



Highlights of [GAO-04-412T](#), a testimony before the Special Committee on Aging, U.S. Senate

## Why GAO Did This Study

While there is no universally accepted definition, the term “predatory lending” is used to characterize a range of practices, including deception, fraud, or manipulation, that a mortgage broker or lender may use to make a loan with terms that are disadvantageous to the borrower. Concerns about predatory lending have increasingly garnered the attention and concern of policymakers, consumer advocates and participants in the mortgage industry. This statement is based on GAO’s report, released at today’s hearing, and discusses federal and state efforts to combat predatory lending; factors that may make elderly consumers more susceptible to predatory lending; the roles of consumer education, mortgage counseling, and loan disclosures in preventing predatory lending; and how the secondary mortgage market can affect predatory lending.

## What GAO Recommends

In its report, GAO suggested that Congress consider (1) providing the Federal Reserve Board with the authority to routinely monitor and, as necessary, examine nonbank mortgage lending subsidiaries of financial and bank holding companies to ensure compliance with federal consumer protection laws applicable to predatory lending, and (2) giving the Board specific authority to initiate enforcement actions under those laws against these nonbank mortgage lending subsidiaries.

[www.gao.gov/cgi-bin/getrpt?GAO-04-412T](http://www.gao.gov/cgi-bin/getrpt?GAO-04-412T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact David G. Wood at 202-512-8678 or [woodd@gao.gov](mailto:woodd@gao.gov).

# CONSUMER PROTECTION

## Federal and State Agencies Face Challenges in Combating Predatory Lending

### What GAO Found

Federal agencies have taken a number of enforcement actions, sometimes jointly, using various federal consumer protection laws to combat predatory lending. The Federal Trade Commission (FTC) has played the most prominent enforcement role, filing 19 complaints and reaching multimillion dollar settlements. The Departments of Justice and Housing and Urban Development have also taken various predatory lending-related enforcement actions. Federal banking regulators report little evidence of predatory lending by the institutions they supervise. However, concerns exist about nonbank mortgage lending companies owned by financial or bank holding companies. While FTC is the primary federal enforcer of consumer protection laws for these entities, it is a law enforcement agency that conducts targeted investigations. In contrast, the Federal Reserve Board is well equipped to routinely monitor and examine these entities and, thus, potentially deter predatory lending activities, but its authority in this regard is less clear.

As of January 2004, 25 states, as well as several localities, had passed laws to address predatory lending, often by restricting the terms or provisions of certain high-cost loans; however, federal banking regulators have preempted some state laws for the institutions they supervise. Also, some states have strengthened their regulation and licensing of mortgage lenders and brokers.

While there are no comprehensive data, federal, state, and consumer advocacy officials report that elderly people have disproportionately been victims of predatory lending. According to these officials and relevant studies, predatory lenders target older consumers in part because they are more likely to have substantial home equity or may live on limited incomes that make them more susceptible to offers for quick access to cash. Older consumers may also have cognitive or physical impairments such as poor eyesight, hearing, or mobility that limit their ability to access competitive sources of credit.

GAO’s review of literature and interviews with consumer and federal officials suggest that consumer education, mortgage counseling, and loan disclosures are useful, but may be of limited effectiveness in reducing predatory lending. A variety of factors limit their effectiveness, including the complexity of mortgage transactions, difficulties in reaching target audiences, and counselors’ inability to review loan documents.

The secondary market—where mortgage loans and mortgage-backed securities are bought and sold—benefits borrowers by expanding credit, but may facilitate predatory lending by allowing unscrupulous lenders to quickly sell off loans with predatory terms. In part to avoid certain risks, secondary market participants perform varying degrees of “due diligence” to screen out loans with predatory terms, but may be unable to identify all such loans.