Enrolled
House Bill 4010

Sponsored by Representatives MEEK, BYNUM, Senator MANNING JR, Representatives HERNANDEZ, PARRISH, POWER, SANCHEZ, Senator FREDERICK; Representatives ALONSO LEON, BARNHART, FAHEY, GREENLICK, HAYDEN, KENY-GUYER, KOTEK, PILUSO, REARDON, SOLLMAN, WITT, Senators DEMBROW, MONNES ANDERSON, STEINER HAYWARD (Presession filed.)

CHAPTER ....

AN ACT

Relating to home ownership; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. **(1) The Task Force on Addressing Racial Disparities in Home Ownership is established.**

(2) The task force consists of 11 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate;

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives; and

(c) The President of the Senate and the Speaker of the House of Representatives shall jointly appoint seven members who represent the following interests:

(A) One member who represents real estate licensees in this state;

(B) One member who represents entities that originate, fund or service mortgage loans;

(C) One member who represents an organization with a particular focus on serving people of color that provides individuals and families counseling, education or the opportunity to purchase affordable housing; and

(D) Four members who represent residents of this state who have suffered historic discrimination or who currently lack opportunities for home ownership because of discrimination or inadequate financial resources. The President and the Speaker shall solicit input as to appropriate members from among affected communities in this state.

(3) The task force shall:

(a) Compile data concerning levels of home ownership among people of color in this state;

(b) Identify barriers to home ownership that people of color in this state face;

(c) Investigate practices and procedures for approving mortgage loans;

(d) Identify any mortgage loan application and approval practices and procedures that deliberately or inadvertently discriminate impermissibly against people of color or that directly or indirectly create or maintain barriers against approving mortgage loans for people of color;

(e) Identify barriers other than access to mortgage loans or other credit that reduce or prevent home ownership among people of color; and

(f) Recommend solutions, including legislation, to modify practices or procedures for mortgage loan applications and approvals to eliminate any impermissible discrimination or barriers and to improve other conditions that reduce or prevent home ownership among people of color in this state.

(4) The task force may consult experts, form subcommittees or advisory committees, conduct field investigations, hearings and other meetings, receive testimony in any form or format, request or require production of documents and other evidence and otherwise take any lawful action to carry out the purposes set forth in subsection (3) of this section.

(5) A majority of the members of the task force constitutes a quorum for the transaction of business.

(6) Official action by the task force requires the approval of a majority of the members of the task force.

(7) The task force shall elect a task force member to serve as chairperson.

(8) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(9) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(10) The task force may adopt rules necessary for the operation of the task force.

(11) The task force shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to an interim committee of the Legislative Assembly related to housing no later than September 15, 2019.

(12) The Legislative Policy and Research Director shall provide staff support to the task force.

(13) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(14) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the task force's duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 2. Section 1 of this 2018 Act is repealed on December 31, 2019.

SECTION 3. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.

Passed by House March 1, 2018

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 2, 2018

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Peter Courtney, President of Senate

Received by Governor:

........................M.,..., 2018

Approved:

........................M.,..., 2018

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Kate Brown, Governor

Filed in Office of Secretary of State:

........................M.,..., 2018

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Dennis Richardson, Secretary of State

Joint Task Force on Racial Disparities in Homeownership - Adopted Common Language*

Term	Definition	Resources / Examples	Source
Adverse impact/ Disparate impact	Refers to practices or policies that appear neutral but have a discriminatory effect on a protected group.	Experiment with failed socialism again: Obama's new housing rules try to accomplish what busing could not	City of Portland Office of Equity and Human Rights (OEHR)
Awareness	Knowledge and understanding that something is happening or exists. Aware of and actively attentive to important facts and issues, especially issues of racial and social justice (also known as woke).	Social Justice: Moving from awareness to action	Webster's
Civil Rights Title VI	Refers to Federal law. No person in the United States, on the grounds of Race, Color, or National Origin, shall be excluded from participation in, denied the benefits of, or subjected to discrimination under any program, service, or activity of a public entity, that receives federal assistance.		
Communities of Color	Is a term used primarily in the United States to describe communities of people who are not identified as White, emphasizing common experiences of racism.		OEHR
Discrimination	Refers to practices or policies that may be considered discriminatory and illegal if they have a disproportionate "adverse impact" on persons in a protected class.		OEHR
Disparate Impacts	Refers to practices or policies that may be considered discriminatory and illegal if they have a disproportionate "adverse impact" on persons in a protected class.		OEHR
Diversity	Includes all the ways in which people differ, and it encompasses all the different characteristics that make one individual or group different from one another.		UC Berkeley Center for Equity, Inclusion and Diversity

**Note: This document may contain some internal inconsistencies. The purpose is to create a shared vocabulary to avoid misunderstandings and to assist in task force communication.*

Term	Definition	Resources / Examples	Source
Ethnicity	An entirely social–political construct, referring to the sharing of a common culture, including shared origin, shared psychological characteristics and attitudes, shared language, religion, and cultural traditions; a cultural identification, which is fluid and may change over time.		*Oxford English Dictionary* Ford & Kelly, *Conceptualizing and Categorizing Race and Ethnicity in Health Services Research*, 40 (5 Pt 2), Health Serv Res (2005)
Equity	When one's identity cannot predict the outcome.		OEHR
Equity Lens	Is a critical thinking approach to undoing institutional and structural racism, which evaluates burdens, benefits, and outcomes to underserved communities.	Racial Equity Resource Guide	OEHR
Explicit Bias	Is the evaluation of one group and its members relative to one another, expressed directly, with full awareness.		OEHR
Implicit Bias	Is the evaluation of one group and its members relative to one another, expressed indirectly, usually without awareness. This operates in one's subconscious.		OEHR
Institutional Racism	Occurs within institutions and systems of power. It is the unfair policies and discriminatory practices of particular institutions (schools, workplaces, etc.)		Race Forward, *Moving the Race Conversation Forward*
Internalized Racism	Lies within individuals. These are our private beliefs, biases, and prejudices on race and ethnicity, influenced by identify, culture, and experience. Internalized racism has negative consequences for people of color as it supports the ideas, beliefs, actions, and behaviors that support racism.		Race Forward, *Moving the Race Conversation Forward.* *Flipping the Script: White Privilege and Community Building*, Donna K. Bivens, pp 43-45, MP Associates, Inc. and Center for Assessment and Policy Development (2005)

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Term	Definition	Resources / Examples	Source
Interpersonal Racism	Occurs between individuals. These are biases that occur when individuals interact with others and their private racial beliefs affect their public interactions.		Race Forward, *Moving the Race Conversation Forward*
Intersectionality	Occurs between individuals. These are biases that occur when individuals interact with others and their private racial beliefs affect their public interactions.		Webster's
Racial Microaggression	Racial microaggressions are brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, de-rogatory, or negative racial slights and insults toward people of color.		Sue et al., *Racial Microaggressions in Everyday Life, Implications for Clinical Practice*, 62(4) Amer. Psych. 271 (2007)
Prejudice (Prejudgment)	A pre-judgment or unjustifiable, and usually negative, attitude of one type of individual or group toward another group and its members. Such negative attitudes are typically based on unsupported generalizations (or stereotypes) that deny the right of individual members of certain groups to be recognized and treated as individuals with individual characteristics.		*Institute for Democratic Renewal and Project Change Anti-Racism Initiative. A Community Builder's Tool Kit. Claremont, Calif.: Claremont Graduate University.*
Privilege	Refers to the *unearned* set of advantages, entitlements, opportunities, and benefits bestowed by the formal and informal institutions of society to all members of a dominant group (e.g. White privilege, male privilege, etc.) at the expense of members of target groups. Privilege is invisible to those who have it and is often believed to be earned by those who have it. Privilege is different than the specific entitlements or advantages that can be earned by anyone regardless of affiliation, for example, by study or work or as a result of certain positions or achievements.	Resource: "White Privilege: Unpacking the Invisible Knapsack," Essay by Peggy McIntosh, Peace and Freedom magazine (1989). Examples of white privilege: The ease of mind of never needing to think about your race in everyday life; not having people make negative assumptions about you because of the color of your skin; having an abundance of clothing and personal products (haircare,	OEHR *Peggy McIntosh, "White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women Studies."*

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Term	Definition	Resources / Examples	Source
		makeup, etc.) that cater to your body type / appearance; having people who look and sound like you predominate in business, government, most high-earning professions, television shows, magazines, books, and other sources of popular culture.	
Race	A non-scientific classification of human beings created by Europeans (Whites) which assigns human worth and social status for the purpose of establishing and maintaining privilege and power.		Adapted from Ronald Chisom and Michael Washington, *Undoing Racism: A Philosophy of International Social Change*
Racial Disparity	A significant difference in conditions between a racial group and the White population that is avoidable and unjust.		OEHR (Office of Equity and Human Rights)
Racial Equity	Race cannot be used to predict life outcomes and the outcomes for all groups are improved.		OEHR (Office of Equity and Human Rights)
Racial Equity Framework	An understanding of the root causes of racial disparities, an analysis of the structures that perpetuate these disparities, and the ability to deploy critical strategies to undoing those structures (i.e. community self-determination, shifting power, etc…) to replace them with structures that produce equitable outcomes.		
Racial Equity Tool	A set of strategies, procedures, and resources designed to integrate explicit consideration of racial equity and that can be implemented and applied throughout organizational policy, procedures, and operations to ensure/drive equitable process, impacts, and outcomes.	Racial Equity Toolkit	OEHR
Structural Racism	Racial bias among institutions and across society		Race Forward, *Moving the Race Conversation Forward*

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Term	Definition	Resources / Examples	Source
Under-served	Refers to people and places that historically and currently have not had equitable resources or access to infrastructure, healthy environments, housing choice, etc. Disparities may be recognized in both services and in outcomes.		OEHR
Race and Ethnicity Category Definitions	**White** – A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. **Black or African American** – A person having origins in any of the Black racial groups of Africa. **American Indian or Alaska Native** – any individual who is (1) an enrolled member (as defined by the Indian tribe or band) of an Indian tribe or band, including those Indian tribe or bands terminated since 1940, and those recognized by the State in which the tribe or band reside; or (2) a descendent in the first or second degree (parent or grandparent) as described in (1); or (3) considered by the Secretary of the Interior to be an Indian for any purpose; or (4) an Eskimo or Aleut or other Alaska Native; or (5) an enrolled citizen of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect October 19, 1994. **Asian** – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.	Research to improve data on race and ethnicity	U.S. Census Bureau Oregon Department of Education American Indian/Alaska Native Working Group

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Term	Definition	Resources / Examples	Source
	Native Hawaiian or Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or Micronesia, Polynesia and Melanesia. **Hispanic or Latino** – A person of Cuban, Mexican, Puerto Rican, South or Central American, or any Spanish culture or origin regardless of race.		

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MEMORANDUM

Prepared for: Task Force on Addressing Racial Disparities in Home Ownership
Date: June 6, 2019 (update)
By: Melissa Leoni, Analyst
Re: Home Ownership Programs

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

The Task Force Co-Chairs have requested background information on existing home ownership programs, including a description of the programs and for whom they are available, to help the Task Force begin to identify gaps.

SUMMARY

The following is the first draft of a compilation of home ownership programs offered by public and private organizations. It is not an exhaustive list of all programs available in Oregon, and is organized by whether it is a national, state, or local program. Many of these programs are designed for first-time homebuyers with low to moderate incomes and often are administered by or partnered with culturally-specific organizations.

SECTION 184 INDIAN HOME LOAN GUARANTEE PROGRAM[1] (NATIONAL)

The Section 184 Indian Home Loan Guarantee Program is a home mortgage product specifically designed for American Indian and Alaska Native families, Alaska villages, tribes, or tribally designated housing entities. Congress established this program in 1992 to facilitate homeownership and increase access to capital in Native American communities.

With Section 184 financing borrowers can purchase a home with a low down payment and flexible underwriting. Section 184 loans can be used, both on and off native lands, for new construction, rehabilitation, purchase of an existing home, or refinance.

The Office of Loan Guarantee within the U.S. Department of Housing and Urban Development's Office of Native American Programs, guarantees the Section 184 home mortgage loans made to Native borrowers. The loan guarantee assures the lender that its investment will be repaid in full in the event of foreclosure.

The borrower applies for the Section 184 loan with a participating lender and works with the tribe and Bureau of Indian Affairs if leasing tribal land. The lender then evaluates the necessary loan documentation and submits the loan for approval to HUD's Office of Loan Guarantee. The loan is limited to single-family housing (1-4 units), and fixed-rate loans for 30 years of less; maximum loan limits vary by county.

American and Alaskan Natives who are members of a federally recognized tribe are eligible. Only one borrower must be a member. Tribally designated housing entities and Indian Housing Authorities are also eligible. Native Hawaiians can access homeownership loans through the Section 184A Program.

[1] Housing and Urban Development. *Section 184 Indian Home Loan Guarantee Program.* https://www.hud.gov/program_offices/public_indian_housing/ih/homeownership/184, visited October 16, 2018.

SINGLE FAMILY HOUSING DIRECT HOME LOANS (NATIONAL)[2]

The U.S. Department of Agriculture Rural Development offers Single Family Direct Home Loans, also known as the Section 502 Direct Loan Program, to assist low- and very-low-income applicants obtain decent, safe, and sanitary housing in eligible rural areas by providing payment assistance to increase an applicant's repayment ability.

Applicants must have an adjusted income that is at or below the applicable low-income limit for the area where they wish to buy a housing and they must demonstrate a willingness and ability to repay the debt.[3] Applicants must meet other criteria and the maximum loan amount is based on repayment ability and the area loan limit for the county in which the property is located.[4] Borrowers must repay all or a portion of the payment subsidy received over the life of the loan when the property is transferred or the borrower is no longer living in the dwelling.

Loans have a fixed interest rate based on current market rates at loan approval or loan closing, whichever is lower and a payback period of up to 33 years (38 years for very low-income applicants who can't afford the 33-year term). No down payment is typically required, although applicants with assets higher than program asset limits may be required to use a portion of those assets.

HABITAT FOR HUMANITY (NATIONAL AND LOCAL)

Habitat for Humanity is a global, nonprofit housing organization with local affiliates to meet the basic human need for safe, decent, responsible, and affordable housing. There are currently 30 Oregon Habitat for Humanity affiliates.[5] Local affiliates work with prospective homeowner (partner) families, with the additional help of community volunteers, to build and rehabilitate houses. These houses are sold to partner families at no profit and are financed with affordable, no-interest loans. Habitat works to carefully select partner families who are not able to qualify for traditional home financing, who would be able to repay the loan, who are willing to become partners in the program, and who need decent housing.

In addition to affordable monthly mortgage payments, each homeowner family invests a minimum of 300-500 hours of their own labor (sweat equity) into building their house and the houses of others. The mortgage payments received by Habitat are then invested into a revolving fund, which is used to build more houses.

Habitat recently began partnering with community-focused banks to provide affordable mortgages to Habitat homebuyers. The funds Habitat receives at closing can then be immediately invested in creating additional homeownership opportunities.

[2] U.S. Department of Agriculture Rural Development (USDA). *Single Family Housing Direct Home Loans.* https://www.rd.usda.gov/programs-services/single-family-housing-direct-home-loans, visited November 20, 2018.

[3] USDA Rural Development. *Rural Development Single Family Housing Direct Loan Program.* https://www.rd.usda.gov/files/RD-DirectLimitMap.pdf, visited November 20, 2018.

[4] USDA Rural Development. *Rural Development Single Family Housing – Area Loan Limits.* https://www.rd.usda.gov/files/RD-SFHAreaLoanLimitMap.pdf, visited November 20, 2018.

[5] Habitat for Humanity of Oregon. *Oregon Habitat Offices*. http://habitatoregon.org/affiliates/, visited October 16, 2018.

OREGON HOUSING AND COMMUNITY SERVICES (STATE)

The Oregon Housing and Community Services (OHCS) Homeownership Section assists very low to moderate income families [at or below 100% Area Median Income (AMI)] by partnering with Homeownership Centers across Oregon. OHCS has the following programs.

Oregon Bond Residential Loan Program[6]

OHCS periodically issues mortgage revenue bonds to fund lower than market interest rate mortgage loans to help Oregon households buy their first home. The Oregon Bond Residential Loan Program provides below-market rates helping eligible families increase their home purchasing power and keep their monthly house payments affordable. The program offers eligible borrowers a choice between closing cost assistance or the best rate. For both loan options, the eligibility and program requirements are the same.

- **Cash Advantage**. Borrowers get a low fixed interest rate on their home loan and closing cost assistance equal to three percent of their loan amount. This assistance helps reduce the total out-of-pocket closing costs needed to purchase the home.
- **Rate Advantage**. Eligible borrowers will get the lowest fixed rate possible to maximize their home purchasing power with an affordable payment.

A qualified homebuyer cannot have an annual gross household income that exceeds program limits by county.[7] To qualify, an applicant must be a first-time homebuyer, which means not having owned and occupied a primary residence at any time during the three-year period prior to the date of signing the mortgage and note. Purchase price limits also exist by county. Certain counties and cities have been designated as “Targeted-Areas” with higher purchase price limits and a waiver of the first-time homebuyer requirement, if the borrower transfers any residential property previously owned prior to program loan closing.[8]

Down Payment Assistance Programs for First Time Homebuyers[9]

Program funds are awarded to qualified Oregon organizations to create, continue, or expand down payment assistance programs. Homebuyers who have completed a homeownership education program may qualify for up to $15,000 for down payment and/or closing costs. This program is funded with the Home Ownership Assistance Program (HOAP) and awarded to Oregon organizations through a competitive application process. HOAP is funded with a percentage of the Document Recording Fees submitted to the State.

[6] Oregon Housing and Community Services. *Buy a Home – Residential Loan Program.* https://www.oregon.gov/ohcs/Pages/oregon-bond-program-low-interest-home-loans.aspx, visited October 18, 2018.
[7] Oregon Housing and Community Services. *Income Limits.* https://www.oregon.gov/ohcs/HD/SFF/forms/oregon_bond_program_income_limits.pdf, visited October 18, 2018.
[8] Oregon Housing and Community Services. *Property Purchase Price Limits.* https://www.oregon.gov/ohcs/HD/SFF/forms/Property-Purchase-Price-Limits.pdf, visited November 20, 2018.
[9] Oregon Housing and Community Services. *Down Payment Assistance Programs for First Time Homebuyers*. https://www.oregon.gov/ohcs/Pages/oregon-bond-program-down-payment-assistance.aspx, visited October 18, 2018.

Local Innovation and Fast Track (LIFT) Homeownership[10]

OHCS was awarded $80 million in Article XI-Q Bonds for the LIFT program, which will be allocated to OHCS through two bond sales (2018 and 2019) and used to support rental housing and homeownership opportunities. One primary goal of the LIFT program is to serve historically underserved communities, including rural communities with fewer than 25,000 people and communities of color. OHCS has currently awarded $6.1 million to homeownership projects to support the development of 84 homes or condos.[11]

Construction Excise Tax[12]

In 2016, the Oregon Legislature approved the use of a Construction Excise Tax (CET) for affordable housing. A local government may now levy a tax of up to one percent of the permit valuation for residential construction permits. CET is an optional affordable housing revenue source decided by local government. The revenue from a residential construction excise tax must go to incentives for developers to create affordable housing (50 percent), affordable housing programs (35 percent), and to OHCS to be used for programs providing down payment assistance (15 percent). OHCS returns the amount collected from a certain jurisdiction to existing homeownership programs for down payment assistance in those communities.

OREGON INDIVIDUAL DEVELOPMENT ACCOUNT INITIATIVE (STATE)

The Oregon Individual Development Account Initiative (IDA)[13] invests in the personal and financial growth of individuals to build strong communities throughout Oregon. The Initiative was created in 1999 by the Oregon State Legislature to bring state agencies, private non-profit and tribal partners, and private contributors together to create opportunity in Oregon. The Oregon Housing and Community Services Department works with Neighborhood Partnerships to manage the Initiative. Neighborhood Partnerships contracts with ten Initiative Partners[14] to work directly with clients in all parts of the state.

Clients save for a defined goal and receive support, training, and coaching from Initiative Partners, such as home buying education or business plan development, as they shift their financial habits. When clients reach their savings goal and meet benchmarks of their savings plan, their savings are matched with Initiative resources to purchase their home, education, small business inventory, or other asset.

Oregon residents twelve years of age and older who have low incomes and modest net worth may be eligible for the program. Residents work with a local partner to define and reach their goals.

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[10] Oregon Housing and Community Services. *Local Innovation and Fast Track Housing Program*. https://www.oregon.gov/ohcs/DO/lift/resources/LIFT%20Summary.pdf, visited October 18, 2018.
[11] Stoenner, Nicole. "Suggested Edits- Home Ownership Programs Memorandum." Email message to Melissa Leoni, November 15, 2018.
[12] Oregon Housing and Community Services. *Residential Construction Excise Tax*. https://www.oregon.gov/ohcs/HD/SFF/forms/07-10-2018-Residential-Construction-Excise-Tax.pdf, visited October 18, 2018.
[13] Oregon IDA Initiative. *About the Oregon IDA Initiative*. https://oregonidainitiative.org/overview/, visited October 16, 2018.
[14] Oregon IDA Initiative. *Oregon IDA Initiative Leaders and Partner Organizations*. https://oregonidainitiative.org/overview/our-ida-partners/, visited October 18, 2018.

The Oregon IDA Initiative is fueled by the contributions of individuals and businesses from all corners of the state, including the Oregon IDA Tax Credit. In 2015, the Tax Credit was renewed until 2022. The renewing legislation (ORS 315.271) also specified a state contribution of $7.5 million. Contributions have a tax credit rate not to exceed 70% and there is a $500,000 limit on tax credits an individual can claim.

HOMEBUYER EDUCATION (STATE AND LOCAL)

Oregon Homeownership Centers across the state provide a variety of pre-purchase homebuyer education, financial coaching, pre-purchase homebuyer counseling, and financial literacy education services. The following is the current list from OHCS:[15]

- ACCESS (www.accesshelps.org)
- African American Alliance for Homeownership (www.aaah.org)
- Community Action Program of East Central Oregon (www.capeco-works.org)
- Community Connection Housing Resource Center (www.ccno.org)
- Community in Action (www.communityinaction.info)
- Hacienda Community Development Corporation (www.haciendacdc.org)
- Housing Authority of Yamhill County (www.hayc.org)
- Klamath & Lake Homeownership Center (www.klcas.org)
- Mid-Columbia Housing Resource Center (Columbia Cascade Housing) (www.MidColumbiaHousingCenter.org)
- Native American Youth & Family Center (NAYA) (www.nayapdx.org)
- Neighborhood Economic Development Corporation (NEDCO) (www.nedcocdc.org)
- NeighborImpact Homeownership Center (www.neighborimpact.org)
- NeighborWorks Umpqua (Umpqua CDC) (http://www.nwumpqua.org)
- Northwest Oregon Regional Housing Center (http://www.cat-team.org)
- Open Door Counseling Center (www.odhw.org)
- Portland Housing Center (www.portlandhousingcenter.org)
- Willamette Neighborhood Housing Services (www.w-nhs.org)

The Task Force heard from representatives from Community Action Program of East Central Oregon, NAYA, NEDCO, NeighborWorks Umpqua, and Portland Housing Center at the November 2019 and January 2019 meetings around the work they do and the barriers to home ownership for Oregon's communities of color.

CITY OF PORTLAND HOUSING BUREAU (LOCAL)

The Portland Housing Bureau (PHB) offers direct assistance to homeowners and funds a variety of other programs administered by local non-profit organizations.

[15] Oregon Housing and Community Services. *Oregon Homeownership Centers.* https://www.oregon.gov/ohcs/HD/SFF/brochures/Oregon-Housing-Centers.pdf, Revised September 26, 2018.

Down Payment Assistance Loan[16]

The Down Payment Assistance Loan (DPAL) is designed with favorable terms to help first-time homebuyers purchase a home in Portland's Interstate Corridor and Lents Town Center Urban Renewal Areas. The Down Payment Assistance Loan is a second mortgage loan funded by the PHB, and it is used in conjunction with a first mortgage loan from a participating lender.

PHB has partnered with Portland Community Reinvestment Initiatives (PCRI) and the Minority Homeownership Assistance Collaborative (MHAC) to identify and select eligible households for the program.

To qualify, an applicant must be a first-time homebuyer (defined as not having owned a home in the past three years), maintain the home as primary residence, have an annual household income at or below 80% of Portland's Area Median Income (AMI 2018), adjusted for family size, complete a homebuyer education course, and meet other certain requirements.

Mortgage Credit Certificate[17]

The PHB partners with local lenders to offer eligible first-time homebuyers a federal tax credit called a Mortgage Credit Certificate (MCC). The MCC is an IRS-approved tax credit which reduces homebuyers' federal income taxes owed for as long as they keep the loan, continuously occupy the home as their principal residence, have a tax liability, and utilize the MCC when they file their taxes.

The tax credit helps homebuyers increase their disposable income and therefore more comfortably afford their monthly house payment. The maximum amount of the MCC tax credit equals 20 percent of the annual mortgage interest paid on the homebuyers' first mortgage loan. For underwriting purposes and depending on the type of loan utilized, the amount of the monthly tax credit can either be added to homebuyers' income or subtracted from their qualifying monthly house payment resulting in increased buying power for homebuyers.

The program has annual borrower and co-borrower income limits ($81,400 for one to two persons and $93,610 for three or more persons) and the borrower must meet mortgage lender's criteria for underwriting, credit, and down payment requirements. Borrowers must occupy the property as a "principal residence" within 60 days of purchasing the home and must complete a homebuyer education course prior to closing. Property must be single-family units, including condos and townhomes, be located within the Portland city limits, and have a maximum purchase price of $454,177.

Portland Home Purchase Assistance Program[18]

The PHB Home Purchase Assistance Program (HPAP) allows approved mortgage lenders the ability to offer home buyers financial assistance that can be used for down payment, closing costs, and prepaid mortgage insurance in exchange for charging an increased interest rate on their 30-year mortgage.

For example, compared to a 4% rate on a standard conventional loan, a homebuyer could accept a 5% rate on a conventional loan and receive $17,460 in assistance on a $300,000

[16] Portland Housing Bureau. *Down Payment Assistance Loan.* https://www.portlandoregon.gov/phb/74634, visited October 16, 2018.

[17] Portland Housing Bureau. *Mortgage Credit Certification*. https://www.portlandoregon.gov/phb/74636, visited October 16, 2018.

[18] Portland Housing Bureau. *Home Purchase Assistance Program.* https://www.portlandoregon.gov/phb/77077, visited October 16, 2018.

purchase. The increase in interest rate would equate to an increase of about $173 per month in the principal and interest portion of their payment. The actual difference in the total monthly payment will depend on the borrower's credit scores, loan type, and mortgage insurance amount. The assistance amount gets wrapped into a silent second mortgage which is forgiven over 10 years. Homebuyers who are under 80% AMI will receive an additional $1,500, and those under 50% AMI an additional $2,500 cash assistance in the form of a grant, without further raising in the interest rate.

The HPAP is for buyers with incomes that exceed the limits of current assistance programs and have limited savings available for the home purchase. It is also for those homeowners who would like to purchase outside of urban renewal areas.

This is a Freddie Mac pilot product only offered to lenders who partner with a Housing Finance Agency (HFA), which is a government authority established to help meet the affordable housing needs of the residents in its jurisdiction.

North/Northeast Neighborhood Housing Strategy[19]
The N/NE Neighborhood Housing Strategy is a City initiative to begin addressing the legacy of displacement in North and Northeast Portland through investments to create new affordable housing, opportunities for first-time homebuyers, and home retention programs for longtime residents of the area. The initiative began in 2014 with the development of a community-driven $20 million housing plan. The City's funding commitment to the N/NE Neighborhood Housing Strategy has since grown to more than $100 million. A central feature of the strategy is the N/NE Preference Policy, which gives priority for the City's affordable housing investments in the Interstate Corridor Urban Renewal Area to current and former residents of the N/NE Portland community.

CLACKAMAS HOMEBUYER ASSISTANCE PROGRAM[20] (LOCAL)

The Clackamas Homebuyer Assistance Program (CHAP) helps first-time homebuyers pay for down payment and reasonable closing costs up to $14,000 maximum (6% of sales price). CHAP loans are zero-percent interest deferred-payment loans, recorded as a second mortgage, due upon sale, transfer of title, change of use or refinance. First-time homebuyers must be low-income, demonstrate a financial need for CHAP assistance, and complete an approved homebuyer education program.

[19] Portland Housing Bureau. *N/NE Neighborhood Housing Strategy*. https://www.portlandoregon.gov/phb/72705, visited October 16, 2018.
[20] Clackamas County. *Clackamas Homebuyer Assistance Program (CHAP)* https://www.clackamas.us/communitydevelopment/homebuyers.html, visited October 16, 2018.

MEMORANDUM

Prepared for:	Task Force on Addressing Racial Disparities in Home Ownership
Date:	June 10, 2019
By:	Melissa Leoni, LPRO Analyst
Re:	Mortgage Lending Background Information

LPRO: LEGISLATIVE POLICY AND RESEARCH OFFICE

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The Task Force on Addressing Racial Disparities has been tasked with investigating the practices and procedures for approving mortgage loans, identifying any discriminatory mortgage loan practices and procedures or barriers that reduce or prevent home ownership for people of color, and recommending solutions to modify practices or procedures for mortgage loan applications and approvals to eliminate discrimination or barriers.

The October 22, 2018 meeting focused on an overview of mortgage lending and its practices and procedures. The following information is compiled from that meeting's presentations and some additional research on fair housing laws, debt-to-income ratio, underwriting standards, and automation.

MORTGAGE LENDING OVERVIEW

Who can get a mortgage loan? The question homebuyers ask most often is, "will I qualify for a mortgage loan?" or "what does it take to qualify for a mortgage?" To answer those questions, the borrower needs to look at themselves through the eyes of a lender. The lender wants to make sure the borrower can afford the home they are buying and that they are likely to repay the loan. The lender also wants to make sure that the house they want buy is worth the price they are paying. That review process is called the 4 C's of lending.

Credit - A borrower's repayment abilities are evaluated by reviewing their previous payment trends. Factors such as payment history, total outstanding debt, revolving credit etc. are evaluated to assign a credit score that reiterates the buyer's payment likelihood. People with higher credit scores are often offered better interest rates than borrowers with lower scores. A loan officer will run a credit check during the initial stages of loan application to identify potential issues that may arise based on the credit report.

Capacity - The analysis conducted to evaluate a borrower's current income against their projected debt is called capacity. This factor determines the borrower's ability to repay the loan. While establishing borrower's capacity, lenders take two calculations into account: Housing Ratio and Debt Ratio. Underwriters review the client's debt-to-income ratio to determine if they can make the payments on a regular basis. Student loans, car loans, and credit cards can impact the loan amount that will be approved. Underwriters also take the stability of the borrower's employment into account and the time they have held their current jobs.

Capital (Cash) - This aspect considers the borrower's assets. Underwriters look at cash in-reserve and cash in-transaction. They also scrutinize bank statements to determine where the closing money will come from. The borrowers may use gifts towards their down payment, if they have a valid paper trail to justify the money. They must also document all the large deposits made into their bank accounts. The loan officer should always be informed about the origin of large sums of money. The underwriter reviews assets to confirm there is money for down payment, loan fees, closing costs, escrow impounds, and reserves for a rainy day and moving expenses.

Collateral - This is also known as home appraisal and takes many factors into account before it attaches a value to the property. Property location, size, condition, rebuilding cost, and cost of other similar homes is taken into consideration. As a lender, the objective is not to foreclose the property, but to have a security that can be used to safeguard the loan should the buyer default on their payments. The buyer may fall in love with that 233-square foot A-frame, but the investor may not be so interested in going into partnership with them on that particular home, regardless of the borrower's credit, capacity, or capital.

The underwriter is required to ensure that the loan application and supporting documentation both meet the requirements of the underlying investor, for example Fannie Mae, Freddie Mac, Veteran's Administration (VA), and Federal Housing Administration (FHA). Each investor has a handbook that is typically over 1,000 pages long, which sets the parameters for the loan and acceptable loan documentation to satisfy investor requirements.

An underwriter is required to apply the 4 C's to the analysist of the application based on the guidelines for the loan type. A loan officer is there to advocate for the borrower and apply their knowledge and skills, working with the applicant(s) to make sure the application is complete and all due diligence has been gathered. If there are unique aspects to the file (4 C's), the loan officer typically works with the applicant to improve those aspects so that homeownership is attainable. The lender, loan officer, processor, and the underwriter all want the same thing as the borrower, which is a home that is sustainable for the borrower.

Debt and Debt-To-Income

The debt-to-income (DTI) ratio is the percentage of income that goes towards paying monthly debts. DTI is used by lenders to determine how much a borrower can afford in monthly mortgage payments. Lenders prefer a borrower with a DTI of 36 percent or less. A DTI of 43 percent is highest ratio a borrower can have and still get a Qualified Mortgage.[1]

Debt counted in the DTI include:

- Auto loans
- Student loans
- Minimum credit card payments

[1] A **Qualified Mortgage** is a category of loans that do not have certain risky features that may contribute to borrower's ability to repay the loan. These include interest-only periods, negative amortization, balloon payments, or terms longer than 30 years. Qualified mortgages also provide lenders with certain legal protections if a borrower fails to repay the loan. Consumer Financial Protection Bureau. *What is a Qualified Mortgage.* https://www.consumerfinance.gov/ask-cfpb/what-is-a-qualified-mortgage-en-1789/, visited November 30, 2018.

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- Child support and alimony[2]
- Any other monthly debt obligations, including personal loans and medical bills with periodic or installment payments
- Rent or mortgage payments (other than the new mortgage)
- Rental property maintenance

Debt does not include current rent or mortgage payments if those will be ended with the new mortgage, or monthly expenses for food, utilities, transportation, health insurance, taxes, or other personal costs.

Certain programs may count debts differently or have special rules for certain debts. For example, in counting student loan debt, Fannie Mae allows documentation to support the use of $0 in the DTI if that is the monthly payment on an income-driven payment plan,[3] while Freddie Mac requires either the use of the amount included on the credit report or 0.5 percent of the original loan balance or outstanding balance, whichever is greater, to account for income-driven payment plans.[4]

UNDERWRITING STANDARDS AND PROCESSES

In underwriting, a loan application moves from the loan processor to the mortgage underwriter to evaluate the applicant's financial profile against the lender's guidelines and loan criteria, and to make the final decision to approve or deny the loan. Mortgage underwriters evaluate the risk in the loan's terms and double-check the loan application and documentation. The underwriting process is similar regardless of lender, but there are variations.

Most lenders comply with the underwriting guidelines of Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae). Compliance with these guidelines allow lenders to sell their loans on the secondary mortgage market to Freddie Mac or Fannie Mae. They in turn resell the loans to investors such as insurance companies and pension funds. Portfolio lenders keep the loans they originate instead of selling them in the secondary mortgage market and may have more flexible underwriting standards.

Under rules adopted by the Consumer Financial Protection Bureau in 2013, all new mortgages must comply with basic requirements to protect consumers from taking on loans that they do not have the financial means to repay. Financial information must be provided and verified, a borrower must have sufficient assets or income to repay the loan, and lenders can't use temporarily low rates to determine the consumer's ability to repay over the long term.[5]

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[2] For Fannie Mae, alimony obligations may be used to reduce the qualifying income by the amount of the alimony obligation instead of including it as a debt in the calculation of the DTI ratio. Fannie Mae. *Selling Guide (October 2, 2018).* https://www.fanniemae.com/content/guide/selling/b3/6/05.html, visited November 30, 2018.

[3] Fannie Mae. *Selling Guide (October 2, 2018).* https://www.fanniemae.com/content/guide/selling/b3/6/05.html, visited November 30, 2018.

[4] Freddie Mac. Guide Bulletin October 18, 2017. http://www.freddiemac.com/singlefamily/guide/bulletins/pdf/bll1723.pdf, visited November 30, 2018.

[5] Consumer Financial Protection Bureau. *Consumer Financial Protection Bureau Issues Rule to Protect Consumers from Irresponsible Mortgage Lending*. https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-issues-rule-to-protect-consumers-from-irresponsible-mortgage-lending/, visited November 19, 2018.

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Automated Underwriting

Automated loan underwriting is software that makes underwriting decisions based on programmed algorithms using factors such as credit score, income, monthly debt payments, and property details. Automated underwriting doesn't completely replace the human evaluation of loan applications; loans that receive pre-approval from automated underwriting software still goes to human underwriters for a final review and approval before closing. There are also certain loan types or programs that require manual underwriting.[6]

Freddie Mac has the Loan Advisor Suite® including the Loan Product Advisor software that gives lenders access to Freddie Mac's credit requirements and can assess loan underwriting risk. It assesses a broad range of mortgage loan products, including fixed-rate mortgages, adjustable rate mortgages, FHA, VA loans, and Freddie Mac Home Possible® mortgages.[7] The software includes data and analytics to automate collateral evaluations, income and asset assessments, and self-employment income calculations.[8]

For Fannie Mae, the Desktop Underwriter® (DU) software is an automated tool that assists lenders in the underwriting of conforming mortgage loans. DU provides lenders with a comprehensive credit risk assessment to determine whether a loan meets Fannie Mae's eligibility requirements. The software can connect with other Fannie Mae systems to validate lender information and assess credit and/or collateral risks.[9] The software generates a findings report, which may include items that need further information or verification by the lender.

Automation and Consumer Impacts

A 2002 article, "Automated Underwriting in Mortgage Lending: Good News for the Underserved?" concluded that automated underwriting predicts default rates more accurately, especially for underserved applicants, and that its greater accuracy results in higher borrower approval rates, including for underserved applicants.[10] An October 2018 study from the University of California, Berkley also found that in the loan approval or rejection process, financial technology (FinTech) companies "seem to do the opposite of discrimination, catering to those discriminated against by face-to-face borrowers."[11]

However, this same study concluded that the lending algorithms in digital mortgages are biased and result in interest rates for Latino- and African-American loan applicants that are six to nine basis points higher than white applicants with the same FICO score and loan-to-value ratio. The study's authors attribute this to the profit incentives for mortgage brokers to put borrowers in a more expensive loan. By incorporating data that correlate with consumer

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[6] Brian Martucci Mortgage Lending. Automated Underwriting Versus Human Underwriting. https://www.getloans.com/blog/automated-underwriting-versus-human-underwriting/, visited November 19, 2018.

[7] Home Possible® mortgage is a low down payment mortgage option for first-time homebuyers and low- and moderate-income borrowers with flexibility and options to meet various needs. Freddie Mac Home Possible® Mortgages Factsheet, October 29, 2018. http://www.freddiemac.com/singlefamily/factsheets/sell/pdf/home_possible_factsheet.pdf, visited November 19, 2018.

[8] Freddie Mac. *Loan Product Advisor, Enhanced Underwriting Workflow.* http://www.freddiemac.com/loanadvisorsuite/loanproductadvisor/, visited November 19, 2018.

[9] Fannie Mae. Desktop Underwriter Factsheet. https://www.fanniemae.com/content/fact_sheet/du-overview.pdf, visited Nov. 19, 2018.

[10] Susan Wharton Gates, Vanessa Gail Perry, and Peter M. Zorn. Automated Underwriting in Mortgage Lending: Good News for the Underserved? Housing Policy Debate. Volume 13, Issue 2. 2002.

[11] Robert Bartlettt, Adair Morse, Richard Stanton, and Nancy Wallace. "Consumer-Lending Discrimination in the Era of FinTech." https://faculty.haas.berkeley.edu/morse/research/papers/discrim.pdf. Page 3. October 2018.

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tendency to shop around for rates, online lenders can offer higher-priced loans to the least price-sensitive people.[12]

FEDERAL FAIR LENDING LAWS

Equal Credit Opportunity Act

The Equal Credit Opportunity Act (ECOA) makes it unlawful for any creditor to discriminate against any applicant with respect to any aspect of a credit transaction on the basis of:

- Race;
- Color;
- Religion;
- National Origin;
- Sex;
- Marital Status;
- Age (provided the applicant has the capacity to contract);
- Because all or part of the applicant's income derives from any public assistance program; or
- Because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

ECOA, which is implemented by the Consumer Financial Protection Bureau's Regulation B, requires financial institutions and other institutions engaged in the extension of credit to make credit equally available to all creditworthy customers.

Fair Housing Act

The Fair Housing Act (FHAct), which is implemented by federal Housing and Urban Development (HUD) regulations, prohibits discrimination in any aspect of residential real estate -related transactions, including but not limited to:

- Making loans to buy, build, repair or improve a dwelling;
- Purchasing real estate loans;
- Selling, brokering or appraising residential real estate; and
- Selling or renting a dwelling.

The FHAct prohibits discrimination based on:

- Race or color;
- National origin;
- Religion;
- Sex;
- Familial status (defined as children under the age of 18 living with a parent or legal custodian, pregnant women, and people securing custody of children under 18); or
- Handicap

[12] American Banker. Weren't algorithms supposed to make digital mortgages colorblind?" https://www.americanbanker.com/news/werent-algorithms-supposed-to-make-digital-mortgages-colorblind, visited Nov. 28, 2018.

Truth in Lending Act and Real Estate Settlement Procedures Act

The Truth in Lending Act (TILA) requires creditors to disclose credit terms in a disclosure statement, including loan amount, annual percentage rate, finance charges, payment schedule, and total repayment amount. The Real Estate Settlement Procedures Act of 1974 (RESPA) requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. RESPA also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) directed the Consumer Financial Protection Bureau (CFPB) to integrate the mortgage loan disclosures under TILA and RESPA into two disclosures: Loan Estimate and Closing Disclosure.

Discrimination in Mortgage Lending[13]

Because both the FHAct and the ECOA apply to mortgage lending, lenders may not discriminate in mortgage lending based on any of the prohibited factors. In addition, with respect to residential real estate-related lending, under both laws, a lender may not, on the basis of a prohibited factor:

- Fail to provide information or services relating to, or provide different information or services relating to, any aspect of the lending process, including credit availability, application procedures and lending standards;
- Discourage or selectively encourage applicants with respect to inquiries about or applications for credit;
- Refuse to extend credit, or use different standards in determining whether to extend credit;
- Vary the terms of credit offered, including the amount, interest rate, duration, and type of loan;
- Use different standards to evaluate collateral;
- Treat borrowers differently when servicing loans or invoking default remedies; or
- Use different standards for pooling or packaging a loan in the secondary market based on a prohibited factor.

A lender may not express, orally or in writing, a preference that is based on a prohibited factor or indicate that it will treat applicants differently based on a prohibited factor. Moreover, a lender may not discriminate on a prohibited basis because of the characteristics of:

- An applicant, prospective applicant, or borrower;
- A person associated with an applicant, prospective applicant, or borrower (for example, a co-applicant, spouse, business partner, or live-in aide); or
- The present or prospective occupants of either the property to be financed or the neighborhood or other area in which the property to be financed is located.

[13] Federal Deposit Insurance Corporation. Consumer Compliance Examination Manual, Section IV. Fair Lending. https://www.fdic.gov/regulations/compliance/manual/4/iv-1.1.pdf, visited June 10, 2019.

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Fair Housing Examinations and Violations
The courts have recognized three methods of proof of lending discrimination under the ECOA and the FHAct:

- Overt evidence of disparate treatment;
- Comparative evidence of disparate treatment; and
- Evidence of disparate impact.

Common fair lending violations are:

- Underwriting and pricing;
- Steering (marketing practices); and
- Redlining (unequal access to credit or unequal terms for credit based on location where applicant resides) More common now is lenders fail to market their products to all communities within their market area.

The Federal Deposit Insurance Corporation (FDIC) does examinations of banks and credit unions for safety and soundness and for compliance with federal fair lending laws and regulations, federal consumer protection laws, and the Community Reinvestment Act.[14] The FDIC conducts three types of supervisory activities to review an institution's compliance management system: compliance examinations, visitations, and investigations.

Compliance examinations are the primary means the FDIC uses to determine whether a financial institution is meeting its responsibility to comply with the requirements and proscriptions of federal consumer protection laws and regulations. Compliance examinations include analyzing Home Mortgage Disclosure Act (HMDA) data for disparities, examining policies and procedures, conducting transaction testing, and investigating consumer complaints.

Terms and Definitions
An ***applicant*** is any person who requests or who has received extension of credit from a creditor and includes any person who is or may become contractually liable regarding an extension of credit.

An ***application*** is an oral or written request for an extension of credit made in accordance with procedures used by a creditor for the type of requested.

A ***creditor*** is a person who, in the ordinary course of business, regularly participates in the credit decision, including setting the terms of the credit. This includes a creditor's assignee, transferee, or subrogee who so participates. For purposes of discrimination or discouragement, the term creditor also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made.

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[14] Federal Deposit Insurance Corporation. Consumer Compliance Examination Manual. Index page. https://www.fdic.gov/regulations/compliance/manual/index.html, visited June 10, 2019.

Extension of credit means the granting of credit in any form including, but not limited to, credit granted in addition to any existing credit, the refinancing or other renewal of credit, or the continuance of existing credit without any special effort to collect at or after maturity.

Disparate treatment occurs when a lender treats an applicant differently based on any prohibited factor. A difference in treatment (i.e. different pricing or conditions) that has no credible non-discriminatory explanation is considered an act of intentional discrimination, even if the difference in treatment was not motivated by a conscious intent to discriminate.

Disparate impact occurs when a lender applies a neutral, non-discriminatory policy equally to all applicants, but the policy still has an adverse impact on applicants of a prohibited basis group.

Overt discrimination exists when a lender openly discriminates against an applicant on a prohibited basis. This includes instances where a lender expresses any type of discriminatory preference, even if the lender does not act on that preference.

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