

## PREDATORY LENDING - RED FLAGS

### Excessive Fees

Look out for excessive and/or unnecessary fees. Loan fees should be no more than 3% (e.g., \$3,000 on a loan of \$100,000). Fees over 5% of the loan amount are excessive. Ask your broker or lender to show you an itemization of the loan amount with all fees explained.

### Excessive Mortgage Broker Compensation (Yield Spread Premiums)

If you are dealing with a mortgage broker, find out how the broker will be paid. Sometimes brokers receive extra compensation from lenders called the "yield spread premium." This is extra pay the mortgage broker collects from the lender for signing the borrower to a loan with a higher interest rate than the borrower deserves.

### Excessive Prepayment Penalties

Find out whether your mortgage includes a prepayment penalty. If it does, find out how much it is and how long it will be in place. You want to give yourself the option to refinance for better loan terms or pay your loan early without having to pay an excessive fee.

### Equity Stripping

Look out if a lender bases the decision to give you a mortgage on the equity you have in your home instead of your income. A predatory lender may loan more than you can pay every month and wait for you to default on your loan. The predatory lender can then foreclose on your house and strip you of your equity!

### Loan Flipping

Look out if you have been making your payments and a broker or lender encourages you to refinance for any reason. Each time the loan is refinanced, the lender charges fees that increase the amount you owe.

### Misstated Income

Look out if the broker or lender changes any of the income information you provided. The lender may suggest that you could qualify for a higher loan amount by including income on your loan application that doesn't exist, or by inflating your income on the loan application. This practice is problematic because it qualifies you for a loan your income may not support.

## A Message from ILLINOIS ATTORNEY GENERAL Lisa Madigan



Obtaining a mortgage is likely one of the most significant financial decisions you will make in your lifetime. Asking the right questions before you choose a loan can mean the difference between obtaining a loan you can afford and losing your home to foreclosure.

With the expansion of the mortgage marketplace over the past few years and the creation of new products and programs, it is important to understand the terms of the loans being offered to you so you can make informed choices.

If you are thinking about getting a mortgage loan, I urge you to take the time to learn about your options. If you need help, you should contact a local HUD-approved housing counseling agency. The counselors offer a variety of services free of charge to eligible borrowers who are shopping for a first mortgage or a home improvement loan, are behind in their mortgage payments, or wish to refinance an excessively high-cost loan.

A list of HUD-approved housing counseling agencies in your area can be found at [www.hud.gov](http://www.hud.gov) or on my Web site at [www.illinoisattorneygeneral.gov](http://www.illinoisattorneygeneral.gov).

Lisa Madigan  
Illinois Attorney General



## LISA MADIGAN ILLINOIS ATTORNEY GENERAL

To obtain more information about predatory lending or to file a consumer complaint against a predatory lender, contact the Illinois Attorney General's Office.

### Consumer Fraud Hotlines

#### Chicago

1-800-386-5438

TTY: 1-800-964-3013

#### Springfield

1-800-243-0618

TTY: 1-877-844-5461

#### Carbondale

1-800-243-0607

TTY: 1-877-675-9339

[www.IllinoisAttorneyGeneral.gov](http://www.IllinoisAttorneyGeneral.gov)



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## Looking for a Home Loan?

How to Avoid  
Predatory Mortgage  
Lending and Get a  
Loan You Can Afford.



## What is Predatory Mortgage Lending?

A predatory mortgage is a needlessly expensive home loan that provides no financial benefit to the borrower in return for the extra costs. In many cases, homeowners are deceived about the loan's true costs and terms or are pressured into signing loans they cannot afford. Many of these homeowners lose their homes to foreclosure.

If you're in the market for a home loan, here are some questions you should ask and common predatory lending practices of which you should be aware. The information in this brochure is by no means complete. Always have an attorney review all loan documents before you sign them. If you cannot afford an attorney, you should bring all of your loan documents to a HUD-certified housing counseling agency for review. Resource guides to housing counseling agencies in the Chicago area and downstate Illinois are available on our Web site, [www.illinoisattorney-general.gov](http://www.illinoisattorney-general.gov), or by calling 1-800-386-5438.

## 1 What is the mortgage loan amount?

The mortgage loan amount is the amount of money you are borrowing. When buying a home, this amount is usually the price of the home plus any fees and minus your down payment. If you are refinancing, the amount of your refinance loan should be the payoff of your current mortgage plus any fees. A refinance loan could also include any other debt you are paying off with your home loan or cash you receive at closing. You should be cautious when deciding whether to pay off other debt, such as credit card debt, with the proceeds of a mortgage loan. Doing so will increase your monthly payment and might mean foreclosure if you are not able to make that payment.

## 2 What is the full term of the mortgage loan?

Loan terms are generally 15, 20, 30, or 40 years. The longer the term, the more you will pay in interest over the full term of the loan. Some loans are structured so that you do not completely pay them off during the term of the loan. With this type of loan, you are obligated to pay off the remaining balance, or balloon payment, at the end of the loan term. Beware of mortgages containing balloon payments! If you do not have the funds or the ability to refinance the balloon payment, you could lose your property to foreclosure.

## 3 How much will my total monthly mortgage payment be? How is this payment divided between interest and principal for the term of the loan?

You need to know your total monthly payment amount to decide whether you can afford a particular loan. Just because a lender says you qualify for a certain loan amount does not mean that loan would be affordable. Some loan products offer "teaser rates"—low interest rates for a short period that later increase, resulting in significantly higher monthly payments. Other loans allow borrowers to choose among several monthly payment options during the loan term, but some of these payment amounts may be too small to cover the interest or to pay down the amount owed on the loan. This means that, over time, you will actually owe more money to the lender than you owed at the start, even after making payments every month.

## 4 Do the monthly mortgage payments include property taxes and property insurance?

When the lender tells you the "monthly principal and interest" payment, it does not include the amount you need to pay every month for **property taxes and insurance**. All mortgage loans contain a requirement that the borrower pay property taxes and insurance. If the monthly payment that your lender quotes does not include a portion for property taxes and insurance, you need to add in those costs to determine your total monthly housing payment. **Beware:** Unscrupulous brokers or lenders will quote a low monthly payment and fail to include the cost of property taxes and insurance when describing what the monthly payment will be.

## 5 Is the interest rate on the loan "fixed" or "adjustable"?

The rate can be a "fixed rate," meaning that it remains the same throughout the entire term of the loan. There are also variable or adjustable rate mortgage (ARM) loans where the interest rate can change during the loan term. Often, an ARM offers a lower interest rate at the beginning of the loan term, which results in a lower monthly payment. However, the interest rate will almost always increase, and you will then have a higher monthly payment that you may not be able to afford.

## 6 What are the closing costs of the loan and to whom are they paid?

Closing costs may be difficult to spot because often they are paid from the loan that you are getting and not out of your pocket—but you are still paying them! Make sure you understand what each fee is and to whom the money is being paid. Ask for a "Good Faith Estimate" of

your loan's closing costs—your lender is required by law to give you one within three days of taking your loan application. Ask if they'll guarantee it in writing and whether the extra fees are negotiable.

## 7 How much money is the mortgage broker being paid in connection with my loan?

Mortgage brokers are paid for helping a borrower obtain a loan from a lender. A reasonable compensation for this service is 2% of the loan amount (e.g., \$2,000 on a \$100,000 loan). The mortgage broker may also get a "yield spread premium" from the lender. This is a bonus the broker receives from the lender when the broker places you in a mortgage at a higher interest rate than you deserve. When this happens, the mortgage broker is being paid twice: the borrower pays a loan origination fee, and the lender pays a yield spread premium. You should be sure that your broker is not collecting excessive fees from your loan transaction.

## 8 Does the loan contain a prepayment penalty?

A prepayment penalty is a fee you will be charged if you pay off your loan early. Often, a lender charges a prepayment penalty in exchange for offering you a lower interest rate. If your loan has a prepayment penalty, you should ask your lender what the difference would be in the interest rate you would receive on the loan with and without a prepayment penalty. You want to make sure that you are receiving a benefit in exchange for the prepayment penalty.