Reform & Consumer Protection Act**

-Major overhaul of the nation's financial system with intent to prevent another major financial collapse and to protect consumers from abusive lending and mortgage practices by banks.

-Created **(CFPB) Consumer Financial Protection Bureau**. Consolidated existing consumer protection responsibilities in other govt. agencies. Qualified Mortgage Rule.

-**The Mortgage Reform and Anti-Predatory Lending Act**, amends the Truth in Lending Act and other consumer financial laws to prevent mortgage-related abuses and ensure availability of responsible, affordable mortgage credit.

-**Regulation Z** amended: **Loan Originator Compensation and Steering**-loan originator "may not receive compensation based on interest rate or other loan terms." Lender can not pay a loan broker a yield-spread premium-tied to the rate or terms of the mortgage.

- **Unfair, Deceptive and Abusive Acts and Practices(UDAAP)**-to prevent unfair, deceptive and abusive acts and practices. Modified by Dodd Frank-has become a catch all.

Consumer Financial Protection Bureau (CFPB)  
Qualified Mortgage Rules effective January 10, 2014.

**Ability-to-Repay rule** - Require lenders to evaluate a borrower's ability to pay back the loan, 43% Debt-to-income (AU still higher),

**Amortization** - loans must be fully amortizing (e.g., no negative amortization or interest-only loans);

**Term** - loans must not have terms greater than 30 years (e.g., no 40-year terms); and

**Points and fees** – loans must not have total points and fees in excess of 3% of the total loan amount (or such other applicable limits for low balance loans).