



A S S I S T A N C E

## Don't Borrow Trouble!

Mortgages, Home Equity Loans  
and Refinancing

Find more easy-to-read legal information at [www.ptla.org](http://www.ptla.org)

### Five Basic Tips

Are you looking for a home equity loan? Or are you trying to borrow money to buy a home? There are good deals and bad deals. If you don't want to get stuck with a bad one, be careful:

- Beware of "great deals" that come to you by way of the phone, mail, fax or internet. More often than not, these too-good-to-be-true offers are scams.
- Beware of home improvement contractors who offer to finance work on your home.
- If you need a loan, check with your community bank first.
- **Read all paperwork carefully before you sign anything!** A sales person may try to rush you into signing. Don't fall for this.
- Take your time and get help. Insist on getting copies of all of the papers ahead of time. Take plenty of time to review them. Show them to a lawyer if you can. See page 5 for legal services offices.



Unfair dealing is commonly called "**predatory lending.**" Here are some of the most

common abuses to watch out for

### Seven Signs of Predatory Lending

#### 1. Excessive fees

Some fees (including a charge called "points") are not included in the interest rate. They are easy to disguise or downplay. However, all of these fees must be disclosed in the papers you sign. Find out about any of these add-on fees **before you sign**. If you don't get good answers, don't sign. (Fees on the best loans are less than 1%. Fees on predatory loans can be more than 5%.)

#### 2. Abusive prepayment penalties

This is a fee for paying off your loan early. Avoid this type of fee. An abusive penalty bars you from prepaying for a long time (more than three years) or charges you more than six months' interest to prepay. This will make it hard to pay off your loan early. In the prime market (where the best loans are made), only about 2% of home loans carry prepayment penalties of any length.

#### 3. Kickbacks to brokers (yield spread premiums)

The "broker" is the person who sells you the mortgage; the "lender" is the bank, or other financial company, that actually lends you the money and services your loan. When you get a high interest loan, the lender often pays a "yield spread premium" to the



broker—a kickback for charging you a high rate. Find out if the broker is getting this type of kickback. The law requires that this information be disclosed to you in the loan documents. Be careful: This information may be buried and not clearly stated.

#### **4. Loan flipping**

If you are re-financing, be sure that you are getting a real benefit from the deal. “Flipping” happens when a lender makes money by getting you to take out a new loan, while you just get farther and farther into debt. This happens because every time you refinance, you pay more fees and charges. “Flipping” can drain away any equity you have in the property and increase your monthly payments.

#### **5. Products you don’t need**

A lender may try to talk you into paying for extra insurances or other products along with the loan. Don’t buy any extras that you don’t really need.

#### **6. Mandatory arbitration**

Some loan contracts require “mandatory arbitration,” meaning that you are not allowed to take the lender to court if you find out that your lender has taken advantage of you illegally. Beware that this can severely limit your legal options later on if it turns out that your contract is illegal.

#### **7. Steering & Targeting**

A predatory lender may steer you into a “sub-prime mortgage,” even though you could qualify for a better loan. These loans are more expensive and more likely to have unfair penalties and the like. Lenders are good at convincing you that this is a better deal than it really is. A lender who says that

you have poor credit may be exaggerating or lying. Reliable sources estimate that up to half of borrowers with sub-prime mortgages could have qualified for loans with better terms; you may be one of those borrowers.

Ask the lender for your “credit score.” This “score” is based on your credit history and other factors. According to the National Assoc. of Realtors, if your score is 650 or higher, you should be able to qualify for the best loan terms.

Or get your credit score online. For a \$5.00 fee, you can get your credit score, along with a free annual credit report, at **[www.annualcreditreport.com](http://www.annualcreditreport.com)**. If you use this online option, beware of pop-up credit offers. You are there to find out your credit score—not to get sucked into more unsolicited offers. You can also file credit requests by mail; get forms from the Maine OCCR. See page 5 for contact information.



## There is a lot of paperwork. Where do I find the essential information I need to know?



Get copies of all the papers. Review them ahead of time **before** you close the deal.

Here are some of the key documents you need to review and understand:

- ❑ **Home Ownership and Equity Protection Act (HOEPA) disclosure**  
The lender must give you this information if you are being charged an especially high interest rate or fees. This is a big clue that you may be getting a bad deal. **Get legal advice before signing!**
- ❑ **HUD-1 Settlement Statement**  
This breaks down all of the expenses you will be paying for. Question the charges that seem too high and the services you may not need. Make sure you understand all of them.
- ❑ **Truth-in-Lending Act (TILA) Disclosure**  
This tells you the rate of interest (APR, or Annual Percentage Rate) you will be paying. It also tells you the total amount you will be paying over time.
- ❑ **Mortgage document**  
This sets out all of the terms of your mortgage agreement, such as a “prepayment penalty” or “mandatory arbitration” clause. (See “Seven Signs” above.)
- ❑ **Good Faith Estimate**  
This explains the total costs that a broker promised you. Make sure that the papers you sign later on reflect the numbers in

Also, find out the prevailing prime mortgage rate in your area—what local banks are charging. If you are paying more, ask questions or find another lender. Just one percentage point can increase the amount you pay back by many thousands of dollars.

### Example

The local bank is charging **4%** interest (APR) for home equity loans. Mrs. Jones, a 55-year-old widow, had been thinking about applying for a loan to help her pay for a new roof and some bathroom renovations. In the meantime, she gets a call from Cheatum Loan Services. They seem very nice and will come to her house to meet with her. They convince her to do some other home improvements, as well. She mortgages her house to them, borrowing \$50,000 at **5%** APR. Over a period of 30 years, she will owe **\$10,000** more in interest than she would have owed to the local bank at their 4% rate.

the estimate. If they don’t, you are likely the victim of a “bait and switch” scam.

- ❑ **Notice of Rescission**  
This tells you about your right to cancel a home equity or refinancing loan within 3 days. (Read more at page 4.)

Any lawyer you consult will need to see all of your paperwork, especially the ones listed above.

### A few other pitfalls to avoid...



As home prices rise, more lenders are selling “specialty mortgages.” These creative lending deals can help borrowers get lower monthly payments. But they also pose risks. Here are some common examples to watch out for.



- **Balloon payments.** You make relatively small monthly payments for a few years, followed by a very large payment.
- **Interest only loans.** You make interest only payments for a few years. Then your payments become much higher when you begin paying off your principal.
- **40-year mortgages.** Creates lower monthly payments but you pay much more over time, due to the added interest. Compare longer and shorter

#### Example

Cheatum Loan Services convinces a young couple, the Browns, to take out a 40 year mortgage to buy a mobile home, instead of the conventional 30 year mortgage. If the Browns borrow \$50,000 at a 5% rate of interest (APR), this will reduce their payments by \$27 each month. But over the course of the 40 year loan, they will pay **\$66,000** in interest, instead of the **\$46,000** of interest they would have paid with the local bank's 30 year loan. That's **\$20,000** more!

terms to see how much you might save.

Although these types of “specialty mortgages,” and others, may help some borrowers in some situations, **watch out!** You do not want to set yourself up for failure. Why pay a lot of money for a house that you are likely to lose later on? Do you really want to put your home at risk, even though a fast cash deal is tempting you? Also, ask yourself if you can find a better deal that is less risky and will cost less money in the long run.

### Is it a good idea to “consolidate” my debt, such as credit card debt, with a home equity loan?

Probably not. Credit card companies, as well as many other lenders, are “unsecured creditors.” This means that they cannot automatically take your home if you fall behind in payments. Also, if you get too far in the hole, filing for bankruptcy can help you get out from under your “unsecured debt.” On the other hand, when you mortgage your home to “secure” a debt, the lender can foreclose on your mortgage and take your home if you fall behind or break the agreement. So, it is usually not a good idea to borrow on your house when you don't have to.

### Having second thoughts after signing a home equity or refinancing agreement?

Act quickly. You have **3 days** to cancel the deal. Better to get legal advice before you sign. But if you realize right away that you shouldn't have signed, or you are having doubts about the deal, **seek legal advice immediately.** After 3 days, your absolute right to cancel ends.

When you close on a home equity or refinancing loan, the lender must give you 2 copies of a **Notice of Rescission** (Cancellation). Send this form to the lender to cancel the deal. You must send it within the 3 day period; the lender does not have to receive it within the 3 days. This right does not apply when you are buying a home.



### The Basics: Review

- Don't take the first loan you are offered. Shop around.
- Ask questions.
- If you don't understand the loan terms, talk to a lawyer, or someone you trust, to look at the documents with you.
- Be suspicious of ads promising "No Credit? No Problem!" If it sounds too good to be true, it probably is.
- Ignore high-pressure sales tactics, and don't jump into a deal that sounds good without taking time to check it out first.
- Remember that a low monthly payment isn't always a 'deal.' Look at the **total cost** of the loan.
- Be wary of promises to refinance the loan to a better rate in the future.
- Never sign a blank document or anything the lender promises to fill in later.



### More questions? Where to get help:

#### Pine Tree Legal Assistance

##### Portland

Phone: 774-8211 TTY: 828-2308

##### Bangor

Phone: 942-8241 TTY: 942-1060

##### Presque Isle

Phone: 764-4349 TTY: 764-2453

##### Augusta

Phone: 622-4731 TTY: 623-7770

##### Machias

Phone: 255-8656 TTY: 255-6179

##### Lewiston

Phone: 784-1558 TTY: 828-2308

#### Legal Services for the Elderly

Help-Line: 1-800-750-5353

#### Maine Office of Consumer Credit Regulation

Phone: 1-800-332-8529

File a complaint online:

[www.state.me.us/pfr/ccp/ccp\\_consumer.htm](http://www.state.me.us/pfr/ccp/ccp_consumer.htm)

### Notice

Prepared by Pine Tree Legal Assistance, December 2005  
Thanks to the **Center for Responsible Lending** for sharing their content.



We are providing this information as a public service. We have tried to make it accurate as of the above date. Sometimes the laws change. We cannot promise that this information is always up-to-date and correct. If the above date is not this year, call us at 942-8241 to see if we have an update.

This information is not legal advice. By sending you this, we are not acting as your lawyer. Always consult with a lawyer, if you can, before taking legal action.