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### **What is a Predatory Loan and Predatory Lending?**

Predatory lending is a term commonly used to describe certain unfair and deceptive practices engaged in by unscrupulous merchants in the mortgage lending and consumer finance industries. Although predatory lending can victimize anyone these loans are frequently targeted towards low income, minority and elderly consumers, who they believe have poor credit or little access to traditional lines of credit. The consumers are pressured into accepting high cost loans, usually secured by a mortgage on their home, which provide little or no financial benefit to the consumer.

Consumers victimized by these practices may be entitled to relief under State and Federal law. Our Law firm investigates allegations of predatory lending practices and, if appropriate, will commence litigation to enforce compliance with the law. Some of our clients have been defrauded by mortgage lenders and brokers, and placed in mortgage loans that they cannot afford. Some have paid excessive fees, insurance charges, and closing costs. Many never received proper disclosures regarding the terms of their loan. Unfortunately, some of our clients even faced foreclosure as a result of the predatory lending tactics of the mortgage lender or broker involved in the transaction.

There are Federal and New York State laws available to help consumers who have been pressured into predatory loans. These laws include the Federal Truth and Lending Act, Home Ownership and Equity Protection Act, Equal Credit Opportunity Act, as well as various New York State unfair and deceptive practices laws.

### **Common predatory lending practices:**

**Discrimination:** The lender charges a minority consumer more than a similarly situated non-minority consumer

**Equity Stripping:** The lender makes a loan based upon the equity in the consumer's home, regardless of whether or not the consumer has the ability to make payments.

**Loan Flipping:** A lender refinancing a loan with a long term high cost loan. Each time the lender "flips" the existing loan, the homeowner must pay closing costs and assorted fees.

**Packing:** The consumer receives a loan that contains charges for services the consumer does not request or need. "Packing" most often involves the forced purchase of credit insurance.

**Hiding the Balloon:** The consumer believes they have applied for a low rate loan requiring low monthly payments only to learn at closing that it is a short term balloon loan that the consumer will have to refinance within a few years.

It is difficult to know whether you are in a loan that be considered a predatory loan or even whether you may have some legal relief as a result. Please respond to the following questions with answers "Yes," "NO," or "Do Not Recall" as your responses will help us figure out if you could be in a predatory loan.

- Did your lender or broker pressure you to close fast?
- Did your lender or broker claim they were the only ones able to get your loan closed?
- Have you had difficulty in making the monthly mortgage payments since the time the loan was taken?
- Are your monthly mortgage payments higher than what was promised?
- Is your interest rate higher than what was promised?
- Is your interest rate adjustable despite promises made about the rate being fixed?
- Were the fees or other closing costs paid in connection with the loan too high?
- Did you pay for credit disability/credit life insurance without your knowledge or authorization?
- Did the Title companies charge excessive fees or did they not perform services for the fees charged?
- Do monthly payments include property taxes and insurance if you were promised they would be included?
- Does your loan contain a prepayment penalty if paid off or refinanced early?
- Does the loan contain a balloon payment within a relatively short period of time, for example less than 10 years?
- If the loan was taken out to pay off a prior mortgage loan, are the new payments significantly higher?
- Did the loan pay off all bills or credit card debt as planned if you were told it would do so?
- If you have refinanced several times, did the monthly payments and/or the total amount owed on the home increase?

If you can answer "yes" to one or more of the above questions, then it is possible that you may be in predatory mortgage loan. However, depending on the circumstances, even answering yes to the above questions may not determine whether the loan is predatory. Whether a loan is a predatory loan is something that must be reviewed on a case-by-case basis. Please send this completed questionnaire back to our firm along with ANY and ALL documentation you have on your loan.