

YOUR HOME: HOW TO BUY IT,  
KEEP IT, AND PROTECT IT  
FAIR HOUSING/FAIR LENDING©

West Tennessee Legal Services, Inc.  
in conjunction with  
Center for Economic Education  
University of Memphis  
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BE CAREFUL ON THE FRONT  
END TO ENSURE A  
SUCCESSFUL, HAPPY  
HOMEOWNERSHIP  
EXPERIENCE

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Benefits of Homeownership

- Owners have **greater self-esteem** (Rossi and Weber - 1996)
- Owners are **more involved** in community organizations, voting and other activities (DiPasquale and Glaser - 1997)
- Children of owners are **more likely to buy homes** (Boehm and Schlottmann 1999)
- Low-income homeowners under 65 have a median wealth **12 times** greater than comparable renters (Survey of Consumer Finances)

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### Advantages vs. Disadvantages of Home Ownership

- A place of your own
- Financial incentives
  - Increased Value/Equity
- Scheduled savings
  - Stable housing costs
  - Tax benefits
- High cost of homeownership
- Possibility of foreclosure
- Decreased mobility
- Repairs and maintenance

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### Knowing and Understanding Your Credit

- What is Credit?
  - Trust or confidence in a buyer's ability and intention to fulfill financial obligations.
- How can a budget help improve my credit?
  - Four steps to making a budget.
    1. List your income
    2. List your expenses
    3. Compare income and expenses
    4. Set priorities and make changes so that your income will be greater than your expenses.

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### How to Increase Borrowing Power

- Pull your credit report at least 6 months before you are ready to purchase.
- Reduce your existing long-term debt,
- Wait to apply for a mortgage until your income increases, or
- Find a financing option that results in a lower down payment and lower monthly mortgage payments

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## Individual Credit Reporting Agencies

- Equifax
  - Web: [www.equifax.com](http://www.equifax.com)
  - Phone: (800) 685-1111
- Experian
  - Web: [www.experian.com](http://www.experian.com)
  - (866) 200-6020
- TransUnion
  - Web: [www.transunion.com](http://www.transunion.com)
  - (800) 888-4213

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## What is a FICO\* Score?

- FICO scores are your **credit rating**
- They range from 300-850, **higher is better**
- Most lenders **base approval** on them
- Higher scores mean **lower interest rates**
- The median 2007 FICO score in the U.S. is 673.
- FICO scores are calculated based on your rating in **five general categories**:

\*Fair Isaac Corporation developed the FICO Score.

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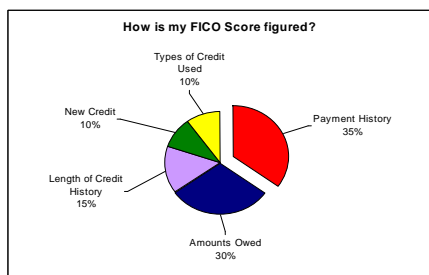
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## How are FICO Scores Figured?



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### What's Considered Bad Credit?

- FICO scores above 700 are very good. Scores below 600 indicate high risk.
  - Public record\* and collection items are considered quite serious, although older items like these will count less than recent ones.
  - Late or missed payments. A 60 day late payment is not as bad as a 90 day late payment. Recent and frequent late payments will hurt your score.
  - Having no late payments doesn't mean a perfect score.
- \* Bankruptcies, repossessions, judgments, charge-offs, etc.

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### How to Boost Your Score

- Keep balances low. High outstanding debt on credit cards or "revolving accounts" can negatively affect your credit score. Nearly "Maxing out" on credit lines can negatively impact your score.
- Pay off debt rather than moving it around can positively affect your credit score. Paying down installment loans is a good sign that you are able and willing to manage and repay debt.

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### How to Boost Your Score

- Don't close unused accounts. Owing the same amount but having fewer open accounts may lower your FICO score. Also, having a very small balance without missing a payment shows that you have managed credit responsibly, and may be slightly better than carrying no balance at all.
- Don't open a number of new credit cards that you don't need. This approach could backfire and actually lower your FICO score.
- How many accounts have balances? A large number can indicate higher risk of over-extension.

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## How to Boost Your Score

- What else will help me take control of my credit?
  - Pay loans first
  - Pay off credit cards every month
  - Remind yourself that credit cards are loans
  - If you feel you can wisely use a credit card, choose one with low interest rate and no (or very low annual fees)
  - Try to pay more than the minimum due each month
  - Use your credit card to establish good credit
  - Look for ways to cut your expenses or increase your income
  - Keep track of bills and past-due notices

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## How to Boost Your Score

- If you have missed payments, get current and stay current. The longer you pay your bills on time, the better your score.
- Paying off a collection account or closing an account on which you previously missed a payment, will not remove it from your credit report.
- If you are having problems paying your debts, call your creditors or a credit counselor to discuss your options
- Stay away from “credit-repair” companies.
- In general, a longer credit history will increase your FICO score.

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## Creating a Credit History

- How can I create a credit history if I don't have one?
  - Keep copies of bills you pay, including your rent, telephone, electricity, cable television, gas, and insurance.
  - Keep copies of the canceled checks used to pay your bills.
  - Ask your landlord, the telephone company, and the utility company to write you a letter.
  - Obtain a “secured” credit card or CD loan.
  - If you are married, make sure some credit accounts are in your own name
  - If you have been managing credit for a short time, don't open a lot of new accounts too rapidly.

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### Shopping for a Home

- There's a home with your name on it.
  - The trick is simply to find it.
- A realtor can help.
- Decide in advance exactly what you want.
  - What neighborhood?
  - Near schools, shopping, your job - what is important?
- Look on weekends AND at night - check for crime, check with the police department

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### Making an Offer

- Before you decide how much to offer-get a professional home inspection.
- How long has the property been on the market?
- An offer can be accepted or rejected.
  - Seller may counter your offer by asking a higher price or by making changes in the sales contract.

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### Terms of the Contract

- Financing Contingency
- Inspection Contingencies
- Professional home inspections
- Environmental hazards to investigate
  - Lead based paint, Asbestos, Formaldehyde, Hazardous wastes sites
- Appraisal Contingency
- Other Provisions
  - Repair work, Personal Property, Closing and occupancy date, Clear Title
- Negotiating the final purchase price

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## Selecting Loans

- Choosing a Mortgage that's right for you.
  - Conventional
  - VA
  - FHA
  - Rural Housing (FmHA)
- Look for state housing finance loan assistance for first-time borrowers

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## If Your Loan Application is Rejected

- Understand why the loan was denied
  - Insufficient funds
  - Insufficient income
  - Too much debt
  - Poor credit rating
  - Low appraisal

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## Closing

- Preparing for closing
  - Setting the closing date
  - Selecting an attorney
  - Meeting conditions of the loan offer
  - Title Search
  - Title Insurance
  - Survey
  - Termite certificate
  - Homeowner's insurance
  - Type of ownership
  - Homeowner's warranty
  - Final walk-through inspection
  - Final estimate of closing costs

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## The Closing Documents

- HUD-1 Settlement Statement
- Truth-in-lending (TIL) statement
- The Note
- The mortgage (Deed of Trust)
- Affidavits
- The Deed
- Allocation of closing costs
- Fees paid to the lender
- Advance payments or prepays

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## What if You Get Behind?

- Don't assume all is lost.
  - Lenders are increasingly willing to help: some options depend upon the type of loan.
  - Loss mitigation
    - Forbearance agreement
    - Moratorium
    - Re-amortization
    - Interest Credit
  - Deed-in-lieu of foreclosure
  - Short sale
- Be as forthright as you can about your situation.
  - The sooner you get help, the better!

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## A STUDY IN PREDATORY LENDING

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## Sub-Prime Lending

- Lending that provides credit to borrowers with past credit problems at a higher cost than conventional mortgage loans.
- Good sub-prime lending is needed for those with impaired credit and can be profitable without engaging in any predatory practices.
- Sub-prime loans are often given to borrowers with good credit. This is an unethical and predatory practice.

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## Predatory Lending

- Targets vulnerable consumers
- Includes excessive fees and charges
- Uses overly aggressive and/or deceitful practices
- No regard for ability to meet obligation
- Potentially strips the equity from borrowers and leads to foreclosure

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## Potential Predatory Victims

- Homeowners with high equity and credit problems who need cash
- Elderly households
- Low-income households
- Minority households
- Households in financial crisis caused by health problems, job loss, death of spouse or major home repairs
- Homeowners who lack financial management skills
- Homeowners with sub-par credit histories

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### Predatory Credit Practices

- Aggressive marketing and solicitations to targeted neighborhoods
- Home improvement scams
- Kickbacks to mortgage brokers (Yield Spread Premiums)
- Racial steering to high rate lenders
- Purposely structuring loan payments the borrower cannot afford

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### Predatory Credit Practices

- Falsification of loan applications (particularly income level)
- Adding insincere co-signers
- Purposely targeting and making loans to mentally incapacitated homeowners, knowing the individual does not understand terms of the loan, because of their disability/ies
- Forging signatures on loan documents (i.e., required disclosures)
- Shifting unsecured debt into mortgages

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### Predatory Credit Practices

- Loans in excess of 100% LTV (Loan to Value)
- Changing loan terms at closing (especially fixed to ARM/adjustable rate mortgage)
- Charging excessive interest, points, and fees
- Repeatedly refinancing a loan without providing any real value to the borrower

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### Predatory Credit Practices: Indicators in the Loan Documents

- High annual interest rates
- High points or padded closing costs
- Balloon payments
- Negative amortization
- Inflated appraisal costs
- Padded recording fees
- Bogus broker fees/no logical explanation and/or duplication of service
- Unbundling (itemizing duplicate services and charging separately for them)
- Required credit insurance
- Falsely identifying loans as lines of credit
- Force placed homeowners insurance
- Mandatory arbitration clauses

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### Predatory Credit Practices: Indicators after Closing

- Flipping (repeatedly refinancing, often after high-pressure sales)
- Daily interest when loan payments are late
- Abusive collection practices
- Excessive prepayment penalties
- Foreclosure abuses
- Failure to report good payment on borrower's credit reports
- Failure to provide accurate loan balance of payoff amount

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### Federal Laws and Regulations Protecting Consumers

- The Truth in Lending Act ("TILA")
- The Home Ownership and Equity Protection Act ("HOEPA")
- Regulation Z (12 C.F.R. §226.1, *et seq.*)
- The Real Estate Settlement Procedures Act ("RESPA")
- Regulation X (Regulation X (24 C.F.R. §3500.1, *et seq.*)
- Credit Repair Organizations Act

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### Federal Laws and Regulations Protecting Consumers

- The Truth in Lending Act (“TILA”) 15 U.S.C.§1601, *et seq.*
- Is a disclosure statute: provides consumers with accurate information concerning the cost of credit: considered here “closed-end credit”
- Disclosure “Federal Box” must be given before consummation
- Disclosure must be given 3 business days after application

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### The Truth in Lending Act (“TILA”) 15 U.S.C.§1638, Reg. Z §226.17 and 226.18

- The information: Closed-end Credit:
  - Amount financed: amount the borrower gets for their own benefit
  - Finance charge: ex: interest, service charges, points or origination fees, and other costs associated with credit
  - APR: Annual Percentage Rate: cost of the credit in a yearly rate

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### The Truth in Lending Act (“TILA”) 15 U.S.C.§1638, Reg. Z §226.17 and 226.18

- The information: Closed-end Credit (cont.):
  - Payment Schedule
  - Total of Payments
  - Security Interests
  - Prepayment/late payment penalties
  - Special Formatting Rules:
    - Clear and conspicuous/reflect legal obligations of parties
    - Segregated from other information
    - In a form the consumer can keep before consumption

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### Federal Laws and Regulations Protecting Consumers

- The Home Ownership and Equity Protection Act (“HOEPA”) 15 U.S.C. §§1639 and 1639a
  - Non-purchase money security interest
  - 3 business days to rescind from latest of
    - Consummation of transaction
    - Delivery of proper notice to rescind
    - Delivery of material disclosures properly made
    - Outside limit: 3 years

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### Federal Laws and Regulations Protecting Consumers

- The Real Estate Settlement Procedures Act (“RESPA”) 12 U.S.C. §2601, *et seq.*
  - 3 business days after application “GFE” Good Faith Estimate:
  - Usually on a HUD-1
  - Itemizes every charge associated with the transaction (ex: points and fees, closing costs, broker’s fees)

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- The Real Estate Settlement Procedures Act (“RESPA”) 12 U.S.C. §2601, *et seq.*
  - Booklet explaining costs
  - At closing, receive HUD-1
  - No remedies, but violation may be a violation of state unfair and deceptive practices act
  - Provides for servicer obligations
    - Must tell borrower about possibility of loan transfer
    - Must tell borrower when transfer is imminent
    - Can use to question account

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• The Real Estate Settlement Procedures Act ("RESPA") 12 U.S.C. §2601, et seq.

- Provides for servicer obligations (cont.)
  - Must tell borrower about possibility of loan transfer
  - Must tell borrower when transfer is imminent
  - Can use to question account
  - Places duty on servicer to property taxes, insurance, other escrowed monies (can provide remedies for violation)

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• The Real Estate Settlement Procedures Act ("RESPA") 12 U.S.C. §2601, et seq.

- Prohibition of fees for preparation of truth-in-lending, uniform settlement, and escrow account statements

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Federal Laws and Regulations Protecting Consumers

• Credit Repair Organizations Act, 15 U.S.C. §1679, et seq.

- To ensure that prospective buyers of the services of credit repair organizations are provided with information necessary to make an informed decision regarding purchase
- To protect the public from unfair or deceptive advertising and business practices

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### Federal Laws and Regulations Protecting Consumers

- Credit Repair Organizations Act, 15 U.S.C. §1679, et seq.
  - Covers any transaction where credit is offered or extended for personal, family, or household purposes
  - Credit repair organization means any person who uses interstate commerce or mails to sell, provide or perform (or present same) any service, in return for payment of money or other valuable consideration for the express or implied purpose of

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### Federal Laws and Regulations Protecting Consumers

- Credit Repair Organizations Act, 15 U.S.C. §1679, et seq.
  - Credit repair organization (definition cont.)
    - Improving consumer's credit record, credit history, or credit rating
    - Providing advice or assistance to consumer with regard to any activity or service above
    - Doesn't include
      - Nonprofit exempt under 501(c)(3)
      - Creditor to whom debt is owed working with consumer
      - Any depository institution or credit union debt

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### Tennessee Laws Protecting Consumers

- Tennessee Consumer Protection Act, T.C.A. §47-18-101, et seq.
- Action on Tort
- Warranties
- Contract cause of action

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### Predatory Lending: A Fair Lending Issue

- The Fair Housing Act calls for equal treatment in terms and conditions of housing opportunities and credit regardless of race, religion, color, national origin, gender, family status, or disability.
- The Equal Credit Opportunity Act required equal treatment in loan terms and availability of credit for all of these categories, as well as age and marital status.

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### Predatory Lending: A Fair Lending Issue

- Targeting minority or elderly households for marketing of higher priced and unequal loan products.
- Treating individuals of protected classes differently than comparably credit-worthy whites in the loan process.
- Policies and practices that have a disparate impact on protected classes.

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### THE FAIR HOUSING ACT: FAIR HOUSING/ FAIR LENDING

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## Historic Perspective

- Nineteenth century
  - Thirteenth Amendment (1865)
  - The Civil Rights Act of 1866
  - Fourteenth Amendment (rat. 1868)
  - The Civil Rights Act of 1871
  - Plessy v. Ferguson (1896)
- Twentieth century
  - Brown v. Board of Education of Topeka (1954) (Race)
  - Executive Order 11062 (1962) (Race)
  - The Civil Rights Act of 1964 (Race, Color, National Origin)
  - Shelley v. Kramer (1948)(Race)
  - Jones v. Alfred H. Mayer Co. (1968)(Race)

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## Fair Housing Act of 1968

"It is the policy of the United States to provide, within Constitutional limitations, for fair housing throughout the United States."

- 42 U.S.C. §3601

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## Markets Covered

- Rental
- Sales
- Lending
- Insurance
- (All Areas Connected With Residential Housing)

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### Fair Housing Act of 1968, and as Amended

The First 5 Protected Classes:

- 1. Race - identification based upon traits
- 2. Color - the color of the individual's skin
- 3. Religion - religious beliefs or practices of the individual
- 4. National Origin - country where individual or ancestors were born
- 5. Sex - gender (Act amended, 1974)

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### Examples of Illegal Conduct:

- "We don't make loans to African-Americans."
- "We don't make loans in that neighborhood."  
(and the neighborhood is predominantly black)
- "Your insurance rates will be higher because you want to live in a black neighborhood."
- "We don't sell to Hispanics."
- "People like you have to live in the back of the condominium complex."

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### Familial Status: What is the Meaning?

- 1 or more persons under 18 living with ~
  - (a) a parent or other person with custody; or
  - (b) a person chosen by the parent or person with custody, with written permission
- Includes a person ~
  - (a) who is pregnant
  - (b) in process of securing legal custody
  - (c) with written consent for minors to reside with that person

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Examples of Illegal Conduct:

- People with children can only live in certain areas.
- “No children allowed.”
- “Only families with young children allowed.”
- “Only families with 1 child allowed.”

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“Handicap Status”: What is the Meaning?

- A physical or mental impairment which substantially limits 1 or more major life activities;
  - A record of an impairment; or
  - Being regarded as having such an impairment (whether a person has an impairment or not)
- Exceptions:
- (a) current, illegal use or addiction to a controlled substance as defined in section 102 of The Controlled Substances Act
  - (b) conduct toward a person solely because a person is a transvestite

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Examples of Illegal Conduct:

- “We don’t sell condos to people in wheelchairs.”
- “We don’t make loans to people with mental disabilities.”
- “You need a handicap condo and we don’t have one.”
- “I think you have HIV infection and AIDS; we don’t sell to people like you.”

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### Examples of Persons Considered to be Persons with Disabilities

1. People suffering from Alzheimer's Syndrome
2. People suffering from senile dementia and organic brain syndrome
3. People limited by mental retardation
4. Elderly people suffering from chronic illnesses
5. People with schizophrenia
6. People diagnosed with HIV infection or other infectious diseases
7. People who are mobility impaired

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### What is a Major Life Activity?

Major life activities include but are not limited to:

1. Caring for one's self
2. Performing manual tasks
3. Walking
4. Seeing
5. Hearing
6. Speaking
7. Breathing
8. Learning
9. Working

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### Covered Dwellings

- Private and Subsidized Property/ies
- Examples:
- Single Family Dwellings
- Duplexes
- Multi-Family Buildings
- Migrant Housing
- Temporary Shelters
- Group Homes
- Assisted Living Housing
- Other Residential Housing: "Where I Live"

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Conduct Prohibited by 42 U.S.C.§3604(a)

- Refusal to sell/rent after making a bona fide offer, refusal to negotiate, or otherwise make unavailable or deny . . . because of race, color, religion, national origin, sex or familial status

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Conduct Prohibited by 42 U.S.C.§3604(a)

- Examples:
  1. Delaying tactics in sale or rental
  2. Creating different harder procedures in the application process
  3. "Grudgingly" making housing available or making people feel unwelcome
  4. "We don't want to lower the price or take a second mortgage." (when the seller would for people of a different race)
  5. "We decided not to sell." (when the house is available for persons of a different race)

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Conduct Prohibited by 42 U.S.C.§3604(b)

- Difference in terms, conditions, privileges of sale or rental of a dwelling or provision of services or facilities . . . because of race, color, religion, national origin, sex, familial status

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Conduct Prohibited by 42 U.S.C. §3604(b)

- Examples: 1. Demanding higher down payments or prices from members of a protected class 2. Applying different terms that are higher to meet for members of a protected class 3. Denying facilities or services to members of a protected class 4. Providing more favorable conditions or terms such as a "special" to members of 1 class but not to their counterpart 5. "You can only have 1 child living with you in a 2 bedroom apartment."

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Horizontal lines for notes.

Conduct Prohibited by 42 U.S.C. §3604(c)

- To make, print, publish, or cause to be made, printed, or published a notice, statement or advertisement . . . that indicates a preference, limitation, or discrimination based on race, color, religion, national origin, sex, familial status, or handicap status

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Horizontal lines for notes.

Conduct Prohibited by 42 U.S.C. §3604(c)

- Examples: 1. Newspaper ads that say "whites only" or "white home" 2. Steering people to an area with statements that encourage 1 area over another based on protected class (usually race, ethnicity or religion) 3. Placing or enforcing restrictive covenant in deeds (usually based upon race or religion) 4. "We will not sell our house to a Hispanic family." 5. "I think your friends have AIDS, so I will not sell to you."

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Horizontal lines for notes.

Conduct Prohibited by 42 U.S.C. §3604(d)

- Representing that a dwelling is not available for inspection, sale, or rental when it is available, because of race, color, religion, national origin, sex, familial status, or handicap status

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Conduct Prohibited by 42 U.S.C. §3604(d)

- Examples:
  1. A Hispanic couple is told that a particular unit is sold. (and discovers several weeks later that the dwelling remains available and was for sale when they inquired)
  2. When the wife, who is white, visited the condo complex, she was told that there were several units for sale. When her husband, who is African-American, later in the day visited the complex with her, they were told that all units were sold, with the agent saying "You must have misunderstood me."

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Conduct Prohibited by 42 U.S.C. §3604(e)

- For profit, inducing or attempting to induce a person to sell or rent a dwelling by representations about entry or possible entry into the neighborhood of members of a protected class

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### Conduct Prohibited by 42 U.S.C. §3604(e)

- Examples:
  1. In order to make money, an agent asks homeowners to let the agent sell their house because African-Americans are moving into the neighborhood and the agent tells the homeowners that property values will decrease because of it.
  2. Placing leaflets around the neighborhood about who (a protected class member) is moving into the neighborhood in order to scare people into selling their dwellings and offering to help them sell their house.  
(usually the agent will also steer the seller into another neighborhood that is of the seller's race)

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### Conduct Prohibited by 42 U.S.C. §3604(f)(1)

- It is unlawful - -
  - (1) To discriminate in the sale or rental, or otherwise make unavailable or deny, a dwelling to a buyer or renter because of a handicap of - -
    - (A) that buyer or renter,
    - (B) a person in or intending to reside in that dwelling after it is sold, rented or made available; or
    - (C) any person associated with that buyer or renter.

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### Conduct Prohibited by 42 U.S.C. §3604(f)(1)

- Examples:
  1. A refusal to sell a house to a person because the individual has AIDS.
  2. A refusal to negotiate the price of a dwelling because the individual is mobility impaired.
  3. "I will not sell a dwelling to you because I think that your friends have AIDS."
  4. The sales office is not accessible for persons who are mobility impaired.

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Conduct Prohibited by 42 U.S.C.§3604(f)(2)

- Difference in terms, conditions, privileges of sale or rental or provision of services or facilities in connection with the dwelling based upon handicap of the individual homeseeker; one residing with the homeseeker; or any person associated with the homeseeker.

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Conduct Prohibited by 42 U.S.C.§3604(f)(2)

- Examples:
  1. Refusing to accept a co-mortgagor on a note because the purchaser has HIV/AIDS, when accepting a co-mortgagor in other instances not involving persons with disabilities
  2. Denying access to the swimming pool to a person who is mobility impaired because of that impairment

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Coverage Specific to Persons with Disabilities:

- Reasonable Modification of Residential Dwellings
- Reasonable Accommodation to Rules, Policies, Practices, Procedures
- Accessibility Guidelines for Covered Multi-Family Dwellings Built for First Occupancy After March 13, 1991

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Conduct Prohibited by 42 U.S.C. §3604(f)(3)(A)

- Refusal to permit, at the expense of the person with a disability reasonable modifications to the dwelling, necessary to afford full use and enjoyment of the premises

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Conduct Prohibited by 42 U.S.C. §3604(f)(3)(A)

- In a rental situation . . .
- Conditions:
  - The landlord may condition modification upon the renter restoring the interior to the condition existing before modification, excepting reasonable wear and tear.
  - The landlord can not condition construction of a ramp on the renter removing the ramp when leaving.
  - The landlord may require the modification be in a workmanlike manner, with any required building permits obtained.

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Conduct Prohibited by 42 U.S.C. §3604(f)(3)(A)

- Conditions:
- In a rental situation . . . those modifications that would assist the next renter need not be restored:
  - Examples:
    - Remove grab bars in bathroom, not studs
    - Doors that were widened need not be restored

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Conduct Prohibited by 42 U.S.C. §3604(f)(3)(A)

- Examples:
  1. Refusal to permit a person who is mobility impaired to build a ramp to the main entrance.
  2. Refusal to permit a person to install studs and grab bars in the bathroom.
  3. Refusal to permit doors to be widened in order for a person in a wheelchair to move through the dwelling.
  4. Refusal to permit removal of cabinets under the sink in the kitchen so that a person in a wheelchair can reach the sink.

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Conduct Prohibited by 42 U.S.C. §3604(f)(3)(B)

- Refusal to make reasonable accommodation in rules, policies, practices, and services, when such may be necessary to afford the individual the equal opportunity to use and enjoy the dwelling.

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Conduct Prohibited by 42 U.S.C. §3604(f)(3)(B)

- Examples:
  1. Refusal to permit a mobility impaired person a designated parking place near their entry when such is necessary due to their disability.
  2. With a no pets policy, refusal to permit a pet to reside with a person with a mental illness when the pet is necessary to their mental well-being.
  3. With a no pets policy, refusal to permit a pet to reside with a person with a physical disability when the pet is necessary to assist the person with such activities as picking up items that have fallen on the floor.
  4. Charging a pet deposit to a person with a sight impairment to have a seeing eye dog reside with them.

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**Conduct Prohibited by 42 U.S.C. §3604(f)(3)(B)**

- An accommodation request must show . . .
  1. The person is a person with a disability.
  2. The accommodation is reasonable by showing
    - It will not require a fundamental alteration in the nature of the program and
    - It will not pose “an undue financial or administrative burden.”
  3. That the request will enhance the person’s enjoyment of the dwelling by ameliorating the manifestations of the person’s disability.

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**Accessibility Requirements: 42 U.S.C. §3604(f)(3)(C)**

- Covered multi-family dwellings for first occupancy after March 13, 1991, with some exceptions, must be designed and constructed so as to be accessible and useable by persons with disabilities both as to the dwellings themselves and the areas set aside for public and common use.

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**Covered Multi-Family Dwellings: Persons with Disabilities**

Design and construction requirements apply to covered multifamily dwellings

- All dwelling units in buildings containing four or more units if the buildings have one or more elevators
- All ground floor dwelling units in other building containing four or more units

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## New Building Requirements

- Accessible Building Entrance on Accessible Route
- Accessible, Usable Public and Common Use Areas
- Usable Doors
- Accessible Route Into and Through Covered Dwelling Unit
- Light Switches, Electrical Outlets
- Reinforced Walls for Grab Bars
- Usable Kitchens and Bathrooms

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## Exceptions under the Act to Conduct Directed Against the Protected Class Handicap Status: Direct Threat

- To health and safety of others
- Result in substantial physical damage to property of others.
- Can not be utilized by a housing provider to presume that a person with a disability in general will pose a greater threat to health and safety of others than persons without disabilities.

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## Inquiry of Disability

- It is unlawful to - -
  - Make inquiry to determine whether those protected under the Act have a disability
  - Inquire as to the nature or severity of a disability

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### Inquiry of Disability

- Inquiry may be made to determine- -
  - Applicant's ability to meet requirements of ownership or tenancy
  - Qualification for dwelling for persons with disabilities or a particular disability
  - Eligibility for a preference for persons with disabilities
  - Current illegal drug use
  - Conviction of the illegal manufacture of a controlled substance

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### Conduct Prohibited by 42 U.S.C. §3605

- Prohibits discriminatory conduct based upon class membership in the making or purchasing of loans; providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling secured by residential real estate; and the selling, brokering, or appraising of real estate.

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### Conduct Prohibited by 42 U.S.C. §3605

- Examples:
  1. Imposing a higher interest rate because of race.
  2. Not making loans to blacks for homes in majority white neighborhoods.
  3. Taking a longer time to process a loan because of the borrower's race.
  4. "Redlining" an area that is predominantly black and refusing to make loans within that area regardless of qualifications for the loan.
  5. "Reverse redlining" an area that is predominantly black in order to offer loans that the lender is aware borrowers will be unable to repay with disadvantageous terms and conditions attached.

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Conduct Prohibited by 42 U.S.C. §3606

- Access to membership in brokerage services relating to the selling or renting of residential dwellings may not be denied or restricted based upon membership in a protected class under the Act.

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Conduct Prohibited by 42 U.S.C. §3606

- Examples:
  1. Specific membership qualifications for real estate associations based upon protected class membership.
  2. Exclusion of protected classes from membership in real estate groups.

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Conduct Prohibited by 42 U.S.C. §3617

- Prohibits threats, interference, coercion, or intimidation with an individual --
  - in the exercise or enjoyment of rights under the Act,
  - for having exercised or enjoyed rights under the Act, or
  - for aiding another to exercise or enjoy rights under the Act.

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### Conduct Prohibited by 42 U.S.C. §3617

- Examples:
  1. Graffiti written on or about the individual's property.
  2. Acts of vandalism or violence against an individual or their home, such as fire bombing or cross burning.
  3. Retaliatory conduct against an agent who will not discriminate against prospective homeseekers because of class membership, at the direction of the employer.

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### Exceptions to Coverage Under the Act

- A single family house sold or rented by the owner
  - Unless the owner has more than 3 at a time
  - There is more than 1 sale within 24 months
  - The owner has an interest in, or there is reserved on the owner's behalf, title to or any right in all or a portion of proceeds from sale or rental of more than 3 single family homes at any time.
  - Without the use of a sales or rental service and without publication of any notice in violation of 42 U.S.C. §3604(c) (the advertisement section of the Act)

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### Exceptions to Coverage Under the Act

- Rooms or units in a dwelling for 4 families with the owner residing in 1 of the units (The Mrs. Murphy exception)
- Dwellings owned/operated for other than commercial purposes by religious organizations, associations, etc., with sales/rental limited to members of the religious organization, if membership in the religion is not restricted by membership in any of the other protected classes

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### Exceptions to Coverage Under the Act

- Occupancy through a private club not open to the public
- Housing constructed through federal subsidy programs when specifically for elderly persons or persons with disabilities
- Housing for elderly persons with all residents 62 or older
- Housing for elderly persons with an 80/20 split, in which 20% must allow families with children and 80% must have at least 1 person 55 or older

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### • Statute of Limitations:

- Federal Act:

- 1 year from date of last act to file a HUD complaint
- 2 years from date of last act to file a lawsuit
- Filing a complaint with HUD stops the running of the time to file a lawsuit under the Federal Act

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### Contact Numbers

HUD  
 Five Points Plaza, 40 Marietta St.  
 16<sup>th</sup> Floor,  
 Atlanta, GA 30303-2806  
 1.800.440.8091

West Tennessee Legal Services, Inc.  
 210 West Main Street  
 Jackson, TN 38301  
 731.426.1309

Tennessee Human Rights  
 Commission  
 710 James Robertson Parkway  
 Andrew Johnson Building,  
 Ground Floor  
 Nashville, TN 37219  
 1.800.251.3589

Tennessee Fair Housing  
 Council  
 107 Music City Circle,  
 Suite 318  
 Nashville, TN 37214  
 615.874.2344

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