

MORTGAGE LENDING DISCRIMINATION - PREGNANCY & MATERNITY LEAVE

Protection under the Federal Fair Housing Act

The Federal Fair Housing Act prohibits discrimination in residential real estate-related lending transactions based on race, color, religion, sex, national origin, familial status, and disability. One form of sex or familial status discrimination may be the denial of a mortgage loan or mortgage insurance because an applicant is pregnant or on maternity leave.

Is it legal for a mortgage lender to refuse to grant a loan to a person on maternity leave?

While an individual is on parental leave and applies for a mortgage, their income level is unnaturally low. A mortgage lender may try to refuse a loan for this reason; however, a parent on parental leave is still considered to be employed. In its Single Family Selling Guide, Fannie Mae clarified that parental leave is defined as “temporary leave” and analogous to short-term medical disability or other temporary leave types that are acceptable by law or the borrower’s employer.

***Example:** A bank refuses to consider a woman’s employment income and denies her application for a mortgage because she is on maternity leave despite the woman’s assertion that she will be returning to work and can provide verification.*

Can a mortgage lender assume a woman will not return to work after maternity leave?

No, a mortgage lender cannot make such an assumption. It is a Fair Lending violation to assume that a woman will not return to work after childbirth, and it can also be considered sex discrimination under the Fair Housing Act.

What documents can a mortgage lender require to confirm an intent to return to work?

The applicant on maternity or parental leave must provide written notice of intent to return to work. The employer or a third-party representative may verify the return date and whether the prospective borrower has the right to return to work after the temporary leave period is over. Confirmation requires no particular formality.

Can a mortgage lender delay closing the loan until the pregnant individual returns to work?

A parent does not have to return to work early to close their loan. Once the lender confirms that the borrower is on temporary leave, the lender must consider the borrower employed. The lender is prohibited from requiring a qualified applicant who is pregnant or on maternity leave to return to work or receive a specified number of paychecks before their loan may be approved.

or closed. If the borrower will return to work by the date the first mortgage payment is due, the lender can consider the borrower's regular employment income for qualification purposes.

Example: *A husband and wife apply for a mortgage. Upon learning that the wife is on maternity leave, the bank conditions the loan's closing on her return to work. The wife is on paid maternity leave and plans to return to work; however, the bank refuses to consider her income until she does. Such actions by a bank constitute discrimination under the Fair Housing Act.*

Can a mortgage lender inquire about future planning?

No. The U.S. Department of Housing and Urban Development's Federal Housing Administration (FHA) requires approved lenders to review borrowers' income to determine whether they can reasonably be expected to continue paying their mortgage. FHA-insured lenders cannot, however, inquire about future maternity leave.

What should I do if I believe that I've been discriminated against?

Please call us toll-free at **1-877-979-3247** to discuss the situation. You can also fill out a contact form on our website, www.fhcmichigan.org. FHC staff will follow up with you to obtain additional information. We will keep the information you provide confidential. We will not report undocumented immigrants to the authorities.

The Fair Housing Center is a nonprofit organization that provides investigative services (testing), advice, advocacy, conciliation, attorney referrals, and community education for Clinton, Eaton, Hillsdale, Ingham, Jackson, Lenawee, Livingston, Monroe, Shiawassee, and Washtenaw counties. The FHC's mission is to end discrimination in housing and public accommodations and promote accessible, integrated communities.

Sources

Fannie Mae

[Fannie Mae Single Family Selling Guide](#)

U.S. Department of Housing and Urban Development

[Fair Lending](#) (website)