



Phone: 503-223-8197 ext. 2 or 1-800-424-3247 (TTY) ext. 2 • Fax: 503-223-3396 • Visit us at:
www.fhco.org • email: information@fhco.org

RESOURCE MATERIALS

HUD Complaint Hotline 1-800-877-0246

The work that provided the basis for this publication was supported by funding under a grant with the U.S. Dept. of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication.

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INFORMATION SHEET

OUR MISSION

The Fair Housing Council of Oregon (FHCO) is a private nonprofit corporation with the mission of increasing access to housing by eliminating illegal housing discrimination. We conduct outreach, education and enforcement activities to further fair housing in Oregon.

“FAIR HOUSING” IS ABOUT CIVIL RIGHTS

Fair Housing laws are federal, state, and local laws that prohibit housing discrimination. It is illegal to treat a person differently in a housing transaction *because* the person is a member of a “protected class.” (Please refer to our separate spreadsheet for a complete and current listing of protected classes.)

Fair housing laws apply to housing-related activities involving rentals, sales, lending, insurance, land use regulations, zoning, and development to name a few. Types of illegal actions include denial of housing, refusal to negotiate, providing false information, evicting, applying different rules or standards, advertisements or statements, harassing, intimidating, and steering. To ensure equal opportunity to people with disabilities, fair housing laws provide that people with disabilities have the right to make their housing physically accessible and to request reasonable changes in rules or policies.

Fair housing laws are different than Landlord-Tenant laws, Fair Credit Reporting laws, and other regulations that may be applied to housing activities. Additionally, sometimes what appears to be illegal discrimination or differential treatment may not actually be illegal. For example, if a landlord decided they did not want to rent to smokers, this would not be considered illegal discrimination, because smokers are not currently a protected class under any fair housing laws. However, if repeated violations of other housing laws appear to be targeted to certain individuals because of their membership in a protected group (such as people who are members of one race or people who all speak languages other than English) this may be a violation of the fair housing laws.

FAIR HOUSING COUNCIL OF OREGON PROGRAMS:

Enforcement

FHCO staff receives complaints of housing discrimination over a toll free hotline that serves Oregon and Clark County, Washington. FHCO analyzes potential discrimination complaints and assists individuals in pursuing their rights. FHCO has staff that speak English and Spanish. FHCO also has a Tele-Typewriter (TTY) system and translation assistance for over 100 languages.

When possible, FHCO conducts testing or other investigations that may provide independent evidence of a fair housing violation. “Testing” is a proven method for investigating fair housing complaints. Trained testers are closely matched except for the protected class status in question and are sent to the rental or sales agent specified in the allegation.

Differences in treatment can provide enough evidence to successfully resolve a fair housing complaint through administrative systems or the courts.

FHCO staff refer individuals whose fair housing rights have been violated to the appropriate enforcement resource. We refer complainants to attorneys, the Fair Housing Enforcement Hub at the U.S. Department of Housing and Urban Development (HUD), and the Civil Rights Division of the Oregon Bureau of Labor and Industries (BOLI). FHCO provides technical assistance and serves as a resource to a pool of attorneys who take fair housing referrals.

Outreach and Education

FHCO provides fair housing information and materials to housing advocates, social service agencies, landlords, property management companies, real estate agents, home owner association boards, and public officials throughout Oregon and Clark County, Washington. FHCO publishes a newsletter, "*The Promise of Opportunity*", which reports on recent fair housing cases and regional fair housing news. FHCO and supportive funders sponsor an annual Fair Housing Poster Contest open to Oregon students grades 1-8, and raises awareness of the history of discrimination and that history's impact on our lives today through our historical bus tour, "Fasten Your Seatbelts... It's Been a Bumpy Ride," and our traveling display, "Anywhere but Here: A History of Discrimination in Oregon."

FHCO offers training on all aspects of fair housing law. Each year, FHCO conducts several low cost or no-cost trainings open to the public throughout Oregon. FHCO also has a fee-for-service training program available to property management companies, landlord and real estate associations, homeowner association boards and housing authorities.

For additional information about the Fair Housing Council of Oregon, contact us by phone, in person, or via email or fax. Or, visit our website: www.fhco.org. You will find all of our contact information on the front page of this booklet. If you need special accommodations or translation/interpretation assistance to access our services, we are happy to make special arrangements.

WE DO NOT GIVE LEGAL ADVICE

Most of our staff members are not attorneys, so we do not give legal advice. However, we can give you general information, technical assistance, and guidance that will further help you to understand fair housing laws or to access additional legal or professional resources.

Fair Housing Protected Classes in Oregon

Protected Class	Federal		State		Counties:		Municipalities:								
	42 USC 3601 et seq.	ORS 659A-145 & 421	Multnomah Co.	Benton Co.	Ashland (4)	Beaverton	Bend	Corvallis	Eugene	Hillsboro	Lincoln City	Lake Oswego	Portland	Salem	Springfield
			Mult. Co. Code 15.340 et seq.	Benton Co. Code Chapter 28	Ashland Mun. Code 10.110.010 et seq.	Beaverton City Code Chapter 5.16.015 et seq.	Bend City Code 5.700 et seq.	Corvallis Mun. Code Chapter 1.23	Eugene City Code 4.613 et seq.	Hillsboro City Code Chapter 9.34.005	Lincoln City Chapter 9.14.050	Lake Oswego City Code Chapter 34.22.060	Portland City Code Chapter 23.01	Salem Municipal Code Chapter 97	Springfield City Code 5.558 et seq.
Race	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Color	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Religion	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
National Origin	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Sex	X	X (6)	X	X	X	X	X	X (5)	X	X	X	X	X	X	X (5)
Familial Status (1)	X	X	X	X	X (8)	X	X	X	X	X	X	X	X	X	X
Mental or Physical Disability	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Source of Income (2)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Marital Status	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Age over 18 (1)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Sexual Orientation	X	X	X (6)	X (6)	X	X	X	X (6)	X (6)	X	X	X	X (6)	X (6)	X
Gender Identity	X	X	X (7)	X	X	X	X	X	X	X	X	X	X (7)	X (7)	X
Type of Occupation (3)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ethnicity															
Ancestry															
Domestic Partnership Section 8 (same as Source of Income)									X						X

(1) generally doesn't apply with respect to housing for "older persons"

(2) most statutes provide exceptions for recipients of income derived in an illegal manner

(3) this protection is derived from the definition of "source of income"

(4) certain religious organizations or private clubs are allowed to give members preference; certain owner-occupied units exempt
 (5) may not be protected if real property is such that protection would result in unrelated persons of opposite sex using same bath or bedroom facilities

(6) some exceptions apply (in certain owner-occupied units and property owned by a religious organization)

(7) some exceptions apply (in certain owner-occupied units and property owned by a religious organization); documentation of gender status may be required in some situations

(8) some exceptions apply (i.e.: where dwelling is less than 400 sq ft.; if state/federal housing; where regulations restrict occupancy)

The Basic Rule of Fair Housing

In most housing transactions, it is against the law to discriminate on the basis of any “protected class.” That means housing discrimination is illegal when a person is treated differently because they are a member of a protected group or class of people covered by fair housing laws.

Discriminatory Actions

- Refusing to rent, sell, or finance
- Refusing to give information, discouraging from renting, or lying about availability
- Applying different rules, privileges, standards, and/or qualifications
- Making discriminating statement (spoken or published)
- Steering to certain housing
- Harassing, intimidating, threatening, or coercing
- Refusing to let a person with a disability make modifications necessary to use the dwelling
- Refusing to make reasonable changes in rules, policies, practices, or procedures so that a person with a disability can have equal use of the dwelling

Protected Classes

In the entire U.S.:

- Physical or Mental Disability
- Race or Color
- National Origin or Ancestry
- Religion
- Sex (including Domestic Violence Survivors**)
- Familial Status (*the presence of children under 18 in the household, or pregnancy*)

In Oregon:

- Marital Status
- Source of Income
- Sexual Orientation / Gender Identity

In some cities and counties:

- Age
- Occupation

**In addition to federal protection state laws in Oregon (ORS Chapter 90) provide specific rights to domestic violence survivors in rental transactions.

Who must comply?

- On-site managers
- Owners
- Property managers
- Maintenance staff
- Real Estate Agents
- Insurers, Appraisers, Home Owner’s Association Boards
- Lenders
- Advertising media
- Neighbors (In some circumstances)
- Zoning and permit departments

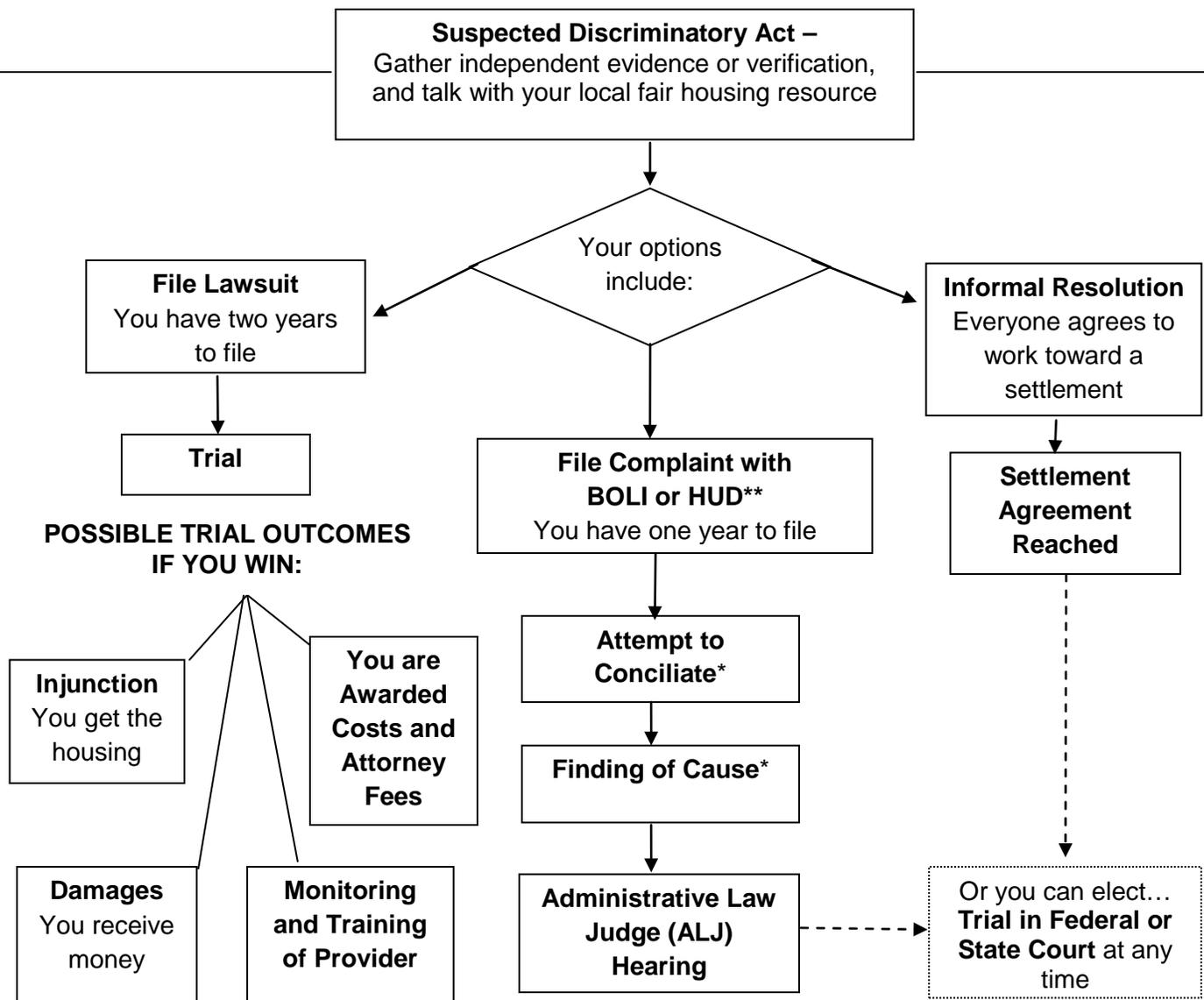
How is the law enforced?

Filing an agency complaint within one year, or a lawsuit within two years of the date of the discrimination.

HUD Complaint Hotline 1-800-877-0246

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Fair Housing Enforcement Flow Chart



www.FHCO.org
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*You can elect to withdraw from this process and file a lawsuit.

**BOLI – Bureau of Labor and Industries;

**HUD – Department of Housing and Urban Development

A History of Discriminatory Housing Practices in Oregon

Can we understand the impact of housing discrimination on Oregon today without looking at its historical context? Race, hatred, prejudice, segregation, ethnic conflict, discrimination, and our national legacy of slavery all shaped the history of our state. Most of us prefer a history which focuses on the positive--the courage of early European settlers, the bounty of Oregon's natural resources, or the development of Oregon's progressive political system. It is natural for us to share this common affection for the history of our state, a history written by those who prospered in their new home.

But who can tell us the history of those who struggled? How can we learn about those who were denied a home? Can we use this information to gain a new appreciation of how historical racial and ethnic separation are reflected in the discriminatory housing practices of today? In any attempt to educate ourselves about civil rights in housing--fair housing--it is important that we remind ourselves about the pain suffered by those who were individually or collectively denied those rights. Courageous people faced the forces of prejudice, persevered, and built an important place in Oregon's history.

- **Native Americans have lived in the Pacific Northwest for ten thousand years.** Estimates of the population of the indigenous people in Oregon before European settlement of the 1800's may have been over 120,000. Disease, war, and forcible displacement had a severe impact on Native American communities. By 1900, the native population of Oregon was approximately 5,000 persons. Forced to live on reservations by the United States government, most native people were systematically denied the basic freedom of a choice about where to live.
- **Chinese immigrants moved to the Oregon Territory to work in mining communities, fish canneries and on the railroads.** When statehood was declared in 1859, Oregon's constitution prohibited anyone of Chinese ancestry from owning land or holding a mining claim. In 1882, the Chinese Exclusion Act banned Chinese immigration to the United States. Restrictive covenants

in deeds for residential property were commonplace and resident Chinese-Americans were excluded from living in certain neighborhoods.

- **The immigration of Japanese people to Oregon increased with the passage of the Chinese Exclusion Act.** Early in the twentieth century, Japanese immigrants settled in Portland to work in the traditional service industries. As they settled into their new home, many Japanese-Americans moved from Portland to begin farming in east Multnomah County and the Hood River Valley. Competition with European-American farmers provided the impetus for bills in the Oregon Legislature in 1917, 1919, 1921, and 1923 prohibiting Japanese land ownership. Japanese-Americans also faced racist restrictive covenants that excluded home seekers from purchasing in certain areas.
- **African-Americans were deterred from living in the Oregon Territory by racial exclusion laws passed between 1849 and 1854.** These laws stated it was “unlawful for any Negro or mulatto to come in or reside” in Oregon. Although slavery was banned in Oregon, the state’s first constitution, passed in 1857, denied African-Americans the opportunity to live in the new state. This language was not removed until 1927.

This legacy of race hatred and separation continued into the twentieth century. The institution of restrictive zoning laws prohibited African-Americans from living in certain residential areas. The Portland Realty Board revised its Code of Ethics in 1919 to include a section forbidding members from selling homes to African-Americans or Asians. Racial segregation was reinforced in Portland by federal housing policies during the 1930’s, which placed restrictions on minority borrowers.

- **World War II shipyard industries attracted a growing African-American population to Oregon.** The Housing Authority of Portland’s Vanport housing complex was home to an estimated 5,000 African-Americans. When Vanport was flooded in 1948, African-American families began to relocate in the Albina area. By 1962, 80 percent of Portland’s African-American population was living in the Albina area and for decades the community was systematically denied loans for home improvements by local banks.

- **Many of Oregon’s Latino immigrants came to the state as migrant farmworkers and settled in rural, agricultural areas.** In 1951, the federal Bracero Program allowed Mexican nationals into the country as guest workers. These laborers were often steered into overcrowded and squalid mobile labor camps rather than local communities. Despite the struggles they faced, many Latinos made Oregon their permanent home, left the rural areas and began to live in Oregon’s larger cities. Latinos are now the largest minority population in Oregon.

Civil rights protections in housing are still evolving. Oregon’s first fair housing law, passed in 1959, began an era of civil rights protections for minority populations. The federal Fair Housing Act of 1968 provided even stronger protections and provided more opportunities for equal access to mortgage financing and rental housing.

The federal Fair Housing Amendments Act of 1988 amended the Fair Housing Act to include protections for persons with mental and physical disabilities as well as families with children. The State of Oregon passed similar civil rights protections in 1988 and also protects for marital status, source of income, and sexual orientation. Many cities and counties in Eugene, Ashland, Portland, Salem, and Corvallis have added protections for categories such as type of occupation.

Fair Housing and Advertising

Fair housing law prohibits housing providers and the media from printing or publishing an advertisement that indicates a **preference, limitation, or discrimination based on a protected class.**

- Direct discrimination can be avoided by prohibiting such phrases as “No Children” or “White Only”.
- Display ads with people should be representative of the community at large. Pictorial inserts that only show white adults without visible disabilities communicate the same illegal message as the words “non-disabled white adults only”. These may imply an intent to exclude certain groups of people.

What else should I know?

- Words that describe behavior--not status--are generally permissible. Examples of acceptable words are “responsible” or “reliable”. If the word “independent” is used, it should be clear that there is no intent to exclude a person with a disability who may need outside assistance with daily life activities may have a service animal.
- Words that describe an attribute of a dwelling unit are permissible unless the ad restricts *who* can live there. For example “family room” or “mother-in-law” apartment are okay as long as it does not really mean only a “mother-in-law” can live there. Similarly “view” or “within walking distance of downtown” are descriptive and acceptable. What would be illegal are phrases such as “no blind persons” or “no wheelchairs”.
- Age is a protected class in some Oregon cities and counties. Regardless of the area or the protections, beware of ads limiting age, because they may discriminate against families with children.
- Senior housing and “adults only”. Senior housing may exclude families with children, but it must meet certain criteria, including demonstrating an intent to be senior housing. Using “adults only” does not express the intent to be “senior housing”. The ad should indicate the housing is for those over age 55 or age 62 or seniors. Advertising for senior housing must not violate

other fair housing law provisions. An ad for “active seniors” may demonstrate discrimination against seniors with disabilities.

- Words that do not directly prohibit a protected class but are “neutral” are permissible. Permissible are phrases like “choice location” “executive home” “private”. But if you know that your client wants you to use “code” words because of an intent to exclude protected class individuals, follow the spirit of fair housing and do not do it.
- Use the HUD fair housing logo whenever possible: you can download this graphic on the HUD website at <http://www.HUD.gov>.
- If a dwelling unit has special accessible features (like a wheelchair ramp, strobe vs. audible smoke detector or doorbell, an elevator or an entry with no stairs) mention it in your marketing or real estate listing. **Visitability** is a desirable feature in many new housing developments and communities. Visitability means that even if you don’t need accessible features, those added improvements make your home or neighborhood a place where your friends and family can comfortably visit you. Additionally, accessible features are aesthetically pleasing, blending seamlessly into the design and construction of the dwellings and infrastructure. They do not cause the housing to stand out as distinctly for use by people with disabilities.
- Some housing programs require specific size and positioning of fair housing and/or accessibility logos or verbiage on signs and in ads. Failure to meet those requirements may jeopardize funding for the housing development. Know the requirements of your financing terms and other applicable development or compliance standards.
- **When advertising, a gender preference may be made in certain roommate or shared housing circumstances.** No other protected class groups can be singled out for exclusion. Religious, ethnic, sexual orientation, and marital status preferences stated in the advertising (**either as desired or as excluded**) may lead to a fair housing violation.



Publishers, multiple listing services, website sponsors, bulletin board hosts, newsletter producers, housing information posting services, and those with web links to discriminatory sites have ALL been determined to have discriminated

because of their participation in publicizing the discriminatory information.

Advertisers should not rely on the owners/operators of the advertising medium to identify and reject ads that may be discriminatory. The originator of the ad has the most responsibility to ensure the content is not discriminatory.

Fair Housing and National Origin

Federal and state laws forbid discrimination in housing transactions because of national origin.

What does “national origin” coverage mean?

Your national origin refers to your birthplace, ancestry, language, and/or customs. It is illegal for a landlord to deny housing or treat someone differently in a housing transaction because:

- Of a person’s name, appearance, accent, or participation in customs associated with a nationality.
- The landlord incorrectly perceives the person as being associated with a particular nationality.
- The person associates with people of a particular national origin.

Fair housing laws apply to rental housing, home sales, home lending, home insurance, and advertising. No one can deny housing, limit access to housing, discourage someone seeking a home or create different rules, fees, or standards because of the national origin of a household.

Some typical examples of discrimination based on national origin include steering tenants of a particular national origin to one section of an apartment complex, refusing to make repairs to units occupied by people of a particular national origin, or prohibiting or limiting a tenant’s guests because of the national origin of the tenant or his/her guests.

Can a landlord discriminate against people who do not speak English?

No. However, there is no legal requirement for landlords to provide translation for their tenants except in federally subsidized housing. If a tenant does not speak English, it is up to the tenant to find someone to help him/her communicate with a landlord. In order to be clear on what rights and responsibilities are, tenants who do not speak fluent English should get help reading their rental agreement from a trusted family member or friend before they sign it. It is also good to prepare a list of names and phone numbers of translators to give to the landlord. Federally funded properties may be required to provide translated documents and/or a translator in foreign languages under the HUD’s Limited English Proficiency (LEP) regulations.

You can find HUD's "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" and other information at www.LEP.gov.

Can a landlord require a social security number from a prospective tenant on an application?

Using a social security number as part of a background check on a prospective tenant is generally considered a standard rental practice as long as the landlord asks for a social security number from all prospective tenants. If a landlord asks for social security numbers ONLY from tenants of a particular national origin, that would constitute a fair housing violation. If a tenant does not have a social security number, the landlord should accept alternative documents to complete a screening (see page 15 for "Suggested Alternative Documents for Screening Immigrant Populations"). Tenants should never use a false social security number.

What recourse do tenants have if other tenants harass them because of their national origin?

Landlords have a legal responsibility to protect tenants from being harassed based on their national origin. If a tenant is harassed because of his national origin and the landlord is aware of this harassment, the landlord has the responsibility to intervene. All tenants have the legal right to peaceful enjoyment of their homes. Continued harassment could be grounds for eviction.

Do fair housing laws apply only to US citizens?

Anyone living in the United States has fair housing protections. If someone is living in the U.S. illegally, they still have the right to file a fair housing complaint but may choose not to since the information will become public record. Any person calling the Fair Housing Council of Oregon will receive confidential information and assistance.

How can I learn more about my fair housing rights?

Call the Fair Housing Council of Oregon at 503-223-8197 ext. 2 or 1-800-424-3247 ext. 2.

Suggested Alternative Documents for Screening Immigrant Populations

Courtesy of the Fair Housing Center of Washington

Documents that can establish identity	Documents that can establish past rental history	Documents that can establish credit or ability to pay rent
<ul style="list-style-type: none"> • Citizenship Card, Consulate Cards • INS Form I-864 Sponsorship verification • Certificate of Naturalization (INS I-550) • Voter's registration card • U.S. Passport • Certificate of U.S. Citizenship (N-550 or N-561) • Unexpired foreign passport, with 1-555 stamp or INS form 1-94 indicating unexpired employment authorization • Alien registration receipt card with photograph (I-151 or I-551) • Unexpired temporary resident card (I-688) • Unexpired employment authorization card (I-688A or I-688B) • Unexpired reentry permit (I-327) • Unexpired refugee travel document (I-571) • Driver's license or ID card • Military card or draft record or military depend card • School ID card with photograph • Hospital records • Day care or nursery school records 	<ul style="list-style-type: none"> • Records from school district to establish stability • Letter from utility company to establish rental history • Letter from former landlord with a phone number • Copy of lease from former residence 	<ul style="list-style-type: none"> • Letter from employer • Current contracts for major purchases to help identify credit • Bank records • Sponsorship letters • INS Form I-864 Sponsorship verification • Social Security card • Individual Taxpayer Identification number (ITIN) • Current Pay stubs • Benefit Award Letter (SSA, DSHS, etc.) • Section 8 Voucher • School Pmt Contracts • Paid off Installment contracts • Paid Utility Bills

Fair Housing for Families With Children

Federal and state laws forbid discrimination in housing transactions because of “familial status”.

What does the phrase “familial status” mean?

“Familial status” means having a child under age 18 in the household, whether living with a parent, a legal custodian, or their designee. It also covers a woman who is pregnant, and people in the process of adopting or gaining custody of a child.

What actions does the law prohibit?

No one may deny housing, limit access to housing, discourage home seekers, or create different rules, fees, or standards because of the familial status of the household. This includes rentals, purchases, lending, advertising, and any other transaction within the housing industry.

Does this mean that a landlord must rent to or cannot evict any household with children?

No. A housing provider has the right to refuse rental applications or evict tenants based on objective criteria, such as credit history or bad tenant history. A housing provider should set criteria and apply them equally to each household--whether it has children or not.

Can a landlord make rules about how children should behave?

Reasonable rules are appropriate, but not everyone agrees on what is “reasonable.” Here are some guidelines. In general, rules should apply to all tenants, and not just children. Rules that set limits may be reasonable if they are based on realistic--not exaggerated--health and safety concerns. Rules should address behavior, not status, and should not be so restrictive that families with children do not get equal use and benefit of the housing.

Can a landlord decide which units are better for families with children?

No. Designating specific units for families with children is called “steering” and is illegal. Landlords should give applicants objective information about what is available, and let

applicants decide what unit is suitable for their household. All applicants should be shown any available units at the community. Let them decide where they would like to live.

Can a landlord set limits on the number of occupants?

Restrictive occupancy limits have the effect of discriminating against families with children. Begin with the guideline that any such limit should not be more restrictive than two persons per bedroom, and then consider the size and configuration of rooms and total livable space. Two per bedroom may be unreasonably restrictive depending on all the circumstances viewed as a whole.

Can a landlord deny a family based on safety concerns of the unit for the children?

Safety concerns are not a valid reason to deny housing to families with children. If an unsafe condition exists on the property, consider making it safe for all residents to avoid general liability for injuries. If that is not feasible, point out safety concerns to every applicant, not just families with children. Also, HUD guidance states that it violates the Fair Housing Act for a housing provider to deny a family the opportunity to live in a dwelling that has not undergone lead hazard control.

Is there any type of housing exempt from these requirements?

The only type of housing that can exclude households with children is qualified housing for seniors. Those who intend to operate senior housing should get adequate information about meeting the qualifications.

For more information: Call the Fair Housing Council of Oregon at 503-223-8197 ext. 2 in the Portland metro area, or 1-800-424-3247 (TTY) outside the Portland metro area. Or call HUD Fair Housing Technical Assistance at 1-800-877-0246.

Fair Housing for Persons with Disabilities

In General

Federal, state, and local fair housing laws prohibit public and private housing providers from discriminating against an individual because the individual is disabled or because the individual associates with individuals with disabilities. The fair housing laws only apply to an individual's residence. Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disability Act (ADA), are different federal civil rights laws that also protect individuals with disabilities from discrimination in their residences. Section 504 protects individual with disabilities in publicly-funded housing, and the ADA protects individuals with disabilities in areas of a residential building that are open to the public, such as rental offices.

Who is protected against discrimination based on disability?

Under the fair housing laws, individuals who qualify as disabled and individuals who associate with individuals with disabilities are protected from discrimination by housing providers.

- I) **Disabled Individuals:** There are three ways that an individual can qualify as disabled: A) demonstrate that they have an existing mental or physical impairment that substantially limits a major life function, B) demonstrate that the housing provider believed that they were substantially limited in a major life function, or C) demonstrate that they have a record of a physical or mental impairment that substantially limits a major life function.
 - A) **Individuals with an existing impairment:** To qualify under the existing impairment option, individuals must identify a major life function that is limited, such as seeing, hearing, breathing, mobility, communication, or self care; and demonstrate that his/her physical or mental impairment substantially limits that major life function. To qualify, the impairment must be substantial, not merely a minor limitation or inconvenience. Therefore, the impairment must be permanent or chronic, not a temporary limitation such as a surgery or broken leg. For example, a woman who is mentally impaired due to chronic depression and as a result is substantially limited in her ability to care

for herself qualifies as having an existing disability. Current illegal drug users are not protected, but people who are alcoholics or in recovery from drug addiction are protected.

B) Individuals regarded as disabled: Under this protection, an individual does not have to be disabled. This protection is provided so that individuals who may not be disabled are protected from stereotyping and housing providers who discriminate based on rumors. Individuals can qualify under the disabled protected class in two ways:

- 1) First an individual is protected if the housing provider believes that the individual is mentally or physically impaired in a way that substantially limits a major life function, even though the individual is not impaired and has never been impaired. One example of this type of protection is if the housing provider hears a rumor that an individual was diagnosed with paranoid schizophrenia and because of the rumor decides not to rent to the individual, the individual would be protected under fair housing laws. It does not matter whether the individual actually has paranoid schizophrenia, or is in any way impaired. He/she is protected because the landlord believed he/she is impaired and discriminated against him/her because of this belief.
- 2) The second kind of disabled protected class that is covered is an individual who is discriminated against because the housing provider believed that an existing impairment substantially limited a major life function, when the existing impairment does not substantially limit a major life function. An example would be an individual who limps because one leg is shorter than the other. The limp may not substantially limit the person's ability to walk, but if the housing provider believes that the limp substantially limits the individual's ability to walk and decides not to offer the individual an upstairs unit, the individual would be protected under fair housing laws. Similarly, if the individual revealed that they had been diagnosed as HIV positive, but the individual was not

currently experiencing any of the symptoms related to AIDS, the individual would be protected if the housing provider believes the individual is substantially limited in their ability to interact with others or work because of the stereotypes he/she has heard about the disease.

C) Individuals with an impairment record: The third way to qualify as disabled is to demonstrate that the individual has a record, medical or otherwise, that they were impaired and their impairment substantially limited a major life function. The individual will have to show that the landlord had access to the relevant records.

II) Individuals who associate with individuals with disabilities: Housing providers are also prohibited from discriminating against individuals because they have friends, family members, or other acquaintances that are disabled. This means that even if a housing provider has a no-pet policy, guests who have service or companion animals must be allowed to bring their animal onto the property when they visit. Likewise, a housing provider cannot deny a mother housing because her child is disabled, regardless of whether the child would be living with her.

How are individuals with disabilities protected?

The fair housing laws protect individuals with disabilities in three ways: 1) direct discrimination is prohibited, 2) housing providers must grant reasonable accommodation or modification requests, and 3) if the residence was built after 1991, the building must meet certain accessibility requirements.

I) Direct discrimination is forbidden: A housing provider cannot refuse to lease, sell, or finance a residence because of an individual's disability. Likewise, housing providers cannot harass, provide different terms or conditions, steer individuals to particular locations, or evict individuals because they are disabled. However, a housing provider can discriminate against individuals for a variety of other reasons. For example, individuals can be treated differently because they have bad credit, or because they have a criminal record.

II) **Reasonable accommodations and modifications:** Housing providers are required to make reasonable accommodation/modifications so that individuals with disabilities have as many housing opportunities and options as possible.

A) **Reasonable Accommodations:** Accommodations are requests for an exception to a housing provider's rule, policy, or practice. The individual with a disability must establish two things; 1) the accommodation is necessary because of his/her disability, and 2) the accommodation is necessary to access, maintain, or have full use and enjoyment of the housing. An example of a reasonable accommodation request is a tenant who is substantially limited in his/her ability to walk and rents from a landlord who assigns parking spaces on a first come basis. As a result of the policy, the tenant is assigned a parking space that is far away from his apartment, and he is unable to get to and from his car without assistance. The tenant can request that the landlord make an exception to his parking policy and provide him a closer space. An example of a reasonable accommodation could be a request from an individual who is hearing impaired to install a smoke detector with a visual alarm instead of an auditory alarm.

B) **Reasonable Modifications:** Private-housing providers must allow individuals with disabilities to make structural changes so that the individual has full use of his/her residence. Private-housing providers can require that the individual with a disability pay for the costs of the modification. Housing providers have the right to request that modifications be done competently and with a permit, if the local jurisdiction requires a permit. Landlords can require tenants to remove interior modifications after the tenancy and can require the tenant to pay for the costs to restore the unit to its original condition. Under different laws, a publicly funded housing provider may be obligated to pay for reasonable modifications. Examples of interior structural modifications are grab bars or lowering countertops for an individual in a wheelchair.

III) **Accessibility Requirements for New Construction:** Accessible common areas and "readily adaptable" ground floor dwelling units are required in most multi-family apartment buildings constructed since 1991. If the residence was built after 1991, the fair housing laws also require that exterior routes into the building meet certain

accessibility requirements and ground floor units and common areas such as recreation rooms are “handicap accessible.”

Fair Housing Accessibility Guidelines

Design Guidelines for Accessible/Adaptable Dwellings *Fair Housing Amendments Act of 1988*

Requirement 1: Accessible building entrance on an accessible route

- Covered multifamily dwellings shall be designed and constructed to have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual characteristics of the site.

Requirement 2: Accessible and useable public and common use areas

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed in such a manner that the public and common use areas are readily accessible to and usable by handicapped persons.

Requirement 3: Usable doors

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed in such a manner that all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs.

Requirement 4: Accessible route into and through the covered dwelling unit

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain an accessible route into and through the covered dwelling unit.

Requirement 5: Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations

- Covered multifamily dwellings with a building entrance on an accessible route shall be

designed and constructed in such a manner that all premises within covered multifamily dwelling units contain light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

Requirement 6: Reinforcement for grab bars

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain grab bar reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall, and shower seat, where such facilities are provided.

Requirement 7: Usable kitchens and bathrooms

- Covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

Reasonable Accommodation and Modification Requests

Under the Fair Housing Act, individuals with disabilities have the right to make reasonable accommodation and modification requests. The Fair Housing Act only applies to an individual's residence. Other laws apply to employment, public accommodations, and government services. Often, individuals with disabilities have a very difficult time finding housing that meets all of their unique needs. The right to request reasonable accommodations allows individuals with disabilities to identify specific individual housing needs created by their disability and ask housing providers to meet those needs. The goal is to provide individuals with disabilities with as many housing options as possible. Reasonable accommodation requests can also serve as a communication tool and a way to educate housing providers about the needs of individuals with disabilities.

The main limitation on requests is that the change requested must be reasonable. What is reasonable varies depending on the particular housing situation, the housing provider, and the individual making the request. Housing providers can deny a request if the request 1) creates an undue financial and administrative burden or 2) fundamentally alters the nature of the housing provider's business. What is reasonable is very discretionary; therefore, it can be uncertain whether a court or administrative agency will enforce the request.

What is a reasonable accommodation?

Individuals with disabilities have the right to request exceptions to their housing providers' rules, policies, and practices. An individual must establish that he/she has a disability that substantially limits a major life function, and that the accommodation or exception requested is necessary because of his/her disability. The accommodation requested must be necessary to access housing, maintain housing, or have full use and enjoyment of an individual's current housing.

Example of a Request to Modify a Rule, Policy, or Procedure:

If a landlord has a no-pet policy, a woman who is sight impaired has the right to request an exception to the no-pet policy for her seeing-eye dog. In this situation, the dog is the same as a wheelchair or a cane; it is a tool that helps the tenant to be mobile and active, and it is not a pet. Because the dog is not a pet, the landlord cannot charge the tenant any fees or deposits for the dog, just as the landlord cannot charge a deposit because someone uses a wheelchair. However, the landlord may charge the tenant for any damage her seeing-eye dog does to the property. In addition, if the seeing-eye dog is a safety threat because the dog attacks another tenant, or the dog constantly barks or exhibits other behavioral problems that disturb other tenants, the landlord can tell the tenant she cannot have that particular seeing-eye dog.

However, the tenant still has the right to get a different seeing-eye dog.

Housing providers cannot charge fees or deposits for necessary accommodations because this in effect would allow them to charge individuals more money because they are disabled. Reasonable accommodation requests do not meet wants or desires — they meet needs. The individual making the request is not *choosing* to make the request; they *must* make the request in order to satisfy their housing needs. However, just like any other tenant, if an individual with a disability damages the property directly or through their reasonable accommodation request, the individual must pay for the damages.

What is a reasonable modification?

Individuals with disabilities also have the right to request reasonable modifications to the structure of their residence. The modification must be necessary because of the individual's disability. In addition, private landlords can require the individual with a disability to make the modification and pay for it. Private landlords may also request that when the individual moves out, if he/she restores the premises to its original condition and pays for any damage caused by the modification.

Example of a Request for a Structural Modification:

A man who uses a wheel chair has the right to ask his private landlord to allow him to install a ramp on any inaccessible walkway that he uses in the complex. Most walkways at an apartment complex are not considered to be open to the public, but part of an individual's residence. If the walkway just provides access to the individual's residence, then the landlord can require the individual to install and pay for the ramp. The landlord also has the right to require the tenant to have the work done in a professional manner and obtain a permit if the local building code requires a permit to install the ramp. As under reasonable accommodation requests, the modification cannot create a health or safety risk to other tenants.

Under different laws, federally subsidized landlords are required to make and pay for the necessary modifications.

When is it appropriate to request a reasonable accommodation or modification?

Individuals with disabilities must make a verbal or written request for a reasonable accommodation. Requests must be reasonable, related to the individual's disability, and further the individual's ability to get or keep his/her housing. The request may be made while applying for housing or at any time during the tenant's occupancy. Requests can be made after the tenant receives a notice or warning, and often tenants are not aware that there is a potential problem until they receive a warning or notice from the landlord. However, to prevent stress and conflict, the tenant should make the request as soon as he or she perceives a need.

Verification from a qualified individual may be necessary.

Housing providers have the right to ask for verification from a qualified individual that the tenant is disabled and the change or modification is necessary because of the tenant's disability. A qualified individual is anyone with expert knowledge in the area, who has knowledge of the individual's disability and needs. Although an individual needs verification that the request is related to his disability, this does not mean that a tenant is required to provide a doctor's prescription for the requested change. If it is possible, the tenant should have the verification available when he/she makes the request.

How do I make a reasonable accommodation request?

The request may be made verbally or in writing. In general, it is a good idea to document the person requesting a reasonable accommodation's interaction with the housing provider. Therefore, it is preferable to put the request in writing and to keep a copy of the request on record. The request should include the following:

"This is a request for a reasonable accommodation."

"I have a disability that substantially limits the major life function(s) of _____."

"Because of my limited ability to _____, I need _____."

"Therefore please make an exception to your _____ policy."

"I need this accommodation in order to live in this housing."

"Please respond to my request by _____ (specify a date, generally 10-14 days from the date you send the notice is sufficient time)."

"If I don't hear back from you by _____ (date specified above), I will assume that you denied my request."

The individual requesting the reasonable accommodation should be very clear that the needed reasonable accommodation is connected to his or her disability, and that the change is necessary to live in his/her housing.

If the housing provider ignores the request, the individual can pursue an enforcement action because a time limit has been set, and if there is no response by the end of the time period the individual with the disability may proceed as if the housing provider denied the request. The request, should *not* threaten the housing provider with the possibility of a formal complaint.

Housing providers interested in information about reasonable accommodations or fair housing in general can call FHCO at 503-223-8197 or 1-800-424-3247.

Why can a reasonable accommodation request be denied?

Individuals with a disability have the right to determine which change or exception would best meet their needs. However, once a disabled individual establishes that he/she is disabled and the request is necessary because of his/her disability, a request may be denied for two reasons:

- 1) The change or exception would create an **undue financial and administrative burden,**
- 2) The change or exception would **fundamentally alter the nature of the landlord's business.**

The landlord cannot deny a request merely because it creates some financial expense or requires the landlord to do some extra paperwork. The expense or the administrative work must be undue. The same is true if the change requires the landlord to change the way they conduct their business. Most reasonable accommodation requests will require the landlord to change the way he/she conducts his/her business, however for the landlord to deny the request, the change must be fundamental such as requiring the landlord to wash the tenant's laundry or requiring the landlord to walk the tenant's service animal.

What does a tenant do if the reasonable accommodation request is denied?

If the request meets the above criteria and the housing provider denies or ignores the request, the individual requesting the reasonable accommodation can pursue enforcement action by filing an agency complaint with either the Federal Department of Housing and Urban Development (HUD) or the Oregon State Bureau of Labor and Industry (BOLI), or you may file a lawsuit. For an appropriate referral, please call the Fair Housing Council of Oregon at 503-223-8197 or 1-800-424-3247.

HUD Complaint Hotline 1-800-877-0246

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Sample Verification of Request for Reasonable Accommodation Form

If a housing provider requests verification of a tenant's disability and/or verification of the need for the reasonable accommodation, this form should be given to a qualified individual.*

Name of person requiring accommodation:

Description of accommodation being requested:

I understand that under federal and state law, an individual is disabled if he/she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, thinking, communicating, learning, performing manual tasks, and caring for oneself.

Impairments also include such diseases and conditions as orthopedic; visual; speech and hearing impairments; Cerebral Palsy; autism; seizure disorder; Muscular Dystrophy; Multiple Sclerosis; cancer; heart disease; diabetes; HIV; mental retardation, mental and emotional illness; drug addiction; and alcoholism. This definition does not cover any individual who is a drug addict and currently using an illegal drug, or an alcoholic who poses a direct threat to property or safety because of alcohol use (224 CFR Part 8.3 and HUD Handbook 4350.3, (Exhibit 2-2).

I certify that _____ has a physical/mental (circle) disability which meets the definition stated above.

I have treated _____ (person with a disability's name) since _____ (date) for a physical/mental (circle) condition. I have evaluated and/or treated _____ (person with a disability's name) _____ (number of) times in the past 12 months.

Important Note: *Revealing a diagnosis puts the person with a disability at risk of additional discrimination.*

I verify that this request is directly related to his/her disability and is necessary to afford him/her the opportunity to access housing, maintain housing, or fully use/enjoy housing. (Necessary indicates necessity as opposed to only a matter of convenience or preference).

I recommend that the request for _____ be approved.

I certify that the information above is true and correct.

Signature: _____

Date: _____

Printed Name: _____

Professional Title: _____

Name of Clinic, Hospital, etc.: _____

Address: _____

Phone Number: _____

Fax Number: _____



**A Qualified Individual can be a doctor or other medical professional, a peer support group, a non-medical service agency, a caseworker, a vocational/rehab specialist, counselor, or a reliable third party who is in a position to know about the individual's disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.*

Beware of Predatory Lending!

What is predatory lending?

A predatory lender pushes unjustifiably expensive refinancing or home equity loans on homeowners. These loans are often to consolidate debts or finance home improvements. Predatory lenders target homeowners with low incomes or poor credit histories. They commonly make contact through telephone calls, door-to-door visits, television advertisements, or sending mail solicitations that include checks for thousands of dollars.

Predatory lenders make promises that seem too good to be true and use high-pressure tactics to convince homeowners to sign up on the spot. In reality, these lenders charge more than what is reasonable, but conceal these costs. Often they intentionally lend more money than the homeowners can afford to pay back. They commonly don't fully disclose the loan terms or will write the terms in a way that ensures they receive an unreasonable amount of profit.

Predatory lenders trick homeowners by luring them into loans when it is impossible for them to keep up with the payments or they may end up paying unnecessary fees and excessive interest charges. This is called "equity stripping". If the homeowner misses payments, they risk losing their homes.

Sometimes predatory lenders work with home improvement contractors to take advantage of homeowners who need to make repairs on their homes or modify their homes to accommodate a disability. The contractor approaches the homeowner and convinces them to take out a loan with the predatory lender to pay for the work. The home improvements can be grossly overpriced and the work shoddy and incomplete.

Why is the Fair Housing Council of Oregon, which deals with illegal housing discrimination, interested in predatory lending?

Unscrupulous predatory lenders frequently target the same individuals who may be victims of illegal housing discrimination practices:

- Elderly/disabled homeowners living on fixed incomes but with substantial equity in their homes

- Minority groups whose access to legitimate sources of loans is disproportionately denied
- Low and moderate income homeowners who have less than perfect credit.

Oregon has seen a dramatic increase in predatory loans over the last ten years since many homeowners have experienced increased property values and are using their equity as a means to borrow money. Predatory lenders have become more sophisticated and more homeowners are falling victim to these loans and facing mortgage foreclosure.

How can you spot a predatory loan?

- **High interest rates** in excess of what is justified by the lender's credit risk; generally rates more than 14%.
- **Monthly payments higher than you can afford to pay**
- **High points and fees.** Avoid paying fees exceeding 3% of the loan. There are all kinds of fees: origination, underwriting, document preparation and commitment fees. They are all lender profit.
- **Unnecessary insurance:** Some lenders will lead you to purchase types insurance such as credit or life insurance. Sometimes they include this in the loan without the borrower's knowledge. This insurance is very expensive and paying it up front requires you to pay interest on it as well.
- **Adding additional products like credit insurance and club memberships.** Purchase these products separately; otherwise the premiums could be excessive.
- **Balloon payments:** Balloon payments are common. They have a lower monthly rate for a limited period of time and require paying a large lump sum or "balloon" payment within a few years. A predatory lender will charge excessive closing costs, and then require the loan be paid off in two to five years. Sometimes the fact that there will be a balloon payment is kept hidden from the borrower.
- **Charging penalties for paying the loan off early or for refinancing. Five years is common for predatory loans.**
- **Unauthorized refinancing of your home**

- **Deed signing:** If you are behind on your mortgage, the lender may offer to help find new financing and ask you to deed over your property to them as a “temporary measure” to prevent foreclosure. Then the promised loan never comes and you no longer own your home!
- **Mandatory arbitration:** If you sign this you will forfeit your right to sue in court if the lender does something you believe is illegal.
- **Bait and switch:** The lender quotes you one interest rate quoted at the beginning of a deal, with a much higher rate at closing
- **Loan flipping:** After you make a few payments on your loan, the predatory lender calls you back to offer you a bigger loan. Each time you do this refinancing, you must then pay high points, fees and a higher interest rate. And if your original loan had a prepayment penalty, you’ll have to pay that also.

How can you avoid getting lured into a predatory loan?

- Think twice before borrowing against your home, especially borrowing more than the value of your home. Some lenders may make loans for more than the home is worth. Ask yourself if you must have this loan. If you’re having money problems, consider all your options before you use your home as collateral. Consider contacting a consumer credit counseling agency. Remember, if you decide to get a home loan and can’t make the payments later, the lender could foreclose and you could lose your home.
- If you do borrow, borrow only the amount you actually need
- Borrow only within your income and budget
- Before you look into borrowing, get the facts about your credit history. Your credit history shows your record of paying back past loans and credit cards. Knowing this will help you know what lenders will find out about you when they check your credit history. It is also important for you to review your credit history because sometimes there are errors, which you will need to correct. There are three companies, which maintain national credit databases and provide information about you to lenders requesting your credit history. You should contact all of them, which is what the lenders will do, because each database does not contain all of the same information about you. They may charge you a small amount for the report.

- **Equifax**, Phone: (800) 685-1111, or www.equifax.com
 - **Experian**, Phone: (866) 397-3742, or www.experian.com
 - **Transunion**, Phone: (800) 916-8800, or www.transunion.com
- Always shop around for a loan. Get at least three written quotes for up-front costs, interest rates, loan terms and monthly payments. Sometimes lenders aren't willing to provide quotes or estimates unless a borrower submits a formal application. Borrowers should ask to get pre-qualified to compare with other lenders without having to commit any funds.
 - Avoid lenders that solicit by telemarketing, television ads, direct mail and door-to-door solicitation. To prevent future telemarketing calls, call 1-888-5OPTOUT.
 - Don't trust loan ads that say: "No credit, no problem" or agencies offering to "fix" bad credit.
 - Shop around for home improvement contractors too. Get several bids from contractors and don't get talked into borrowing more money than you need. Don't let a contractor refer you to a specific lender to pay for their work.
 - Don't just look at the monthly payments on the loan. Consider the duration or term of the loan and the total cost for loan fees.
 - Beware of any loan for more than your house is actually worth. You could potentially lose your home and still owe additional money to the lender (the amount above the value of your home).
 - Remember a low monthly payment isn't always a good deal. Look at the total cost of the loan over the entire repayment period.
 - Read all the documents carefully before you sign. The lender may have changed the numbers or added numbers since you originally talked about the loan.
 - Don't give in to high sales pressure tactics. Remember you don't have to say yes right away.
 - Ask lots of questions

- If you don't understand the loan terms, ask someone you trust to look the loan documents over for you. If you feel uncomfortable or unsure of some issues, consider hiring an attorney for a few hundred dollars to review any papers you've been asked to sign.
- Don't ever sign a partially blank document without all the numbers filled in. Beware of lenders who promise to fill the numbers in later.
- Remember, under the Truth in Lending Act, borrowers can change their mind within three business days of signing a contract when their homes are offered as security. But remember three days go by quickly. It's better to research and be comfortable with all aspects of the loan before you sign. If you do change your mind within the three day period, you must notify the lender in writing that you don't want the loan.
- Make sure any check written for home improvement is written to you and not directly to the contractor. You should not pay the contractor until you are satisfied with the work they have completed
- Consumers should take advantage of free information through organizations like HUD, Fannie Mae, Oregon Housing and Community Services and nonprofit organizations.

What if you think you already took a predatory loan and need help?

Go to the following link for a complete list of HUD approved housing counseling agencies throughout Oregon:

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=OR>

Or call the Oregon Department of Consumer and Business Affairs at 503- 378-4140 in Salem, toll-free at 866-814-9710, or visit their website at www.oregondfcs.org.