

# Fast

FOR CONSUMERS  
ON

## PREDATORY LENDING

(THE SOUTH CAROLINA HIGH COST AND  
CONSUMER HOME LOAN ACT)



# facts

There was strong evidence in South Carolina that there were some subprime lenders routinely targeting families who could least afford high cost home loans. A number of these homeowners were elderly, poor, or uneducated. These lenders were promising loans that were "too good to be true" and pressuring borrowers to sign contracts they did not understand. **On June 3, 2003, Governor Mark Sanford signed the South Carolina High Cost and Consumer Home Loan Act, which protects consumers from unconscionable lenders and loan practices. The law takes effect January 1, 2004.**

Here's a quick look at some of the key measures in the new law. (For a brief history of this legislation, log on to the SCDCA website at [www.state.sc.us/consumer](http://www.state.sc.us/consumer) and click on the 'Predatory Lending Bill History' link.)

### Flipping

The law bans "flipping" within 42 months of an existing loan without providing the borrower with a net tangible benefit. Each time a loan is flipped, it strips the home of equity wealth in the form of high fees.

### Points and Fees Charged On A High Cost Loan

If refinancing with the same lender, points or fees cannot be charged. If financing or refinancing with a different lender, points or fees over 2.5% cannot be financed.

### Credit Insurance

Financing prepaid, single premium life, disability, or unemployment insurance is prohibited in all home loans beginning **January 1, 2005. Only** credit insurance paid on a monthly basis will be permitted beginning **January 1, 2005.** This is an important key element, since single premium credit insurance policies, when added into the loan and not disclosed, inflate a mortgage by thousands of dollars.

### Prepayment Penalties

Prepayment penalties are not permitted on loans of \$150,000 or less. Prepayment penalties frequently surprise borrowers who attempt to pay off a loan before the scheduled date through refinancing or other means. The prepayment penalty would require the borrower to pay an unexpected fee to refinance or may prevent a borrower who otherwise qualifies from being able to refinance if desirable or needed.

### Special Disclosure Requirements for Manufactured Housing

Disclosures regarding the material terms of the loan must be given 48 hours prior to finalizing the loan closing. If the terms of the loan change, a new disclosure must be given.



South Carolina Department of Consumer Affairs • 3600 Forest Drive Suite 300 Columbia SC 29204 • e-mail: [scdca@dca.state.sc.us](mailto:scdca@dca.state.sc.us) • 803.734.4200 or toll free statewide: 1.800.922.1594 • website: [www.state.sc.us/consumer](http://www.state.sc.us/consumer)

### **Balloon Payments**

Balloon payments are prohibited under the new law. In this type payment schedule, the borrower would have low monthly payments, but then a large “balloon payment” would come due a few years later. If the borrower did not have the money for the payment (which could be double, or even triple the usual payment), the lender would foreclose on the home.

### **Mortgage Broker Responsibility**

Under the new law, the mortgage broker must work in the “best interest” of the borrower. The broker must act as an agent of the borrower. If the broker acts as an agent of any other party in the mortgage transaction, it must be disclosed to the borrower.

### **Mandatory Counseling on a High Cost Loan**

Anyone seeking to borrow money at a higher-than-market interest rate must attend a free credit counseling session to assist the borrower in understanding the material terms of the loan. The counselor will also provide information on the advisability of the loan transaction and its appropriateness for the borrower. Additionally, the borrower’s “credit score” is included on the form. The credit score is a number between 300 and 850 that lenders use to give credit and at what cost. A higher credit score—in the 700’s or 800’s –means that the borrower could get “prime” loans at lower rates; a low score means that the borrower qualifies only for “subprime” loans. Knowing the credit score can help the borrower negotiate a better loan.

### **Home Repair Loans**

Protects consumers who enter into home repair loans by mandating both the homeowner and contractor are named on any checks issued. The consumer will have the ability to refuse to endorse a check for incomplete work or work that was never started. Note: Does not include money for a new home construction loan or a purchase money loan for a home.

### **Title Lenders**

Limits have been placed on lenders who make loans on car titles. The annual rate may still be 300%, but the amount owed may not be renewed beyond six times. In addition, the borrower now has six additional months to pay off the debt with no new interest added.

## **HOW TO AVOID A PREDATORY LOAN**

Always shop around.

Ask questions.

If you don’t understand the terms of the loan, talk to someone you trust to review the document for you.

Don’t trust ads promising “no credit, no problem.”

Ignore high-pressure sales tactics.

Don’t take the first loan you are offered.

Remember that a low monthly payment isn’t always a deal; look at the cost of the loan.

Be wary of promises to refinance the loan to a better rate in the future.