Discriminatory Lending Practices

Iowa Civil Rights Commission
What is fair housing?

- The right of all persons to apply for and be considered for the housing of their choice in the neighborhood they choose and can afford
- Applies to all housing transactions: rentals, sales, leases, sub-leases, advertising, loans, appraisals, insurance and zoning
The Four Fair Lending Laws

- Fair Housing Act (FHA-1968)
- Equal Credit Opportunity Act (ECOA-1974)
- Home Mortgage Disclosure Act (HMDA-1975)
- Community Reinvestment Act (CRA-1977)
Covered Entities

- Any institution which accepts/manages deposits (i.e. banks, savings & loans, credit unions)
- Trust companies
- Mortgage loan companies
- Insurance companies
  - Home/renters insurance
- Pension funds
Protected Characteristics

- FHA
  - Race or color
  - Religion
  - National Origin
  - Sex
  - Familial status
  - Physical/Mental Disability

- ICRC
  - Creed
  - Sexual Orientation
  - Gender Identity
Covered Aspects

- Selling/renting of dwelling
- Loan to build, repair, improve dwelling
- Refinancing
- Mortgage
- Security
- Development
- Purchase of real estate loans
- Selling, brokering, appraising residential real estate
Types of Lending Discrimination

- Overt Discrimination
- Disparate Treatment
- Disparate Impact
Overt Discrimination

- Openly or blatant discrimination on a protected characteristics
- Expressing a discriminatory preference, even without acting on the preference
  - “We don’t like to make loans to------but”
  - Credit limits based on age
Disparate Treatment

- Different treatment based upon one of the protected characteristics
- Intent does not matter - More subtle
- Lender cannot provide a **credible and legitimate nondiscriminatory explanation**
- Occurs with marginal borrowers
- Red-lining and Reverse Red-lining
Disparate Impact

- Lender applies a policy or practice uniformly to all credit applicants, BUT
- Creates an adverse impact on applicants from a protected class
- Example - loan minimums, gross income
- Manifest business necessity has to be established - “Prove it”
Redlining

- Considering certain, protected neighborhood characteristics as basis for declining loan to someone wishing to purchase home in that neighborhood.
Predatory Practices

- Unaffordable loans based on assets rather than ability to pay;
- “Flipping” Inducing repeated refinances - high points, fees;  
  AND
- Engaging in fraud or deception
- Taking advantage of “unsuspecting or unsophisticated” borrowers.
Subprime gone bad

- Vulnerable borrowers - lean resources
- Measurements of subprime category applied after loan decision;
- Steering to subprime products;
- High rates - High pre-payment penalties
- Use of non-standard ARM indexes
What legal remedies are available to a tenant?

- File a complaint with the Iowa Civil Rights Commission – 300 days
- File a complaint with HUD – 1 year
- File a civil lawsuit – 2 years
Iowa Civil Rights Commission

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http://www.state.ia.us/government/crc