MODULE 3: PREDATORY LENDING

Financial Education Tools and Resource Series

Everyday individuals are faced with unfair, deceptive, and fraudulent practices of predatory lending. This lesson plan tackles the common types of predatory lending, shares legal protections and provides tips on what to do when you are a victim of these practices.

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The Financial Education Tools and Resource Series

The Financial Education Tools and Resource Series Guide developed by Coffey Consulting, LLC provides facilitators and trainers with tools and resources to complement or fill gaps in grantees' financial education curricula or one-on-one instruction with their participants. The Guide includes five modules on financial topics important to program participants. Each topic focuses on a key issue or challenge program participants encounter, followed by a strategy, lesson and resources (implementation plan). Included in each lesson are handouts (activities), online spreadsheets, videos and articles that can be facilitated in a group setting or one-on-one. These "train-the-trainer" modules are designed for trainers/staff working with program participants and are intended to be customized by program staff to match the knowledge and literacy levels of the participants.

The five topics include:

Module 1: Analyzing Your Paycheck
This lesson gives grantees the tools to coach their participants on how to read their pay stub and understand how the information it contains will play a vitally important role in financial management and proper budgeting.

Module 2: Negotiating Child Support Payments
This informational lesson plan reviews each state's "Changing a Child Support Order" as well as provides website links to state requirements, forms, brochures, important telephone numbers and frequently asked questions.

Module 3: Predatory Lending
This lesson plan tackles the common types of predatory lending, shares legal protections and provides tips on what to do when you are a victim of these practices.

Module 4: Understanding Your Credit Report
This lesson provides an opportunity to discuss the types of information a credit report contains, how to read it, and what to do to get back on track when you have bad debt. (Lesson includes a credit goal worksheet, credit score estimator, articles and a sample letter explaining why a payment was late.)

Module 5: Financial Guidance: Creating Goals and Saving
In this interactive lesson, participants will gain an understanding of personal financial management strategies based on learning and practicing budgeting, saving and setting financial goals. Resources in this lesson include videos, an on-line budgeting spreadsheet, and a goal-setting and debt worksheet.

The goal is to empower justice-involved individuals with "real world" tools to help them better manage their money and work towards achieving financial stability for themselves and their families.

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Topic: Predatory Lending

Situation:

Participants are unaware that predatory lending practices impose unfair or abusive loan terms. These predatory lending practices also convince borrowers to accept unfair terms through deceptive, coercive, exploitative or unscrupulous actions for a loan that borrowers most likely don't need, don't want nor can afford.

Facts:

- Borrowers are steered towards interest rates that far exceed the lender's risks.
- Borrowers are charged excessively high fees and commissions.
- Borrowers are persuaded to repeatedly refinance a loan so that the lender may charge high points and fees each time the loan is refinanced (loan flipping).
- Lenders misrepresent the loan's terms and conditions.
- High-cost credit insurance (packing) is required.
- Over 90% of payday loans are made to borrowers who take out over five payday loans per year. Loans to non-repeat borrowers account for just 2% of the payday loan volume.

Delivery Method:

Practitioners can deliver the lesson in a group setting or one-on-one.

Objectives	Materials Needed	Time
• Participants will understand the most common predatory lending practices and the vocabulary used. • Participants will learn how to recognize if they are a victim of predatory lending. • Participants will understand what to do if they are a victim of predatory lending.	• Flip chart paper or whiteboard • Markers • Access to the Internet and projector *(video links provided)* • Handout sheets to go over with participants *(Types of Predatory Lending Practices, How to Avoid Predatory Lending, What to Do If You Are a Victim of Predatory Lending)* • Predatory Lending Scenarios *(see attached)*	**60 minutes**

Lesson:

1. **Monthly Budget and Unexpected Expenses** *(10 Minutes)*

   Begin the lesson with the provided discussion prompt. *(This prompt can be used in a group setting or one-on-one.)*

   - Pretend your monthly budget is tight, you don't have an emergency fund, and your car needs to be fixed at a price of $275, which you don't have. What are your options for paying for the car repair?

2. **Predatory Lending Defined** *(2 Minutes)*

   State, "Predatory lending is any lending practice that imposes unfair or abusive loan terms on a borrower. It is also any practice that convinces a borrower to accept unfair terms through deceptive, coercive, exploitative or unscrupulous actions for a loan that a borrower doesn't need, doesn't want or can't afford."

3. **Payday Loans** *(10 Minutes)*

   View the "U-PAY-US: The Payday Lending Show" video (7:22 minutes) by East Palo Alto at https://www.youtube.com/watch?v=0lnXz14Uoi4.

   Discussion Questions:
   - Based on this video, what are two ways that payday loan borrowers get trapped in the cycle of relying on payday lenders?
   - How can payday loans ruin your credit?

4. **Predatory Lending Practices** *(15 Minutes)*

   Discuss the types of Predatory Lending Practices (hand out sheet and read over each practice to participants).

   - Loan Flipping or Excessive Refinancing
   - Equity Skimming
   - Bait and Switch Tactics
   - Charge of Servicer
   - Credit Insurance Packing

   Discussion Questions:
   - Who do predatory lenders typically target?
   - How can you avoid some of these traps?
     Answers:
     - Question high interest and fees.
     - Ask if the loan has a prepayment penalty.

- Find out if there is a "balloon" payment due.
- Find out if your monthly payments will change during the loan term.

5. **Predatory Lending Advertising** *(10 Minutes)*

   View the "How Does a Title Loan Work? Answers Are Here!" video (1:18 minutes) by Instant Title Loans Online at https://www.youtube.com/watch?v=PgQcDY4Bhxo.

   Discussion Question:
   - In this ad for Instant Auto Title Loans, what strategies or features are they using to attract borrowers?

6. **Predatory Lending Scenarios** *(10 Minutes)*

   Share predatory lending scenarios with participants. They should be able to identify the Predatory Lending Practices. (See attached).

7. **"How to Avoid Predatory Lending" Handout**

   Provide participants the "How to Avoid Predatory Lending" handout as a takeaway.

Wrap Up *(3 Minutes)*:

State, "We have armed you with tools to avoid deceitful leading practices." Pass out the next handout: **"What to Do If You Are a Victim of Predatory Lending"** (takeaway).

- **The Truth in Lending Act (TILA)** protects you against inaccurate and unfair credit billing and credit card practices. It requires lenders to provide you with loan cost information so that you can comparison shop for certain types of loans.
- **The Equal Credit Opportunity Act (ECOA)** makes it illegal to charge higher interest and fees because of a person's race, gender, age, religion, marital status, or national origin.
- **The Home Ownership and Equity Protection Act (HOEPA**) protects consumers from excessive fees and interest rates. Loans that are considered "high cost" are subject to additional disclosure requirements and restrictions.

Optional Activities:

View Videos:

- "Car Title Loans Onerous, Not Dangerous" (3:37 minutes) by MSN Money at https://www.youtube.com/watch?v=n0QaYtuOj0E

  Discussion Question:
  - How do companies offering auto title loans make their money? How are borrowers at a disadvantage?

- Rent-A-Center Credit Check Commercial (0:31 seconds) by iSpot.TV at https://www.ispot.tv/ad/7t9A/rent-a-center-credit-check

  Discussion Question:
  - What strategy or strategies is Rent-A-Center using to attract customers in this commercial?

Follow Up:

On a monthly or quarterly basis, review the terms discussed in the lesson and handout sheets because throughout the year participants may find themselves needing to take out a loan.

Additional Resources

8 Signs of Predatory Mortgage Lending, Center for Responsible Lending, 2017
http://www.responsiblelending.org/issues/8-signs-predatory-mortgage

A Practitioner's Guide to Combating Predatory Lending, 2003
http://programs.lisc.org/files/787_file_asset_upload_file728_7027.pdf

Calculating Simple Interest, EconEdLink, 2015
https://www.econedlink.org/teacher-lesson/1008/Calculating-Simple-Interest

Types of Predatory Lending Practices

1. Loan Flipping or Excessive Refinancing
2. Equity Skimming
3. Bait and Switch Tactics
4. Charge of Servicer
5. Credit Insurance Packing

Loan Flipping or Excessive Refinancing

Loan flipping is the repeated refinancing of a loan by a homeowner thereby continually rolling the existing loan into a new loan rather than paying off the existing loan and getting a new mortgage. Because of the successive and repeated refinancing of the property, refinance closing costs and additional lender charges on fees and points are also rolled into the new loan amount increasing the principal amount owed. Loan flipping normally occurs within a short period of time.

Equity Skimming

Equity skimming is another abusive practice that comes in various forms. The most common practice and scenario occurs when the property is in foreclosure. The homeowner is approached by another party, "B," who promises to help the homeowner out of the foreclosure. B asks the homeowner to convey the property to B as security for his/her loan that will be used to pay off the existing mortgage. B promises that when the homeowner pays off B, B will convey the property back to homeowner. Invariably, when B gets the title in his/her name, B refinances the property and takes out all the equity. Once B refinances, he skips out on the loan and does not pay the new mortgage which leaves the homeowner with a new foreclosure suit.

Another scenario is when B takes out a new mortgage and once the homeowner fails to pay B, B evicts the tenant from his/her home. Hence, the coined term equity skimming – the homeowner's equity has been skimmed off.

Bait and Switch

In this predatory lending practice, throughout the loan application process, lenders present borrowers with the terms of the loan, the annual percentage rate (APR), closing costs and finance charges. However, at closing, the terms of the loan are different from that which was disclosed. Since the parties are already at closing, the borrowers are left with two choices: proceed with the loan or cancel the loan and go through the whole application process again. When dealing with subprime borrowers, the bait and switch occurs more frequently as borrowers in this category are believed to have less than perfect credit and are given very limited choices in loan packages. Most of the time, these borrowers resign to closing the deal despite the higher rates and fees.

Change of Servicer/Unaccounted Payments

It is not uncommon for lenders to transfer their servicing rights of the loan to another lender. More often, the loan gets transferred to two or three servicers during its lifetime. It could very well be that the homeowner makes a mortgage payment to the old servicer during the transfer period, but the old servicer fails to turn the payment over to the new servicer. The new lender now will continue to charge the borrower for late fees for the alleged missed payment.

This perpetuates until such time that the late fees become substantial. Not only that, but this scenario will severely affect one's credit rating because late payments are always reported to the credit agency until cleared.

Credit Insurance Packing

Predatory lenders market and sell credit insurance as part of their loan package services, mostly without the knowledge of the borrower. Most of the time, lenders automatically order the insurance and charge the borrowers exorbitant premiums which are then financed into the cost of the loan. Not only are the premiums exorbitant but they also are not even based on any loss experience. Often, the insurance company is either an affiliate or a subsidiary of the lender or has a lucrative commission arrangement with the lender based on the premium paid.

How to Avoid Predatory Lending

1. Shop around.
2. Question “Up Front Fees.”
3. Make sure to use a licensed lender.
4. Ask for a “Good Faith Estimate.”
5. Have some idea what you should qualify for.
6. Find out if your monthly payments will change during the loan term.
7. Find out if there is a “balloon” payment due. Some loans may have small monthly payments but require a big "balloon" payment at the end of the loan period.
8. Request a review of your settlement sheet three days before closing.
9. Find out if you have a three-day “right of rescission.”
10. Do not sign any waiver of rights.
11. Find out if the loan amount includes various other insurance policies.
12. Find out if your taxes are included in your monthly payment.
13. Make sure that you are not rushed or pushed into the loan process.
14. Ask the lender as many questions as you can.
15. Ask if the loan has a prepayment penalty.
16. Again, shop around.
17. Read all documents carefully before signing.
18. Do not sign any documents with blank spaces.

What to Do If You Are a Victim of Predatory Lending

Contact your local **Legal Aid Society**

The **Truth in Lending Act (TILA)** protects you against inaccurate and unfair credit billing and credit card practices. It requires lenders to provide you with loan cost information so that you can comparison shop for certain types of loans.

The **Equal Credit Opportunity Act (ECOA)** makes it illegal to charge higher interest and fees because of a person's race, gender, age, religion, marital status, or national origin.

The **Home Ownership and Equity Protection Act (HOEPA)** protects consumers from excessive fees and interest rates. Loans that are considered "high cost" are subject to additional disclosure requirements and restrictions.

Predatory Lending Scenarios

Linda and Fred qualified for a $400,000 loan to buy a house. Throughout the loan application process, the lender presents them with the terms of the loan, the APR, closing costs and finance charges. However, at closing, the terms of the loan are different from that which was disclosed.

(Bait and Switch)

Bruce was two months behind on his car note and took out a short-term loan of $400 to pay it because the dealer was threatening to boot his car. After two weeks, Bruce was able to pay back the loan, but he had to pay the dealer $520.

(Payday Loan)

Sheri took out a loan to buy a new computer which she desperately needed to find a new job. Her kids also needed a computer to do their school assignments. She took out a $1,000 loan and after three months of steady payments the loan officer convinced her to refinance her existing loan into a larger one which ended up having a higher interest rate and additional fees.

(Loan Flipping)