

# FACT SHEET: MORTGAGE LENDING DISCRIMINATION PREGNANCY & MATERNITY LEAVE

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## Protection under the Federal Fair Housing Act

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

## PREGNANCY & MATERNITY LEAVE DISCRIMINATION

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

No, not if she is returning to work. When a woman is on maternity leave and applies for a mortgage, her income level is unnaturally low at that moment. A mortgage lender may try to refuse a loan for this reason; however, a woman on maternity leave is considered to be on “temporary leave” meaning that she is still employed. In its Single Family Selling Guide, Fannie Mae clarified that maternity leave is defined as “temporary leave” analogous to short-term medical disability, parental leave, 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 that 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 for confirmation?

The applicant on maternity leave must provide written notice of her intent to return to work, and the employer or a third party representative may verify the return date and whether the 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 woman returns to work?

Women do not have to return to work early in order to close their loan. Temporary leave means “employed.” Once the lender confirms that the borrower is on temporary leave the



lender must consider the borrower as employed. The lender is prohibited from requiring a qualified applicant who is pregnant or on maternity leave to return to work and thereafter earn a specified number of paychecks before her 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 closing of the loan 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 actually returns to work. 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 its approved lenders to review a borrower's 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?**

The Fair Housing Center of Southeast & Mid Michigan (FHC) is ready to help with any problem of housing discrimination.

We are a private nonprofit organization providing investigative services (testing), advice, advocacy, conciliation, attorney referrals, and community education for Clinton, Eaton, Ingham, Jackson, Lenawee, Livingston, Monroe, and Washtenaw counties. The mission of the FHC is to end discrimination in housing and public accommodations and to promote accessible, integrated communities.

If you think you have experienced housing discrimination or have a question about fair housing, call us at [877-979-3247](tel:877-979-3247).

You can also fill out a contact form on our website ([www.fhcmichigan.org](http://www.fhcmichigan.org)), and FHC staff will follow up with you to obtain additional information concerning your allegation or complaint of discrimination.

Information provided about allegations or complaints of housing discrimination will be kept confidential.

### **Sources**

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["Fair Lending and Maternity Leave Discrimination"](#)



Fannie Mae

[Fannie Mae Single Family Selling Guide](#)

U.S. Department of Housing and Urban Development

[“Fair Housing Laws and Presidential Executive Orders”](#)

[“HUD Acts Against Pregnancy Discrimination in Home Mortgages”](#)

Work Life Law: UC Hastings College of the Law

[“Discrimination in Mortgage Lending on the Basis of Pregnancy and Maternity Leave”](#)

