PREDATORY LENDING

South Carolina Legal Services
Consumer Law Unit
Types of Predatory Lending

- Mortgage Loans
- Auto Loans
- Education Loans
- Credit Cards, payday loans, finance company loans and such
Predatory Lending

A term for a variety of lending practices that strip wealth or income from borrowers. Predatory loans typically are much more expensive than justified by the risk associated with the loan.

Characteristics are excessive or hidden fees, charges for unnecessary products, high interest rates, terms designed to trap borrowers in debt, fraud and refinances that provide no net benefit to the borrower.
Subprime Loan

A loan that is more expensive than a comparable prime loan. Subprime lending is generally defined as less than “A” (i.e., prime) lending.

This type of lending is designed to provide credit to borrowers with no credit history or past credit problems at a higher cost than conventional “A” mortgage loans. Most of the predatory mortgage lending occurs in the subprime market.
Payday Loans

Aka Deferred presentment, cash advance, deferred deposit, check loan

HOW THEY WORK

Like a treadmill . . .
- Consumer writes a check for amount borrowed, plus a fee that is a % or a dollar amount
- Consumer signs an agreement to debit their bank account automatically
- Interest rates are often 3-500%, some are worse
- Check is held up to a month usually until next payday or receipt of government check
- Consumer redeems check by paying face amount, allows check to be cashed, or pays more fees to extend or roll over the loan
Why Payday Loans are Tempting

Consumer only needs:

- To be employed for some period of time with current job or receive a government check
- Have a checking account
- To show a pay stub and bank account statement

Usually no credit report is required
Payday Loan Abuses

- Cash strapped consumer usually unable to repay the entire loan because paycheck is needed for monthly bills
- Consumers are encouraged to roll over or refinance one payday loan after another
- Rollover of the loan always means more charges and fees as if it’s another loan but you get no more money
- You pay the loan over and over
- You can’t get off the treadmill
Federal and State Laws that apply to Payday Lenders

- Threat of criminal bad check charges is most often just a threat. If they deposit the check because you did not roll over or pay off loan and it is a postdated check, they have taken wrongful action against you.

- Often the payday lender has violated the Truth In Lending Act, the Unfair and Deceptive Acts and Practices Act and other laws and you could/should sue them . . . Not the other way around.

Your legal rights can help you get off the treadmill.
How They Work

- Designed to take advantage of the special treatment given to pawn shop transactions, but the difference is that the title lender is getting a security interest by getting the duplicate key to your car.
- They can just pick up your car and sell it.
- There is no risk to them because they only lend a small % of the value of the car.
This a short-term cash advance against the income tax refund you are expecting. They are offered by:

- Tax Return Preparers
- Used Car Dealers
- Check Cashers
- Other Retail Merchants
How They Make Money
And Lots Of It !!

- The loans are offered at high interest rates, ranging from about 40% to over 700% APR.
- You get your refund money sooner BUT the company is lending you your own refund and making you pay extra for it!
- They are getting quickly repaid with your tax refund
- It only takes 8-15 days to get your refund deposited directly into your bank account if you file electronically yourself.
If you file yourself and wait patiently for the refund money, you don’t have to pay the high interest and other charges that are added on when you do it as a loan.

The amount you borrow is your refund, minus loans fees, tax preparation fees, application and document preparation fees.
The earned income tax credit is a subsidy that the government gives you on your tax refund to augment the income of wage earners at the lowest end of the economic spectrum.
Auto Title Loans

- Like payday loans, car title loans are marketed as small emergency loans, but in reality these loans trap borrowers in another kind of debt treadmill.
- A typical car title loan has a triple-digit annual interest rate, requires repayment within one month, and is made for much less than the value of the car.
- Auto title loans risk your the asset that is most important to the well-being of working families -- their vehicle.
Auto Title Lender May Get Paid More Than You Owe

- When they sell the car they make more money than what you owe
- They often find ways to charge more so they can keep the difference
- Or they sell the car to a separate company (that they own) for only the amount you owe.
- Then their company sells it and keeps the extra value which is . . .

Your equity!! Your money!!
Rent to Own

- The worst example of leases used to hide consumer credit transactions
- Appliance and furniture retailers that arrange lease agreements instead of the usual installment sales contract
- For consumers who cannot buy the goods with cash
Features of Rent To Own

- Include purchase option so goods can be bought at the end of the lease for a small amount
- Short term, so the payments are due weekly or monthly
- “At will” because they do not have to be renewed each week or month
Problems With Rent to Own

- Because they are made like a lease, they do not have to obey the rules like disclosure of interest, etc.
- Made at astronomic and undisclosed interest rates
- If you miss a payment, they can repossess and you lose all the money you paid
Credit Cards and Abuses

- Credit cards have become an increasingly important part of our lives
- Three fourths of households have at least one credit card and over half of those carry the debt from month to month
- Junk fees like late fees and overlimit fees
- High interest rates, deceptive marketing, cut off times for payment posting
- Rising debt leads to families becoming destabilized due to financial pressure
Credit card companies charge so much that they make money many times over.

When the credit card account stops performing, the company will sell it for pennies on the dollar to a debt buyer.

Any money you pay to the debt buyer over that amount goes in their pocket.

The credit card company doesn’t know whether you paid or not.

Often, debt buyers sue you when they don’t even have the right to.
• SOUTH CAROLINA LEGAL SERVICES
  Can evaluate your case and explain your legal rights.
  Can, under many circumstances, represent you in your case.

  For services:
  1-888-346-5592
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  contactus@sclegal.org
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