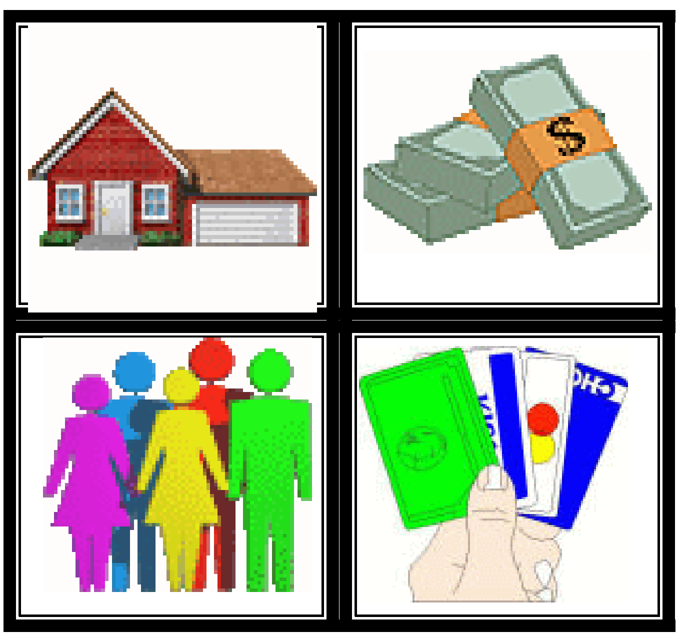
State of New York
Office of the Attorney General

Economic Empowerment

What you need to know about
Home Ownership, Access to Credit
and Protecting Your Investment



Eric T. Schneiderman
Attorney General
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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
Attorney General

THE CAPITOL
ALBANY, NEW YORK 12224

Dear New Yorker:

As Attorney General, one of my most important responsibilities is to safeguard the consumer and civil rights of all New Yorkers. One way I seek to achieve this goal is through the enforcement of laws that prohibit fraudulent and predatory practices. My office has fought against predatory lending and other fraudulent activities that seek to lure unsuspecting consumers into lending agreements with onerous terms and conditions that eat up the equity in their homes. These scams often cause irreparable damage that turn the dream of home ownership into a nightmare. Often, such consumers end up losing their homes in foreclosure proceedings.

This brochure provides basic information to potential homeowners about the home buying process, the importance of achieving and maintaining good credit, and how to protect themselves from unscrupulous entities. It is my hope that his information will help individuals make more informed decisions.

Sincerely,

ERIC T. SCHNEIDERMAN

<u>**The Process of Buying a Home**</u>

What is important about Home Ownership?

Owning one's home is an important key to building wealth. Historically the opportunity to own a home was denied to people because of such characteristics as race, national origin, gender, and familial status.

Many years ago, people often were denied credit and given little or no information about home buying opportunities.

There are laws that protect an individual's right to own a home

Federal and State Civil Rights laws make it illegal to discriminate in the sale or rental of housing. A person or company may not:

- Refuse to sell or negotiate
- Impose different terms and conditions
- Make false representations about availability
- Intimidate or attempt to persuade owners against selling
- Deny access to services (realtor, multiple listing services)
- Otherwise make housing unavailable
- Refuse to extend credit
- Refuse to provide information regarding loans
- Impose different terms or conditions on loans
- Discriminate in appraisal (value of property)

Federal and State Fair Housing Laws apply to:

- Real Estate Brokers, Salespersons
- Owners, Lessees, Sub-lessees, Assignees
- Employees/Agents of businesses providing housing accommodations

Home ownership provides financial benefits

Home Ownership provides benefits that can enhance your financial outlook:

- Tax Benefits
  Home owners can deduct interest payments on mortgages, thereby decreasing their tax obligations.

- Equity
  Equity is the difference between the value of a home and the amount owed on the mortgage. As the value of a home increases, a home owner's wealth increases.

- Beneficial Asset
  A home can be used to build wealth for yourself or your heirs. The equity can be used to cover expenses in an emergency or to finance education.

Example A

If Sean buys a home for $200,000 in 2004, and its value increases to $250,000 in 2006, he has increased his wealth by at least $50,000 in just 2 years.

Example B

If Tracy buys a 2-family home and lives on one side and rents out the other side for $1500 per month, he has increased his income by $18,000 per year. This income could be used to pay the mortgage, making Tracy's monthly payment much lower.

Caution!!!! **Beware of buying property unless you can afford the monthly payment. If you count on the rental income to pay the mortgage, and the renter fails to pay, you could lose the property if you cannot otherwise meet your monthly obligations.**

Buying a home typically involves the following steps:

- Finding a Home

  A person can find homes for sale in a number of different places: The real estate section in the newspaper, on the internet, "for sale" signs posted on property, and through a realtor. A realtor is responsible for showing the property, conveying the buyer's offer to the seller, and sometimes setting up the closing. The realtor generally operates on behalf of the seller, but you could pay a realtor to act as a buyer's agent.

- Negotiating the Price

  Buyer's Offer: A buyer must first make an "offer" of a purchase price for a home. You should only offer what you can afford. If you have access to a computer, you can find a mortgage calculator on the internet to help you compute potential monthly payments.

  The offer can be the posted asking price, or a lower or higher amount. One way to determine an appropriate offer is to research comparable sales in the area.

  The buyer should make sure to ask for everything that he/she wants (including appliances, curtains, window treatments). The seller reserves the right to decline.

  Seller's response: The seller can accept or reject any offer, or can counter-offer.

- Signing a Contract of Sale

  Once the buyer and seller agree to a price they must sign a contract that outlines the terms and conditions of the agreement. The buyer must also put down a deposit that will likely be held in escrow until financing and a closing can be arranged. Buyers should make sure that the contract includes a provision that the sale is contingent on the buyer obtaining financing, otherwise the buyer could lose their deposit if they don't follow through with the sale because they are unable to get a loan. It is also possible to include a satisfactory home inspection by a licensed inspector as a contingency.

- <u>Applying for Credit</u>

  - **Gather the relevant supporting documentation**
    Creditors usually require borrowers to submit information about their income and assets as part of the application process. Borrowers should expect to provide copies of their W-2's, tax returns, and information about their assets and liabilities (bank account statements, credit card information, student loans, car loans, other mortgages).

  - **Know the conditions of your approval letter**
    Once a creditor has approved your application, they typically issue an approval letter outlining the terms and conditions. The letter may also require the borrower to close by a certain date.

  - **Shop around for the most competitive rates**
    It is generally better to shop around for different loan products and to find out the lowest rates. Fixed mortgages offer consistency in monthly payments. Adjustable Rate Mortgages sometimes offer lower interest rates at the beginning, but they change over time so your monthly payment could go up.

  - **Buyers should consider getting a pre-approval for a loan even before searching for a home**
    A buyer with a pre-approval for a mortgage often is in a better negotiating position than someone without a pre-approval.

- <u>Appraisal</u>

  The appraisal determines the value of the home.

  - **Usually done by lender but paid for by borrower**
    The lender usually hires an appraiser to verify the value of the home. The borrower, however, should expect to pay the cost of the appraisal as part of the closing costs (appraisals usually cost between $250 and $400 depending on the size of the home).

  - **May want to consider hiring a second appraiser to validate the home's value**

    Borrowers may want to consider hiring an independent appraiser to confirm the value of the home. Although this would be a duplicative expense, considering the growing number of complaints about appraisal fraud, the extra expense may be well worth it.

  - **Borrowers are entitled to a copy of the appraisal report, and can request a copy from the lender**

- <u>Home Inspection</u>

  Having the prospective home inspected is optional, which means that the buyer can decide whether or not to inspect a home before purchasing. A home inspection can reveal whether there are major defects in the home (such as problems with the foundation or roof) that would require significant expense to repair. Buyers should seriously consider exercising their right to inspect so they don't unknowingly end up with a home that requires significant repairs. Buyers should not, however, expect the inspector to negotiate the cost of a home.

- <u>Closing</u>

  A closing is the event during which title to the property is transferred from the seller to the buyer. In addition to the cost of the property, there are transfer taxes and closing fees that must be paid at the closing. Buyers should obtain a Good Faith Estimate from the lender to get an idea of what additional money may be needed at closing.

Some important definitions to know before starting the home buying process

- Principal: The amount of money on which interest is paid.

- Interest: Money paid to a lender for the use of its money.

- Equity: The difference between the value of a home and the amount owed on the mortgage

- Contract: A signed agreement between two parties, e.g., buyer and seller.

- Credit: Access to money that must be paid back at a later date, usually with interest

Frequently Asked Questions (FAQ's) about the process

- Question: If the lender has a lawyer, should I get my own?

  Answer: YES. The lawyer for the lender will represent the lender's interests. If you want a lawyer to represent your interestes, then you must retain one.

- Question: What should I do if the interest rate and fees are substantially different from what I was promised?

  Answer: WALK AWAY. If the numbers on the closing documents are substantially different, you don't have to sign the papers; postpone the closing and document the information in a letter. Then get legal advice.

Remember:	***The law assumes that you have read and understood information contained in documents you sign.***

How Much Money Will I Need?

A buyer will need enough money to cover the down payment and the closing costs.

- <u>Down payment</u>

  Most lenders require between 3 and 20% of the amount financed to cover the down payment for a loan. Some special "First Time Home-buyer" programs may require less.

  The lender may want to confirm the availability and source of the money used for the down payment (if any includes a gift from family or friends, the buyer may have to provide proof in the form of a letter or other certification).

- PMI (Private Mortgage Insurance)

  If a buyer puts in less than 20% as a down payment, the lender will require the buyer to pay for an extra form of insurance called "Private Mortgage Insurance" (PMI). (Note: Other forms of credit insurance are generally not required. If offered other types of credit insurance (not to be confused with home owners' or hazard insurance) ask questions about costs, coverage and circumstances to determine whether it makes sense for your circumstances. You will, however, be required to purchase home owner's or hazard insurance.

- Closing Costs

  Closing costs include extra costs associated with transferring the property from one person to another. They often include transfer taxes imposed by the State, County or City; money to cover a portion of the remaining monthly utility bills on the home; costs associated with drafting and filing the necessary papers such as the mortgage and deed; and attorney's fees.

  Buyers should find out if they qualify for any special programs with low or zero closing costs.

Determining whether the monthly payment will be affordable

The monthly payment usually includes the mortgage payment to the lender, a portion of the yearly taxes, and home owner's insurance (hazard insurance). If the buyer puts down less than 20%, PMI is also included with this payment. Buyers should inspect the closing documents before signing to determine whether the taxes and home insurance are included in the monthly payment; if they are not included with the monthly mortgage statement, then the buyer will have to pay those costs (often several thousand dollars annually) separately.

Credit Overview

What you need to Know About Credit ?

- Creditors or Lenders are people or businesses that loan money and ask for repayment with interest. (Examples: Banks, Credit Card Companies, Auto Financiers, Retail Credit Card Suppliers)

- Credit is an important tool for those who learn to use it wisely. It allows for necessary purchases to be made while paying for them over time. It is also a big responsibility. If not used appropriately, consumers may experience financial hardship and face substantial barriers to obtaining future credit.

- Don’t Borrow More than you can afford to pay back.

- There are 2 types of credit, secured and unsecured.

    - Secured Loans
      A secured loan is secured by a piece of property such as a house, a car, or a bank account. If a secured loan is not repaid, the creditor or lender can take the property as a means of repayment.

    - Unsecured Loans
      An unsecured loan is not secured by property or collateral (example, credit cards). A creditor or lender cannot take your property if you miss a payment, but can report you to the credit bureaus and negatively affect your credit score.

When credit may be necessary

- Emergencies

- To purchase important items such as a home, a car or appliances

When credit may not be appropriate

- For unnecessary luxury items that otherwise are unaffordable

- When spending so much to pay credit cards that it wastes the opportunity to save money for other things

- When credit cards or account numbers could be stolen and used by others

Questions to ask yourself before getting credit

- Is this a necessity or a luxury item?
- Do I really need this item or service?
- Can I pay the debt without hurting my cash flow?
- Do I understand the terms, conditions and obligations of the debt?
- Do I realize that this would cost less if I paid cash?
- Have I thought through the consequences of making this purchase?

What is a Credit Score/Credit Rating?

A credit score informs potential lenders about the credit worthiness of a potential borrower. It helps potential lenders decide how risky it is to lend money to someone.

How is a Credit Score Calculated?

Credit Bureaus look at a number of factors - typically, the consumer's history of timely meeting financial obligations, including credit card bills, mortgages and student loans. They award points to those who are most likely to repay a debt.

Why is a Credit Score/Rating Important?

The higher the score/rating, the easier it is for a lender to loan money because they have a strong reason to believe that the monthly payments will be made, and that they will get their money back in a timely fashion

A Good Credit Rating allows a borrower to pay lower interest rates (i.e., pay less over time), and to more easily access credit when the borrower needs it.

How does a credit score affect buying power?

A good credit score can provide greater purchasing options and lower interest rates and fees.

Example: $100,000 loan at 10% fixed interest rate will cost a borrower approximately $880 per month, and $215, 930 in interest over the life of a 30-year loan

$100,000 loan at 5% fixed interest will cost a borrower approximately $537 per month, and $93, 257 in interest over the life of a 30-year loan

Difference of $122, 673

What is the Advantage of Prime Credit?

Prime Credit is another way to say that someone has a high credit score. People with prime credit pay lower interest rates and are eligible for loans from prime banks.

Prime banks are less likely to engage in fraudulent lending or other unscrupulous practices.

What is the Disadvantage of Sub-prime Credit?

People with sub-prime credit, or a lower credit score will likely pay higher interest rates for their loans, higher fees, and may not qualify for loans from prime banks.

What's in a Credit Score?

A Credit Score includes the name of creditor, the type of account, the terms of the credit, the amount of original debt or credit limit, and whether any payments were made late.

Negative information can stay on a credit report for up to 2 years, and longer for bankruptcies and foreclosures.

What things can affect your credit?

Credit can be affected by many different factors. Here are a few:

- Too Many Open Accounts
- Late Payments
- Failure to Pay
- Collection Actions
- Recent Applications for New Credit
- Outstanding Debt
- Length of Existing Accounts
- No Credit

How does the number of open accounts affect your credit?

One of the biggest mistakes borrowers make is opening too many credit accounts. It is becoming increasingly popular for stores to offer credit lines for everything from buying books to buying records to buying underclothes. Buyers are offered special discounts and giveaways in exchange for opening an account on the spot. Employees are offered incentives to encourage shoppers to open a credit line.

But, buyers should beware. Even if you pay on time every month and keep your balance low, your credit score is affected by your allowable limit and the number of accounts you have.

If I pay my bills every month, but regularly pay them late, does that affect my credit?

Even if you ultimately pay your bills, paying late can send a message that you are overextended or cannot manage your money. Anyone who cannot manage their credit will likely be deemed a credit risk by potential lenders.

Failure to Pay can send a message that you are overextended or irresponsible.

Collection Actions can send a message that you are not credit worthy because you do not pay your debts.

How does high outstanding debt affect my credit?

Having high balances of credit can send a message that you cannot manage your money. Such things as having numerous unsecured credit cards, excessively high car payments, and even excessively high cell phone bills can be viewed as poor financial management.

Is it necessary to have credit?

It is important to establish some credit to prove that you are credit worthy. Someone who has never proven that they can pay back a small loan may not be a good candidate for additional credit. It is just as important to open a savings account in a bank, rather than save your cash at home.

Paying Just the Minimum will not get debt paid off quickly

Many people believe that the minimum monthly payments charged by the credit card companies are designed to get the balance paid off in a timely fashion. On the contrary, minimum payments merely stretch out the interest payments so that the credit card company makes more money.

Example A: If Eve charges $10,000 on her credit card and pays the minimum (1.5%) at an interest rate of 12%, she will not finish paying her debt for 651 months (54 years). The monthly payment starts at $150.00 and then decreases by 75 cents per month ($149.25; $148.50; $147.75, etc.)

Example B: If Eve charges $10,000 on her credit card and pays a fixed payment of $150.00 each month at an interest rate of 12%, she will finish paying her debt in 111 months (9 years)

Cars and Credit

Although credit provides an important opportunity to purchase a vehicle that may be a necessary expense, buyers should choose wisely. Unlike homes that typically go up in value, cars depreciate (lose their value) as soon as a buyer drives it off the lot. That means that a car is not worth what you pay for it by the time you get it home. Consequently, it is important to make responsible choices.

- Don’t be fooled into buying more than you need
- Select a car that is reasonably priced, rather than overly expensive, especially if you do not yet own a home
- Research car costs to make a competitive bid (typically dealers will sell a car for less than the sticker price).
- Negotiate the price of the vehicle, rather than a monthly payment
- Consider having quotes from other lending sources to compare with the dealer’s financing offer (having such quotes in hand can also help with negotiating a lower price)
- Beware of extra fees and financing options that simply serve to cost the purchaser more money (it is not uncommon for dealerships to add extra points to the financing rates).
- Try to negotiate a lower rate by shopping around and quoting the offers you have received.

How to protect your credit report

- Pull your report (free if you have been denied credit)
- Contact the 3 major Credit Bureaus to dispute inaccurate information:

  Equifax: (800) 685-1111; www.equifax.com
  Experian: (888) 397-3742; www.experian.com
  Trans Union: (800) 916-8800; www.transunion.com

Protecting Your Investment
Avoiding Predators and the Scams

Homeowners are prime targets for many scam artists. Understanding the home ownership and refinancing process can help home owners know when an offer is too good to be true.

Common targets

- Predators often target low income areas, seniors and communities of color with "opportunities" that often turn out to be scams. Predators often focus on people who they perceive to be unsophisticated consumers.
- Predators prey on people who have equity in their homes.
- Home buying scams target those people with good credit who can qualify for large loans where predators can skim higher fees out of the proceeds of the loan.

Common practices to beware of

- <u>Mortgage Refinancings</u>
  Beware of refinancing scams, particularly if you are in default and facing foreclosure proceedings. These scams operate in numerous ways to waste the home's equity with high fees and charges for unnecessary items.
- <u>Home Improvement Scams</u>
  Home improvement needs often push homeowners into desperate situations to make home repairs. There are many options, including home equity lines of credit that can be researched before resorting to refinancing the entire mortgage. If refinancing is the best alternative, homeowners should be aware of the fees and the terms and conditions of the new loan to avoid getting into a worse situation.
- <u>One Stop Shops</u>
  Some scams involve convincing a home buyer to get all their home buying needs met in one location. Mortgage brokers, appraisers and even lawyers work together, but often not in the best interest of the buyer. Make sure to research other professionals and compare.
- <u>Foreclosure Prevention Specialists</u>
  Many predators attempt to con homeowners into believing they can help them get out of foreclosure. In the end homeowners often lose more equity to excess fees, are unable to afford their mortgage payments, and lose their homes to foreclosure anyway.

- <u>Straw-buyer scams</u>
  Recent scams involve brokers or foreclosure prevention specialists attempting to solve homeowners foreclosure problems by encouraging them to transfer property into the name of a third party with better credit. Often they discuss transferring it to a relative, but in the end it gets turned over to a stranger who promises to transfer the property back when the homeowner repairs his or her credit. This transfer is nothing more than a sale, and unsuspecting homeowners may end up losing title to their property without getting any of the proceeds.

- <u>Pay Day Lending/ Cash Advances</u>
  Pay Day Lending involves short-term borrowing in advance of receiving a pay check, with the expectation of repaying the debt quickly. Although the fees may appear minimal, when the interest is calculated, it often can be in excess of 300-400% per year. Often a borrower is unable to repay when getting their paycheck, and consequently faces even higher fees.

- <u>Checking Account Overdraft Protection</u>
  Beware of overdraft protection plans on checking accounts. These plans allow banks to charge excessive fees of $25 to $35 each time an account holder writes a check with insufficient funds to cover the check.

- <u>Credit Repair Specialists</u>
  Be wary of credit repair companies that may capitalize on difficult financial situations by:

  - Charging high fees to “repair” credit
  - Requesting advance payment before any services are rendered
  - Recommending that you not contact credit bureaus directly
  - Recommending unethical ways of obtaining a “new” credit report (example, obtaining false ID)

General Tips for Protecting Yourself

- If an offer seems too good to be true, it probably is.
- Don't sign agreements in desperation. Desperate homeowners are easy prey.
- Beware of taking out home equity loans or refinancing to pay credit card debt. Although lower rates on such loans may appear attractive, you are effectively consolidating excess credit card debt into your mortgage. By transforming unsecured debt into secured debt, you risk losing your home if you default.
- Ask questions and shop around. Research other credit options to determine the best terms and conditions for your situation. If possible, negotiate more favorable terms.
- Know how much your credit is costing you. Before agreeing to any kind of loan, make certain you know the interest rate, default penalties, and all terms and conditions.
- Never misrepresent your income
- Never sign blank documents
- Consider retaining an attorney to represent your interests.
- Obtain independent advice - from an attorney, a HUD-approved counselor, or a trusted and knowledgeable source - about whether a contemplated transaction is in your best interests.

Contact Information

For copies of this brochure, or to report complaints concerning potential fraud in the home buying or credit process, contact the Office of the Attorney General.

Office of the Attorney General:

Civil Rights Bureau
120 Broadway, 3rd Floor
New York, NY 10271
(212) 416-8250

Consumer Frauds Bureau
120 Broadway, 3rd Floor
New York, NY 10271
(212) 416-8300

Consumer Complaint Number:
1 (800) 771-7755

For the Hearing Impaired:
1 (800) 788-9898

Or visit our website at:
www.ag.ny.gov