In Over Our Heads: Predatory Lending and Fraud in Manufactured Housing

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Each year the Southwest Regional Office of Consumers Union issues reports on consumer issues of particular concern in Texas and the Southwestern United States. Topics include financial services, housing, health, utilities, and the environment. You may order copies of reports by calling the Southwest Regional Office at 512-477-4431 or writing us at 1300 Guadalupe, Suite 100, Austin, Texas 78701. Reports are also posted on our web site in html and pdf formats. Please go to www.consumersunion.org. For internet versions of this report and more consumer information about manufactured housing, go to www.consumersunion.org/mh.

The following reports were released in 2000 and 2001:
Access to the Dream 2000, Subprime and Prime Mortgage Lending, April 2000
Final Committal, Texas Problems with Prepaid Funeral Services, October 2000
Local Telephone Competition Still on Hold, January 2001
The Eyes Don’t Have it Yet, Contact Lens Prescription Access, January 2001
Sale-Leaseback Lenders Defy Regulation, February 2001
Manufactured Homeowners Who Rent Lots Lack Security, February 2001
Brackenridge Hospital, October 2001
Noncustomer Check Fees Reinforce Financial Divide, October 2001
In Over Our Heads: Predatory Lending and Fraud in Manufactured Housing Sales

Consumers need to beware of dealer promises and too-good-to-be-true offers, according to more than 400 manufactured home consumers who filed complaints with the Attorney General (AG) or the Office of Consumer Credit Commissioner (OCCC).

Unlike most home purchase transactions the mobile home sale can be much more like an old fashioned, high-pressure auto deal. Consumers must sign purchase and loan contracts before they have seen the home installed, and lenders distribute the loan funds to the dealer without an independent, visual appraisal to ensure repairs are adequate and the home is worth enough to support the loan.

Consumers report a variety of dealer problems including falsified down payment information on credit applications, and misrepresentations about terms, price, or the home itself. And while dealers are quick to ask for a deposit, they are sometimes much slower to refund it when consumers change their mind after seeing the complete deal.

Deposit requirements and credit checks discourage buyers from adequate comparison shopping. Some dealers made remarkable promises to get a customer to fill out the credit application and put money on the table—promises that start families off owing far more than the home is worth. Consumers reported promises to pay off their credit cards (and some dealers actually did this), or expensive extras like trips or rebates. Documentation also reveals predatory lending practices that leave families “underwater” and vulnerable to a deficiency balance if they try to sell the home within 15 years of buying it.

General Findings

Nearly half of the consumer complaints we reviewed (46 percent or 196 individual cases) involved allegations of dealer fraud or misrepresentation where the final deal looked very different from the deal consumer’s thought they made. Consumers said:

- the dealer switched the house with a different make, model, year or size or a completely different home (29 cases);
- the salesman tried to falsify loan application information, including falsifying the down payment amount or taking money a consumer borrowed as a down payment (27 cases);
- the actual price of the home increased from the original quote to the final loan contract (17 cases);
- the terms or conditions of the sale worsened, including additional costs for items consumers thought they had already covered, additional loan fees, higher interest and more (21 cases);
- ads were misleading or promised things not delivered (five cases);
- they were asked to sign blank documents (seven cases);
- the dealer refused to give buyers copies of contracts, including loan contracts (25 cases).

About 19 percent of consumer complaints involve dealers who are unwilling to return money after a con-
sumer decides to walk away from a deal—even if they try to walk away long before the home is built or delivered. Some dealers say once a purchase contract has been signed the consumer is on the hook even if the consumer has not seen the home or the final loan terms.

About 41 percent of consumers (175 cases) involved consumers who are upset about the condition of the home, and 24 percent of consumers presented no other issue (although home quality and installation complaints are more properly addressed to the Texas Department of Housing and Community Affairs (TDHCA) Manufactured Housing Division, which handled more than 6,600 complaints during this same period).

Consumers Union reviewed loan documentation for 127 consumers who included such information in their complaint to the Texas Attorney General or the OCCC. Of the 127 loans with interest rate disclosure, the average interest rate was 9 percent to 13 percent. Ordinary home loans for the same period hovered between 7 and 8.5 percent.

We collected reasonably complete loan information (with detailed breakdown of charges) for 65 of the 127 people who reported their interest rate. Using standards recommended by the National Consumer Law Center (NCLC) and the American Association of Retired Persons (AARP), more than three quarters of these loans could be considered predatory. NCLC’s new predatory lending standard recommends a total “points” and fees threshold of three percent of the home price after down payment.

Thirty six of these 65 customers financed points, and in almost all of these cases the points alone added more than three percent to the net price. Fifty four of the 65 complete loan documents included some kind of add-on insurance or warranty, most commonly property insurance, credit insurance, or an appliance/home systems repair plan. Such insurance add-ons do not add to the value of the collateral, but they do add significant cost to the loan.

Current studies of mobile home appreciation have produced conflicting results. But even assuming the home holds its value, consumers who start out owing more than the home is worth will have no equity for several years depending on the loan term and rate (see sample graphs, p. 20). There is a good chance that a consumer who tries to resell the home during that period will not be able to get a high enough price and end up with a deficiency balance. Further, consumers who have no equity in their homes have less incentive to keep making payments when job loss or other crisis hits. Both consumers and their banks pay when a loan is made for far more than the value of the collateral.

The Consumers Union Study

This is the first of two complaint studies to be produced by Consumers Union Southwest Regional Office. Initially, we report on issues presented by consumers to the Office of the Attorney General (OAG) and the Office of Consumer Credit Commissioner (OCCC). In the
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second report, we will address concerns of the much larger group of consumers (nearly 13,000 over the past five years) who complain to the Texas Department of Housing and Community Affairs (TDHCA).

Consumers with a manufactured home problem can complain to the Attorney General (fraud, misrepresentation), the Office of the Consumer Credit Commissioner (retail installment contract loans), or the Texas Department of Housing and Community Affairs (home quality, installation, warranty issues, advertising, refunds). There is some overlap. About 24 percent of consumers who complained to the AG and the OCCC report problems exclusively with home quality, installation or warranty repairs (no other problems noted). These complaints, under TDHCA’s jurisdiction, will be addressed in more detail in our second report, to be released in the fall of 2002. At the same time, many consumers who complain to TDHCA report dealer fraud, refund problems, deceptive trade practices and other issues outlined here. We here focus our attention on the issues properly addressed to the two agencies under study. Consumers Union read the complete file for 424 written complaints filed with the OAG or the OCCC primarily in 1999 and 2000. We looked at the type of problems reported by consumers, the agency response, and asked consumers whether they were satisfied in the end. Clearly, these complaints do not reflect the experience of satisfied families who receive a good product in good order from a trustworthy dealership. At the same time, not all families who are dissatisfied actually find a regulator, and even those who do most often file only an oral complaint, leaving insufficient documentation for study. Therefore, the problems encountered by the customers in this sample probably happened to others. While some of these complaints relate to highly individualized incidents, most reveal a pattern of problems shared among many consumers that should be addressed through a stronger and more coherent regulatory system.

Consumers Union received various levels of information on each case. In some cases, information was redacted from the complaint file in compliance with various laws, but in general we were able to develop a reasonably complete picture of the consumer’s problem. We also mailed a short survey to 369 consumers for whom we had adequate contact information. Eighteen percent (70 people) sent back the survey and provided us with additional information about their experience.

Shopping Around

Most consumers report an easy initial sales experience, as long as they don’t want to do a lot of comparison shopping. They walk through a model home, decide they might be interested, and go to the office to get a credit check. At this point, the dealer asks for anywhere from $100 to $500 dollars, explaining it as a “deposit” or “credit check fee” or something else.

Dealers discourage shopping in a number of ways. Although a credit check costs the dealer very little (a few dollars at most), consumers are sometimes charged $25 or more for a credit check or “application fee.” Some consumers report much higher charges to run credit checks. M. F. of Hidalgo reported a dealership deducting $162 from her refund of deposit for a credit application charge. Further, the industry warns against getting credit checks at multiple dealerships. At a recent dealer training, a representative of the Texas Manufactured Housing Association told dealers that consumers who shop around will have to agree to multiple credit checks and this will damage their credit score. According to Fair Issacs, multiple inquiries from auto or mortgage lenders within a short period (“rate shopping”) will have little impact on credit scores, but the policy is murky for manufactured home loans (see “Rate Shopping, right”).

Credit checks create a significant deterrent to aggressive comparison shopping. An even greater deterrent is the deposit many consumers are asked to pay to hold a house they might like. Consumers typically report deposit requests of $100 to $500. Porfirio P. of El Paso tried to shop around for rates and homes. He ended up leaving a deposit of $100...
Borrowers Wait for Green Light on Mobile Home Loan Rate Shopping

Lenders use a consumer credit report and a numerical credit score to determine whether to make a loan and at what interest rate. The credit score is designed to represent a borrower’s overall credit worthiness based on income, debt, repayment history and more. Each time a borrower seeks credit, the lender sends an “inquiry” to the credit bureaus to check credit and calculate the current score.

Until recently, the credit score algorithm assumed that several “inquiries” from lenders in a short period might indicate that a consumer needed money and therefore might be a worse credit risk. This had the unfortunate affect of punishing consumers who actually shop around for the best loan deal.

Fair Isaac, the country’s major credit score developer, changed its calculation in 1998 to encourage rate shopping, and the new algorithm has slowly been adopted across the country by the major credit bureaus, but the implementation of this new system for mobile home buyers is uneven at best.

Rate Shopping and the New Credit Scoring

Today, the Fair Isaac program does not reduce a consumer’s credit score if several inquiries from auto or mortgage lenders are recorded within a 30 day period. In addition, the system looks back 12 months, and any cluster of inquiries from auto or mortgage lenders within a two week period will only be counted as a single inquiry. Therefore, a consumer could go to several auto dealerships in a weekend, get credit checks at each of them, and decide to hold off altogether. The rate shopping weekend would be noted later as a single inquiry. The effect of such an inquiry should be slight when the consumer decides to go ahead with that auto purchase at some future date.

These changes allow consumers to shop around for the best rate and terms for their auto or home loan because the 30 day “rate shopping” period does not count against the score at all. The one year “look back” rule also takes some of the pressure off. Consumers can consider their home or car loan options over several months and the clusters of inquiries may have only a nominal affect on their score.

Implementation Uneven

According to a November, 2001 statement from the National Association for Mortgage Brokers (NAMB), many lenders are still not using the most up-to-date credit scoring models. “Some credit reporting companies and lenders are presently using scoring models that date back to 1994,” said Ginny Ferguson, chairman of the NAMB Committee for Credit Scoring. “By continuing to use older versions, the changes that have been made to improve the scoring models are useless for the consumer and the industry as a whole.”

In Texas, the largest credit bureaus report that most of their lender customers do use the most current Fair Isaac scoring model, although the older models that do not allow for rate shopping are still in use by some of their clients.

But for consumers shopping for a manufactured home, there is an additional worry. Even if the lenders and bureaus are using the 1998 credit scoring algorithms, they only apply to inquiries from lenders that are classified as “auto” or “mortgage” lenders. There are a small number of lenders dominating the manufactured home loan industry. Most of them use retail installment contracts rather than conventional mortgage contracts for the majority of their lending. This means that the consumer’s loan is a “personal” loan on “personal property” rather than a mortgage loan on real property.

Every time a dealer runs the consumer’s credit, it may appear to be an inquiry for a personal loan, rather than a mortgage loan or an auto loan. The changes to the credit scoring models do not allow consumers to initiate several inquiries from personal loan companies without damage to the credit score.

According to Fair Isaac, a manufactured home lender could be classified as either a mortgage company, an auto lender, or a personal credit lender by the individual credit organizations using the Fair Isaac system. When asked, the credit bureaus said that information about ways their clients might use the credit scoring system—including the classification of manufactured home lenders—would be up to each individual lender using the system.

Recommendations

Until consumers can actually shop for a manufactured home loan without damage to their credit scores, dealers will retain the upper hand in negotiations. No law currently mandates that lenders use the most current credit scoring models that allow consumers to rate shop for auto and mortgage loans. No law currently requires lenders to consider a manufactured home loan “inquiry” the same as a mortgage inquiry.

At this time, we recommend that consumers get their own credit scores directly from the three Bureaus. Credit scores are readily available on the internet for a small charge or by mail or phone.

TransUnion--http://www.transunion.com/Personal/OrderCreditReport.asp or call 800-888-4213.


Armed with your own credit score, shop for a manufactured home but do not provide your personal information. Ask the dealer to give you a written quote with the price and the estimated loan terms based on the credit score you provide but without running a credit check.

To correct the problem and ensure that consumers can shop for a manufactured home:

- The credit reporting industry should take the lead to ensure that lenders all use credit scoring systems that allow consumers to rate shop by phasing out older systems.

- State legislators should mandate that financial institutions use credit scoring models that allow consumers to shop for the best interest rate, and require them to classify manufactured home lenders as “mortgage” lenders for purposes of credit scoring.
Dealers make “freebie” offers to get people to the lot, and it appears to work. Although free gifts have nothing to do with the long term value of a mobile home purchase, consumers report responding to offers of free appliances, a free car, a free vacation, a free cell phone, a free coupon book, and more.

A McAllen woman heard a radio announcement in January 2000, promising that consumers who bought a mobile home would also get a free car. She called to confirm the offer, then went to the dealership, where she filled out a credit application and paid a $25 fee. She later added a $1,000 down payment and purchased a home, but never got the promised car. According to the dealer, the sales people that made that promise had been fired and there would be no car.

Most consumers report less costly offers. A dealer advertised that consumers who came to the lot could pick up a free gift worth $100 and a get a zero down loan on their home. Another consumer reported an advertisement that highlighted a “Summer Saver Package” with $1200 worth of “deluxe” appliances for consumers who bought today. But the consumer priced the models after they were delivered and found that they were lower end models worth less than claimed. The dealer agreed to upgrade the dishwasher after the consumer wrote to the Attorney General.

In general, buying a home based on the appliances, free furniture offers, or other gift deals is a mistake. “Free” stuff is not actually free. Instead, the costs will be added to the loan or to the underlying purchase price of the home itself. Mr. B. of Itasca, Texas reported several enticing freebies including $500 in cash and $3,000 in furniture. “We were also given a free drawing and whatever we drew from the jar was a free gift for buying the home,” he wrote to the AG. “We drew a free 8’x10’ deck for our home. But in the end never received the deck because...they had to cut it out of the deal to make the deal work. So once again, you are not receiving a free drawing, it is something you have to finance into your deal, and you have to pay for it on a 30-year note!”

Dealers who pad the home price or the loan will make thousands on the sale, and consumers who look only at the monthly payment can be fooled if the payment remains low enough. Since most loans today are made for terms of 25 or 30 years (rather than the 15 year loan standard a decade ago), there is room to increase the underlying cost considerably while still offering reasonable monthly payments. But extras wrapped into a retail installment contract leave consumers “underwater” for many years. While a majority of contracts include the cost of property insurance, home warranty plans or credit insurance, some also include credit card payments, trips and more.

When a Sunland Park, New Mexico couple took their closing documents home from an El Paso dealership, they found that the purchase price was much higher than expected and the payments were far from what they could afford. They had expected to pay $43,900 for the home, but the closing documents gave a price of $48,546. The higher price apparently included the cost of a satellite dish, a $1,000 gift certificate from Sam’s Club, and a package trip to Orlando Florida or Las Vegas. “Mr. Villanueva stated that this could not be removed from the contract because it was part of the deal,” they told the Attorney General.

The day after signing, they attempted to cancel the deal because they couldn’t afford it, but the dealership refused. When the consumers said they couldn’t afford the payments, the dealer encouraged them to “be positive” and “accomodate the expense.” Restating his legal right to keep the title to their home, the dealer finally agreed to rescind the contract after receiving letters from the Attorney General.

1 Complaint to Office of the Attorney General, filed 5/4/00, McAllen, Texas.
2 Complaints to Office of the Attorney General, filed 3/10/00, Marion, Texas and filed 2/23/00, Houston, Texas.
3 Complaint to the Office of the Attorney General, 4/20/99, Itasca, Texas.
4 Berenson, Alex, Trailer Owners and Conseco are Haunted by Risky Loans, New York Times, November 21, 2001. Most of the loans we reviewed in detail were made for terms of 25 or 30 years, and we found relatively few 15 year loans. 30 year loans were made by most of the major lenders in the Texas market, including Green Tree (Conseco), Green Point, CIT, 21st Century, Oakwood Acceptance and many others.
5 Complaint to Office of the Attorney General, filed 8/23/99, El Paso, Texas.
their expectations—and without signing anything—usually get a refund, though they may need to contact regulators first. Edwardo R. of Houston put $500 deposit on a Fleetwood home. But when the dealer called him in to sign the loan contract, the terms differed from his expectations. The price of the home, the payments and the loan term had changed, so Mr. R. refused to sign and asked for his deposit back. “No firme el contrato por todas las mentiras que estaban escritas,” he wrote to the Attorney General (“I didn’t sign the contract due to all the lies that were written in it”). After intervention from the AG, the company released his $500.

Contract Signing Locks In Purchase
Sometimes consumers report signing a purchase contract at the same time they leave a deposit, and sometimes they return to sign the purchase contract. Dealers sometimes argue that once a purchase contract is signed, the consumer is contractually bound to accept the home—even though they may not have seen it or agreed to financing terms.

James E. of Tyler signed contracts and left $500 but changed his mind within hours. The salesperson refused his written cancellation notice and said he would have to come up with $1,500 more, according to Mr. E’s wife. He got his money back a few days later. Under the deposit law, consumers can still cancel after signing purchase contracts. As currently interpreted by T D HCA staff, dealers are required to fully refund a consumer’s investment unless the consumer has signed a loan agreement and the funds on deposit have been transferred to the down payment.

Victor S. of Canutillo and his wife went out to shop for a mobile home. In an initial visit to a nationwide dealership, they picked a home, signed a purchase contract, and asked for copies. They also signed over their own home title as earnest money. Told they could have copies of their paperwork at “closing,” they went home empty handed and unsure about the deal. That same day, they decided to shop around some more and called the dealer to cancel. When another dealer offered a better price and interest rate, they called to get their title back.

“We told him we just want to pick up our title, and he said that he was going to keep our title if we didn’t purchase a home from him. He also said that he could keep our mobile home if he wanted to because my husband had signed papers and that if we wanted our title we had to send him our attorney.” The new dealer contacted Nationwide’s national office, which ordered the title released, but the first dealer filed a report with the credit bureau saying the consumer owed $60,000. The dealer refused to remove the chargeoff from the credit report even after contact by the AG unless “he comes in, honors the contract signed and takes his home.” According to the dealer, this home was a special order home (see story, p. 24). Although the family cancelled the same day, refund rights for special order homes are much more limited. Further, the law does not prohibit dealers from placing the full cost of the home on a consumer’s credit report as an unpaid debt.

M. S. of Hidalgo left $500 at a dealership in Weslaco, thinking that she would have no additional out of pocket costs for her manufactured home purchase. She signed some documents but didn’t really know what they were because they were all in English. At closing she discovered they wanted her to pay $6,000 more—money she didn’t have. She walked out of closing and asked for her $500 dollars back. After waiting three weeks she turned to the Attorney General for help. The AG ultimately got her deposit back from the dealer, and she eventually purchased a different mobile home on terms she understood (no surprises at closing). She is...
very happy now in her new home, according to her interview with Consumers Union.¹⁸

Many consumers put down money and sign a purchase contract based on a dealer promise to get them credit approval. Before 1999, Texas law specifically required dealers to return all but $100 (or 10% of the deposit, whichever was less) if they were unable to corral a lender. Today, the law requires a refund in full.¹⁹ But some consumers turned down for credit still reported considerable difficulty getting their money back.

A Spanish speaking couple from Austin left $1,000 on a home in 2000, contingent on credit approval. Their credit was not approved. Four weeks later they hired a lawyer to help them get their money back.²⁰ After a dealer said her credit had already been approved, a disabled Caldwell, Texas woman put $1,500 down on a home—money she borrowed from a sister’s credit card account. But soon after, the salesman told her that her credit was not approved after all. More than nine weeks later she sought help from the Attorney General to get her sister’s money back.²¹

Rather than give back a consumer’s deposit, dealers sometimes try to force consumers who have been turned down for credit into alternative financing or another home. Another Spanish speaking couple in San Juan left their deposit with a promise of credit approval. When the dealer couldn’t get a loan approved, he suggested the couple find someone else to buy the house for them (called a “buy for” deal). They refused and filed a complaint when the dealer didn’t return their money.²²

Ms. W. of New Waverly left $1,200 on a 1999 home. Weeks later the salesperson told her she had not qualified for credit on the 1999 trailer, but they would sell her a 1980 model instead. She didn’t want the older model, and asked for her money back. The dealer refused because “he had gotten me approved for a home,” she told the Attorney General, even though it was not a home she wanted to buy. “I told him that I was coming to bring the high Sheriff with me. He told me that I could bring God, that I wouldn’t be able to get it [her deposit] back.”²³

While some consumers report a single “closing” with purchase and all loan contracts, others report more than one trip to the dealership: once for the purchase contract (with the deposit) and again for the loan closing. Once the purchase contract is signed, but before the loan closing, construction on the lot may begin (clearing, foundation, electric hookups, septic, etc.), and those contractors will need to be paid. By the loan “closing,” the consumer is essentially locked into the deal.

A retired military man from Kemp, Texas selected a home for $67,000. By the time he went to the loan closing at the dealership, his slab had already been poured, although the home itself had not yet been delivered. As he reviewed the loan documents, he noticed that his home price had risen to a remarkable $80,900. Although he was shocked, he continued with the closing because the workers had to be paid. Ms. R. of Kingsland had the dealer completely redo the loan documents at closing. “My mother told me to walk out,” she said. “I was stuck in a hard place, because Palm Harbor had K--- installing my septic and paying for it $2,400, and B--- Construction putting my pad down for the double wide, $1,500. If I did not go through with it, someone had to pay them.”²⁴

**Loan Contracts**

Once the loan contracts are signed, consumers cannot change their mind and get their downpayment back, even if the home has not been delivered and no site preparation started. The law requiring refunds of “deposits” does not apply to “down payments,” so once a deposit becomes a “down payment” (when it is transferred to the loan document as part of the consumer’s share of the purchase price), it is no longer refundable. Nor does...
Texas law provides for a “cooling off” period to consider the details of a manufactured home loan. Ms. G. of Pharr, Texas changed her mind a few days after signing the loan documents and purchase contract for an Oakwood home (but before delivery). According to Ms. G., she asked if she would be able to change her mind and get her down payment back at any point and sales people had assured her she could. Oakwood denies any such representations. Ms. G. was concerned that she was not going to be able to make the payments. And her loan payments were scheduled to increase in three steps from an initial $370.02 to $515.26 for most of the life of the loan (28 years). In a letter to the Attorney General, Oakwood responded, “The fact that Ms. G. has had a change of heart about the home does not relieve her from her contractual obligations to O M H I.”

Lenders generally have a strong interest in a consumer’s ability to repay a loan, and most lending law assumes that an independent loan approval process will eliminate people who are over extended. But in the manufactured housing market, many of the lenders (Oakwood, Vanderbilt, Countryplace, and others) are affiliated with the manufacturer, and share an interest in high sales volume.

Independent lenders have recently emphasized volume over quality, and tens of thousands of loans to people who could not afford them are already foreclosed. James Clifton of the Manufactured Housing Institute recently said, “In many cases you were lending to people whose credit scores suggest they were never capable of making a payment in their lives.”

A mandatory “cooling off” period of at least five days, with full and final disclosure of loan terms, would give consumers the opportunity to realistically assess their ability to pay before finalizing a deal.

Home Delivery: This is not my Beautiful House!
Manufactured homes of the same model should be very similar, one to the next. They are built in a factory with standardized construction methods, a variety of floor plans, and standard upgrade packages. The model home that a consumer walks through at the dealership should be just like the actual home that arrives on the consumer’s lot, with any changes requested by the buyer. This is why most consumers accept the fact that they must sign contracts and put money down without actually seeing their own home constructed first.

But sometimes the home that arrives is very different from the model home, and consumers who try to reject the home upon delivery may have to get a lawyer to get them out of the deal—although the Deceptive Trade Practices Act clearly prohibits any kind of bait and switch. Twenty nine families, or about 7 percent of complainants, reported delivery problems with their manufactured homes.

Alice Hogue and her son Jimmy bought a 2000 Redman Stonebrook singlewide from an East Texas dealer in July of that year. According to Ms. Hogue, the dealer asked at closing whether they would like copies of the contracts and she declined, saying she could come by and get them later if she needed them.

Like so many others, Mrs. Hogue trusted that there would be no problems and the system would work as explained to her at closing. The dealer told her to make a list of anything that needed to be repaired and he, the dealer, would send someone out. When the home was installed she made her list of repairs and delivered it to the dealer, but the dealer didn’t send anyone to fix the home. This first glitch led to the discovery of others.

Tired of waiting, her son forwarded the information to the manufacturer, who sent out a repairman. While completing some of the repairs, the repairman told them that the home was actually a 1998 model, not a 2000 model. According to the N.A.D.A. bluebook, a 1998 model is worth less than a 2000 model in 2000.

Upset that her new home might actually be two years old already, Ms. Hogue called the dealership back and told them she would come by to pick up those contracts. “He asked what for,” she wrote to the Attorney General in May, 2001. “I told him I just wanted a copy of all the paperwork. T— — said everything was at his house in case someone broke into the office. I told him I would be by the office the next day to pick them up. Well there’s been no next day. I’ve called. My son’s called. Went by the office. No one’s there.”

Mrs. Hogue eventually did get a copy of the loan documents directly from the lender. The loan documents showed a place where “2000” was marked out and “1999” written in ink. “It also had my initials, which I don’t remember putting on the contract under the 99. I’m not saying I didn’t initial it. I don’t remember signing it. T— — told us it was a 2000 model.” Mrs. Hogue’s 30-year loan rate remained high at 12.32 percent APR.

She hoped the Attorney General could help her get copies of her contracts and the model year trailer she ordered, but when Consumers Union contacted her she had yet to receive copies of those contracts and her son had moved into the home they had delivered.

Source: Complaint to the Office of the Attorney General, 5/7/01, Lone Oak, Texas.

Ms. Hogue remembered initialing several places in her contract, but she did not remember initialing the change to the year/model identification.
of a very different home from the one they thought they purchased.

Sometimes consumers reject the home because it was poorly constructed, lacked special features, or was otherwise different from the model they walked through. An Edinburg family purchased a Southern Energy double wide from E-Z Manufactured Housing, putting $5,625 down. But when the home arrived, the family rejected it outright and wanted their down payment back. “We were in shock. The mobile home was not built like I had ordered it. All of us were disappointed with the construction and workmanship of the home. It was constructed poorly... [the salesman was] disappointed with the mobile home. He spoke to... a representative of Southern Energy. He said we would have to take legal actions.” According to the dealership, the family ultimately accepted the home and the dealership repaired the items of concern.

An Itasca, Texas couple selected their home because the salesperson offered several special features, including a built-in stereo, six inch interior walls, shutters all the way around (not just on the front), and a popcorn acoustic ceiling. T he home arrived with 4 inch interior walls, shutters on the front only, no stereo, no french doors, and no popcorn ceiling. According to the dealer, the manufacturer no longer built the home with the requested features. T he manufacturer said some of the special features were not on the order form. T he dealer would not refund their deposit (see discussion of Special Order Homes, p. 24).

About half of these families reported receiving a home that was smaller, older, used instead of new, without upgrades, or otherwise less valuable than the make, model, year or type of home they thought they purchased. When they tried to reject the homes they faced loss of their down payment, a bad credit report, and mandatory arbitration.

Ms. S. of Eagle Lake, Texas signed loan and purchase contracts to buy a single wide mobile home for $27,000. According to Ms. S., the home that was delivered was not the one she ordered. It did not have two bathrooms and the arrangement of rooms was incorrect, so she refused to accept it. T he dealer refused to refund her $3,100 down payment. Green Tree refused to delete from my credit,” she wrote. After correspondence from the Attorney General, Green Tree agreed to “request a deletion of any negative credit reporting it may have placed on the credit report.”

Mr. E. of Breckenridge bought a mobile home from a Ft. Worth dealer in 1998, but when the home was delivered and he saw the title he found that the home was 4 feet shorter and 112 sq. feet smaller than he expected. “We based our purchase almost entirely on cost per square foot in comparison to other homes we were looking at,” they told the Attorney General. Although the dimensions he thought he purchased were typed throughout his closing documents, the dealer explained that this was merely a typographical error and suggested that Mr. E. go to mandatory arbitration.

A Lancaster, Texas consumer responded to a flier from a dealership in Hillsboro describing a repossession three bedroom double wide. She looked at the home, took the flier and decided to buy it. Believing she was buying the home in the flier, she signed all the closing papers, but when the home was delivered it was a completely different home— different year,
smaller by 96 square feet, different floor plan. It turned out this smaller home was the make and model actually written into some of her closing documents. Three months later she hired a lawyer to force the company to rescind the loan contract and refund her money.34

The Telephone Audit and Final Repairs
When a consumer purchases a site built home that will need repairs to ensure its value as collateral, the lender typically does not release the final loan funds until a lender's inspector has walked through the home to verify that all repairs are complete and adequate. Although all manufactured homes require repairs upon installation, manufactured home lenders may release funds based on a “telephone audit” with the consumer. The lender verifies by phone that the home was delivered and “blocked” and before completion of installation, let alone repairs.35

Since the lender may not send an independent witness to the site, dealers can encourage false phone reports. A consumer living in Abilene purchased a home in Bastrop, to be placed on land in Bastrop. Sight unseen, the dealer told the consumer to report to Conseco that the home was delivered and on the lot. Instead, the lot chosen by the family was not actually for sale and only a number of undesirable lots were available. When Conseco began demanding payments on the loan, “I told him that we have never even seen the home. He asked if we had given a phone audit stating the home was on the land. We explained that we were misinformed and were told to tell Conseco that the home was on the land.”36

Some consumers report no contact with the lender at all. When Ms. S. of Eagle Lake (above) rejected her home, she asked the Attorney General, “Why was it that Conseco Bank could release a check to Nationwide without any kind of contact with my self...or my mother?” She called the lender as well. “What kind of bank would let you make a major purchase like this and not come out to see if their consumer was satisfied.”

Since the lender may release funds as soon as the home is “blocked,” the consumer’s payments may begin well before repairs are complete, even if the consumer cannot yet live in the home. M r. H. of Spicewood bought a land/home package in May of 1998, but the dealer would not do any repairs. The consumer even agreed to mediate, but when the mediator found for the consumer and required the dealer to void the contract, the dealer claimed the mediation was illegal. According to the consumer’s March, 2000 letter to the AG, “the home has never been lived in because they would never do the repairs. They have started the payments before we ever did the walk through.”37

J.W. and Francis Latham of Houston, a retired couple, put ten percent down on a $65,950 home at a dealer in Lufkin. When the home was delivered to the dealership, they were invited to see it and sign the loan documents. They thought the home looked ok, although it was hard to tell since it was in pieces, but they did not want to sign anything else until it was put together on their lot. “He told me if we didn’t sign the loan contract, that home wasn’t going anywhere,” M r. Latham told Consumers Union.

So the couple signed and started to make payments, even though the installation and repairs were still not complete to the couple’s satisfaction a year later. They moved in ten months after the purchase, although the home did not match their expectations. “We wanted everything in the house like the model on the lot,” said M r. Latham. M r. Latham had a suggestion for the Attorney General. “Before I close this letter, a law should be, that before you have to sign a contract on a mobile home, it should be on your property and everything as it should be. Like building a house.”

Some banks entering the manufactured housing loan niche have discovered the importance of an independent, final home inspection as part of
the loan process. Murphy Bank, which lends to high-end manufactured housing buyers in California, flies its loan officers in to visit each home personally before extending a loan. Lenders that spend less money and time investigating each deal have faced serious losses. Home Federal Savings suggested that banks make loans only to local customers—not those several states away—after it wrote off millions in bad loans. These lenders believe it is important to keep an independent eye on transactions for their own good and the good of the consumer.

More recently, GreenPoint Financial charged off $663 million in mobile home business. According to the company’s CEO, the manufactured housing loan business is like auto lending, but without the same checks and balances. Fitch Investors Service notes that recent trends towards “irrational pricing” helped push the industry into a free fall. With adequate and independent home inspections prior to release of loan funds, both banks and consumers would have confidence in the underlying value of the asset and dealers would have to provide prompt repair service if they expected to be paid.

Predatory Lending
Most discussions of predatory lending focus on home equity loans secured by standard homes, or sometimes very high cost, short term personal loans. But any loan can be predatory if it meets some or all of these criteria:
- High interest;
- Excessive fees and insurance;
- Deceptive marketing;
- Incomplete loan disclosure and fraud; or
- Lending without regard to a borrower’s ability to repay the loan.

A high cost or deceptively marketed 30-year retail installment contract for a manufactured home may share many of these features, but most important for our purposes, it strips a family’s equity in the home.

There remains some question whether a manufactured home—in and of itself—appreciates over time (creating family wealth). Consumers Union hopes to weigh in on that question in the near future. But regardless of the appreciation rate, a home that is tied to a high interest loan packed with excessive fees, prepaid and financed points, and expensive insurance may be worth far less than is owed for the first half of the contract.

High Cost Loans
Consumers Union reviewed loan documentation for 128 consumers who included such information in their complaint to the AG or the OCCC. Many of these consumers filed their loan documents even though their complaint was about something else altogether (frequently home repair or installation issues). We assume that this sample will include a somewhat larger share of high cost loans than the market as a whole, since complaints correctly addressed to the AG or the OCCC tend to involve misrepresentation, including loan representations.

In general, the manufactured home loans we reviewed were offered at interest rates substantially higher than ordinary mortgage loans. Of the 128 loans with complete interest rate disclosure, we found that most loans were issued to consumers at interest rates of 9 percent to 13 percent APR. The bulk of the loans (46 percent) were issued at 11 percent to 12.99 percent. The median rate for this group of loans was 11.5%, only slightly higher than the median rate for mobile owners in general as reported by Consumer Reports in 1998 and slightly lower than the average rate reported recently by the ailing Conseco (11.7% plus points). Vanderbilt, which recently securitized a large number of Texas loans, reports rates ranging
from 7.75 to 19 percent, with a weighted average of 10.8 percent. Ordinary 30-year fixed rate home loans for the same period hovered between 7 and 8.5 percent.

The National Consumer Law Center (NCLC) and the American Association of Retired Persons (AARP) recently released new recommended standards for "high cost" mobile home loans. According to NCLC, any first lien on a mobile home that is offered at eight points above the weekly average on five-year Treasury securities should be considered a "high cost" loan subject to special consumer protection law.

Alfred Williams of Atascosa, Texas got a letter from his lender announcing a payoff amount more than $4,400 higher than he expected. "The contract clearly states I am to be financed for $40,821 after origination and funding and insurance was taken from my down payment," he wrote to the AG. But according to the company, he actually borrowed $45,292.44, listed on his loan agreement as the "Unpaid balance," while the amount he thought he owed was the Amount Financed listed in his TILA box. According to the lender's attorney, "prepaid financed (sic) do not mean that the consumer actually prepaid those charges, as your letter implies. In fact, Mr. Williams did not "prepay" his "prepaid finance charges;" rather he financed those items as part of the loan."

The official staff commentary to the TILA regulations directs lenders to use this "now-you-see-it-now-you-don't" disclosure, where the Amount Financed is reduced by any "prepaid finance charges," even if those charges are not actually "prepaid." The TILA disclosure does accurately describe the effect that financing prepaid finance charges has on the interest rate. According to Mr. Williams loan company, he must pay back $45,292.44 at 12.25%. This is mathematically the same as a loan of $40,821 at 13.809%, the interest rate and Amount Financed disclosed in his TILA box. The "prepaid finance charge" plus the interest on the prepaid finance charge must be incorporated into the total "Finance Charge" in the TILA disclosure, rather than the amount financed, and this has the effect of substantially increasing the disclosed APR interest rate.

1 Complaint to the Office of the Attorney General, 9/6/99, Lytle, Texas.
2 Official Staff Commentary to Regulation Z, 12 C.F.R. Sec. 226.18, Comment 18(b)(3).
Consumers should be skeptical of low downpayment deals because the down payment is usually a significant indicator to lenders that a family is financially ready to take on a home loan. In our review, 27 families (or about 6.5 percent of all the cases we reviewed) reported what appeared to be violations of lender downpayment requirements. Dealers offering low downpayment deals sometimes paid the additional down payment money out of other funds or borrowed funds, and loan contracts show an incorrect down payment amount.

Ms. C. of San Antonio wanted her mobile home loan refinanced after she found several problems in her paperwork, including the falsification of a down payment and “buy-for” fraud. She and her grandmother had answered an ad to rent a manufactured home from Oakwood. The salesperson offered instead a “zero down” purchase that would cost her only $269 a month. Ms. C’s grandmother agreed only to co-sign the loan, not to actually take a loan in her own name.

After running a credit check, the dealer called the two back in to settle the terms, but this time asked for $1,600 down. Since they had planned to rent rather than buy, they had no down payment money and reminded the salesperson that it was to be a “zero down” deal. Eventually, the salesperson called them in again, and showed them the $1,600 listed as a down payment but said he had “found a loophole.” He asked Ms. C. to sign one set of papers, her grandmother to sign another and gave copies to neither, according to Ms. C. She did not actually leave any down payment, and in the end, all the contracts were actually in her grandmother’s name.

“When I went to pick up the paperwork from Oakwood Mobile Homes office, there was only my grandmother’s paperwork,” she wrote to the AG. “I asked where my paperwork was and no one remembered that I had signed a set of papers, and Mr. C------ was no longer there. He had been transferred to another office, they said.” The Attorney General made repeated attempts to solicit a response from the dealership to these accusations, but after waiting four months they closed the file and recommended that Ms. C. might pursue her claim in small claims court.

Even if the offer is not a “zero down” offer, consumers must be careful that their paperwork is the same as the deal they made. A consumer from Weir, Texas reported that he put $1,000 down on the home, but the down payment shown on his loan documents was actually $3,060. A couple from Alamo, Texas reported that they could no longer pay for a home purchased on their grandfather’s credit, and wanted help getting out of the deal. Without comment, the couple circled the down payment on their contracts ($6,038.25) and provided a copy of their downpayment receipt ($1,000).

According to the company response, the couple kept the home and the dealership offered payment assistance for 12 months. A consumer from Huffman, Texas reported using a wedding ring as a down payment because she had “no money.” The loan documents report a $5,000 down payment.

Land/home deals have resulted in different forms of creative financing for the down payment. In response to a query from the Attorney General, a San Antonio developer reported loaning one couple $8,000 towards their down payment in a separate loan agreement, and then wrapped the home and land together in a “contract for deed.” The final loan document shows a $10,000 down payment rather than the $2,000 the couple actually paid.

A Houston consumer reported that she backed out of a land/home deal when she realized that she was told different down payment and closing cost amounts by the lender and the dealer, and the dealer had suddenly changed the cost of the land by $2,500. To try and curb dealer fraud in land/home transactions, the 77th Texas Legislature last year passed a law designed to prohibit dealers from using money from the sale of land to fund a consumer’s down payment, points, or fees.

Most consumers who report their stories to regulators appear to have been aware that the down payment on the documentation was not the same as the down payment they actually paid, and some try to back out if they realize that the deal actually will require them to lie.

A Hearne, Texas consumer reported that the dealer wrote a check to his brother for “lot clearing” to cover the down payment.

“Doug, the general manager, drove me in his corvette to the bank where I cashed a check written to me for services I did not do, and instructed me to hand him the cash money,” the brother wrote in a sworn affidavit to the Attorney General. When the brothers questioned this part of the transaction, the dealer assured them it was a common practice, “done all the time...nothing to worry about.”

After moving in, the two brothers discovered that they had indeed perpetrated a fraud and wanted the dealer to come get the house. “I am a retired Military Veteran and take stringent exception to involuntarily and unknowingly being made part of any such activity,” he wrote to the AG.

Consumers who sign contracts where there is some difference between the deal presented on paper and the deal they think they negotiated may place themselves in a position of collusion with fraud. On the other hand, dealers are quick to say its “done all the time” or allowed under some “loophole” and are ultimately responsible for convincing vulnerable families to do something wrong.

Buying a home is among the most complex and confusing financial decisions most families ever make, even if everything is above board. For low-income families and those with imperfect credit, the process can be overwhelming. Dealers take advantage of this difficult time when they present “creative” solutions to credit or financial problems.
tion about home loan counseling and a warning that their loan may be expensive. Unfortunately, this new law wouldn’t have resulted in notices to most of the consumers with APR interest over 12 percent in our loan pool, because the regulation implementing it defined 12 percent as the “contract rate” rather than the TILA annual percentage rate.\(^{48}\) Many retail installment contracts actually sport two interest rates, one that includes prepaid financed points (the higher TILA rate) and one that does not (the contract rate).

### Are Financed Points a Good Deal?

Reduces Long Term Interest Costs

This Kingsland consumer was surprised by $5,000 in previously undisclosed points at closing. Over 30 years she would pay less interest with “points”.

<table>
<thead>
<tr>
<th>Cash price, $65,439 with five percent down calculated at 8.99% with $5,000 financed points and at 11.04% without points.</th>
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<tbody>
<tr>
<td>Total Interest Cost to Consumer without Points</td>
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<td>$180,000</td>
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<td>$20,000</td>
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### But Financed Points Slow Equity Build up

$5,000 in points on this loan would have eliminated her equity in the first five years, and reduced her ownership in the home for the first 15 years.

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<th>Equity without Points</th>
<th>Equity with Points</th>
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### Finding Solutions to Fraud

Last year, the Oregonian produced a major two part expose of fraud issues in the sale of manufactured housing in Oregon. The paper found that dealers and lenders routinely circumvent the minimum 5 percent down payment standard for manufactured home loans, and failure to enforce down payment standards leads to increased default.\(^{9}\)

In response, the state Attorney General led a Task Force in the development of new fraud deterrents in state law, and proposed them in March, 2001. In general, the Oregon Attorney General recommended better, standardized itemization of all costs, including costs not part of the financing, a “cooling off” period, and information about housing counseling agencies for consumers to get a second opinion about their deal.\(^{10}\)

We also believe consumer complaints to state agency regulators should more frequently result in investigation and enforcement. In our review of complaints to the AG and OCCC we found no cases where the regulatory agency did more than send letters. Sometimes the dealer responded with a satisfactory solution for the consumer (usually a simple refund of deposit). But if the letters were ignored, the agency closed the file. Current law already makes most down payment fraud illegal. But without enforcement, unethical dealers can expect to play fast and loose with the rules indefinitely.

Footnotes, p. 35.
cost of the home. In addition to these, another 14 consumers filed complaints that indicated some problem with pre-paid, financed points but did not contain complete information. Overall, about 12 percent of complaints we reviewed contained indication of financed points. We suspect the number would be far larger if all consumers reviewed their loan documentation carefully. Conventional mortgage lenders will frequently offer consumers a lower interest rate if the borrower agrees to pay a portion of the interest—called prepaid points—in cash up front. This is good for lenders because the up-front interest is theirs to keep, even if interest rates decline and consumers refinance. For consumers who get a substantial long-term mortgage rate reduction, the arrangement can also be a good deal, reducing both monthly payments and the long term cost of the loan.

In manufactured home loans, however, consumers actually borrow the money to pay the points, and the cost of the points is added to the principal outstanding balance of the manufactured home loan. (see “Bottom Line,” p. 15) It is correct to say that financing points in this way increases the interest rate by spreading an up-front cost over the life of the loan, as argued by Ms. Watson. However, financing the “prepaid points” significantly increases the cost of this option (consumers pay interest over 30 years on the points), and only works for consumers if accompanied by a significant reduction in interest that consumers are “buying” with these points.

The NCLC Model, New York, and Massachusetts law envision a “bona fide” points transaction where the reduction in the monthly payment (from the original

Spanish Speakers Targeted for Dealer Fraud

In Texas, the Hispanic market for mobile homes is booming. Nearly half of Texas families living in mobile homes today are Hispanic families.1 The president of one Texas retailer in Houston reports that Spanish language advertising on Spanish radio has doubled his business and increased Hispanic customers to over 60% of buyers—and that these customers are generally a good credit risk.2

Yet many Spanish speaking consumers reported transaction problems, in part due to misunderstanding between the sales people and the customers. Purchase and loan contracts are difficult enough for English speakers to negotiate, but Spanish speaking consumers essentially rely on the verbal promises of a salesman to get through the process because everything they sign is in English.

In Spanish, Mr. R. of Floresville wrote to the Attorney General when Conseco started billing him. According to R., the salesman told him the home would cost between $16,000 and $18,000 cash and $26,000 including financing. “When I signed the contract, I couldn’t read it because it was in English and he explained that with everything including financing it would cost $26,000,” wrote Mr. R. (translated from the Spanish). He did not get copies, and did not understand that he would actually have to pay $309 per month for 30 years (or about $110,000) until he got the first bill from the lender. His 13.32% APR loan included prepaid, financed points, property insurance and extended warranty, and the cash price of the home was actually $27,500.1

The Travis County District Attorney recently opened an investigation against Cornerstone, an Austin dealership, and subpoenaed boxes of documents after a former employee reported fraud to the Texas Department of Housing and Community Affairs. According to the search warrant affidavit, "the majority of the consumers involved were Spanish speakers who were not likely to notice the discrepancies in the paperwork, or to report discrepancies if noticed."4

Gilberto Amaya told investigators he paid $3,000 down for his home, although the contract claimed a down payment of $10,944. His ability to repay the loan was also misrepresented. Although his original loan application reported his income as $1,800 per month, the application delivered to Dynex Financial showed an income of $3,800 per month. Finally, Mr. Amaya's loan was packed to include charges of $2,347 for appliances and furniture he never received.

Hidalgo Alvarado got a loan from CIT when the dealer provided the lender a Release ofJudgement Lien for a previous debt. According to Mrs. Alvarado, the family had not paid that previous debt themselves. Cornerstone promised to pay it for them. She also told investigators that the family gave Cornerstone only $1,000 down, although the contracts reflect a much higher down payment of $5,666.

According to the original whistle blower in this case, the dealer took small down payments from consumers, but then purchased a much larger cashiers check using dealer funds to show the lender. Once the lender was satisfied that an appropriate down payment had been made, the dealer redeposited the cashiers check in its own account.

Unfortunately, our complaint review indicates that many other Spanish speaking families have been trapped by bad deals because they did not understand the documents they signed or signed blank documents based on a salesman's promises.

A Spanish speaking consumer from New Mexico purchased a mobile home from a dealer in El Paso. According to the
payment at a higher rate to the new payment at a lower rate) will “recoup” the investment in discount points within four years.\textsuperscript{51}

Including finance charges on financed points, this system would mandate a very significant difference between a proposed rate and the final rate.

In most cases, the files we reviewed did not contain information about an interest rate drop. No consumer reported actually negotiating a lower rate by discussing “points” in advance. A small number of files documented a rate difference (typically when the consumer asked to have the points removed and the new contract was issued at a higher rate). It appears instead that the “buy down” rate was quoted initially. The current offer for a new Palm Harbor home on the company web site, for example, sports an 8.99 percent APR, 30 year loan.

consumer, the dealer asked him to say he had made a down payment of $4,300. He did not have that much money, and he had significant existing debts, but the dealer ordered the home anyway. The dealer also paid off $7,400 of the borrower’s debts. When the home arrived damaged, the consumer tried to reject the deal. He believed that no papers had yet been signed, but communication was poor.

“The bank called my residence, but we were unable to communicate, because no one spoke Spanish and I do not understand English. They wanted me to sign papers there in the office and that they would contact the bank for the financing, but I told them that I was not going to lie and say that I gave them $4,300 dollars as a down payment.” The dealer did not respond to these allegations, but agreed to release the consumer from the home only if he repaid the $7,400 in cash spent to clear his debts.\textsuperscript{5}

A Port Lavaca Texas consumer had an English speaking friend intervene for him when the mobile home he purchased was delivered with a few defects. When his friend asked to see the documentation from the purchase, he found that his stack of documents (all in English) did not include the actual purchase contract, title, loan contract or mandatory TILA statement. “When I looked into the matter, I found that the dealer had required him to sign a number of documents, but had not given G. a single document about this transaction or the resulting financial obligation. The dealer did not register the mobile home in his name or provide him any indication he had title.”

He also looked in local papers, and the only advertisement he found for the dealership was in a Spanish paper. “They are soliciting business amongst folks that have poor English skills in order to cheat other unsophisticated buyers like they have attempted to cheat G.,” he wrote to the Attorney General in January, 2000. By May, 2000, the dealership responded to the Attorney General that the title problem (the title was actually issued to a completely different person) had been resolved and there was a lawsuit pending on the case.\textsuperscript{6}

Many of the other complainants highlighted throughout this report were Hispanic buyers shopping in dealerships from one end of the state to the other, and many of them report that they did not understand the English language contracts as they signed them. All told, about a third of the complaints filed by consumers came from families with Hispanic surnames and about 10 percent were drafted in Spanish by consumers who speak very little English. These consumers are especially vulnerable to abusive loans and confusing deals.

**Recommendation**

- In Texas, Spanish translations of the mobile home purchase and loan contracts should be a routine part of doing business. A standard mobile home purchase contract should be developed by TDHCA and a standard retail installment contract by the Office of Consumer Credit Commission. These agencies should also produce a standard translation. Every consumer should be given the option to receive the translation, completed in full— at the time they are given the English language contracts to review.

- Every consumer should have an opportunity to review those contracts and the translation—completed in full—at least three days prior to actually signing them.

These simple changes would encourage more consumers to understand the agreement they are about to make in plenty of time to walk away with no harm done if they don’t like the terms or conditions.

Footnotes, p. 35.
Two San Angelo consumers bought a manufactured home and land together in 1999. They filed a complaint when they discovered that the two halves of the home didn’t line up and it wasn’t level. Any deterioration would only exacerbate their equity problem. After making a $3,000 down payment, the pair financed $9,118 in insurance (five years of property coverage and 7 years of joint credit life), starting them off “underwater.” They will own no equity in their home for the first ten years of their loan.

Financing Both Insurance and “Points” Can Push Homeownership Back Even Further

Timothy and Debbie Foss of Austin bought their home two years ago. When they arrived at closing, they were presented with a 13.16% APR note that had more than $10,000 in unexpected charges ($4,160 for insurance and $6,213 for points). With a down payment of $3,100, this deal would have left them without equity for the first 14 years of their loan.

They told the dealer they were not willing to take that loan but signed anyway when the dealer promised to negotiate new terms later. The couple made initial payments directly to the dealer, now unaccounted for, and at one point were told they would have to move because their loan deal wasn’t settled properly. After nearly a year, they accepted a loan from the manufacturer without the insurance, at a lower rate, and with $4,000 in points.
with 8 percent in “points,” and does not mention the rate without points. NCLC recommends that points, fees and insurance totaling more than 3 percent should actually be paid in cash up front so consumers fully understand the cost of their investment.

Some dealers appear to hide the points in the price of the home, rather than disclose them anywhere on the loan documents. Scott and Michelle S. of Weir bought a mobile home in 1999. The dealer initially quoted them a price of $38,000, according to the couple, but when they signed their loan documents the price had jumped to $60,197. Among the many papers they signed was a “Seller’s Points Disclosure” announcing that the lender, Sinclair Financial Group, would charge the dealer $12,039.40 in points to make this loan. According to the disclosure, “These sellers points may or may not be reflected in your contract price, amount financed or your APR. In fact, your contract price, amount financed or APR may actually be higher than if you financed your home purchase elsewhere.”

In response to a query from the Office of the Attorney General, the dealer stated that the points were a dealer cost just like delivery, freight or air conditioning. The dealer neither denied or admitted adding these costs to the price of the home, but noted that the $12,039.40 in points resulted in an interest rate reduction for the couple from an initial 12.75% to 11.95%. In other words, this couple paid 20% up front for a .8% reduction over the 25 year life of the loan. Assuming the final home price would have been $12,000 less without these points, this deal actually increased the couple’s cost by $29,690.54.

Dealers much more frequently disclose the points as required on the regular loan documentation. But the standard disclosure is confusing because it adds the points to the loan in one place and then subtracts them again in another (see “Bottom Line,” p. 15). Many consumers reported thinking that this was not a fee they actually had to pay, and reported a wide variety of explanations from dealers.

A Malakoff, Texas couple purchased a manufactured home, but when they sat down to sign the loan papers they noticed $4,500 listed as paid to the lender for “points.” The dealer showed them where the points were subtracted from the Principal Outstanding Balance to get the “Amount Financed,” explaining that this amount was just listed for income tax purposes. The amount financed would be exactly what they agreed. Only when their bills began to arrive did the couple realize that the balance on their account was thousands higher than expected.

Another consumer reports that he tried to stop the closing when he saw the points in the contract. “He assured us and showed us where the $2,942.42 was subtracted out bringing the balance to $42,034.58. With that assurance we continued on with the closing,” he wrote to the OCCC. Only after he found that the payoff amount on his note was far higher than he expected, did the lender explain that the points were included.

Consumers who want to resell their home face a particular burden if their note includes financed points. Even if the home has not depreciated, it is unlikely that a used home will sell for the sometimes
No Credit? No Problem!

“This is our story. We went to Crown Mobile Homes in Cleburne, TX to buy a mobile home in May 2000. We found a new single wide on the used lot, but it was not used. We started talking to the salesman and he gave us a good price. He agreed to “hold” the home for a $500 deposit.

My husband recently had a bankruptcy discharged and we had bad credit. My parents-in-law agreed to finance the home for us because they have outstanding credit. The salesman and manager agreed the mobile home would be signed, sealed, and delivered in 3 weeks. No later.

We had recently moved from Colorado and had no where to live, so we decided to live in a motel for three weeks until our home was ready. After about a week, we started to get the run around about the land. They told us there were over 100 pieces of property to choose from. In reality, there were only about 10 pieces of property and they were all next door to each other and about 25 miles away. We decided on a piece of property and thought everything would be getting along. Everyday the closing on the land was delayed to a later date.

We then got the contracts for the home.

- The interest rate was higher than they told us. The interest rate that the manager of the company quoted us was around 10%. The contracts said 13%.
- The monthly payment and down payment were higher than they told us. We were told that our total monthly housing payment would be $450. The contact stated that it would be over $600 a month.
- They added in the home insurance in two separate places. They also told us the insurance would be for three years, but it said one year in the contract.
- They added in set up charges that were supposed to be free.
- They also charged us for flood insurance in the contract. I told them that my parents-in-law would not sign the contract like it was. The manager said there was no way to change it, because the finance company wrote the contracts. I told him I was not comfortable and that I would like my deposit back. He refused and said that they had fees to deduct from it because I wasted their time. He told me I would get the check in a few weeks.

I waited 15 business days and then filed a small claims case for my deposit and for the $900 we spent to live in a motel room. The reason we lived in the motel was because there were no apartments available for a month to month lease while we waited for this home.

I won the small claims case and my deposit was returned; however, I failed to be reimbursed for the motel expenses. The judge concluded there was fraud, but because the mobile home company did not agree to pay our living expenses from the start, they were not liable for the motel expenses. I felt cheated during the whole experience.”

--Thea Gilliam, Cleburne, Texas, 12/10/01.

We have purchased real estate a number of times over the years and fully understand what “buy downs” are and how they work. We are also aware that when a contract is paid off within the first four years, points are not a good investment. At the time of purchase we fully intended to pay this contract in full within the first year pending the sale of our house. With that in mind, why would we have agreed to the points?

Malakoff, Texas

We have purchased real estate a number of times over the years and fully understand what “buy downs” are and how they work. We are also aware that when a contract is paid off within the first four years, points are not a good investment. At the time of purchase we fully intended to pay this contract in full within the first year pending the sale of our house. With that in mind, why would we have agreed to the points?

Malakoff, Texas

A Fort Worth couple thought they paid $65,416 for their home, but the loan included $7,195.77 in points. “At the time we purchased the house, my wife and I were told... that the pre-paid points were a rebate because of our good credit.... At no point in time were we ever informed that we would then be responsible for the pre-paid points that was reduced from the amount financed.” According to their complaint, they never would have purchased the home for $72,600. If they resell it, they must be able to get at least that much, about ten percent more than the new dealer price, in order to pay off their loan.

Step Rate Loans

Consumers no doubt balk sometimes at the high cost of a mobile home loan. But dealers can offer borrowers a much lower monthly payment up front if the overall cost of the package starts to look too high.

These low monthly payments quickly end, however, as the loan payment “steps” up every 12 months. We identified step rate loans from several of the major manufactured home lenders; Oakwood, Greenpoint, 21st Century, and Vanderbilt.

These “step rate” loans assume that a family is going to be better off, and better able to make higher payments down the road. Sometimes that is clearly not the case, especially with elderly buyers.

Mrs. D., aged 64, and her husband Mr. D., 74, traded in their mobile home for a new model. The manufacturer used their old home as a down payment and started them on a new loan. “I was not informed that the mobile home...”

Homes face the highway advertising low monthly payments and available land.
payments would be increased after one year from date of purchase or that the interest rate on the unpaid balance would also increase every 12 months for three years," Ms. D. wrote to the Attorney General.

According to Ms. D., only her husband, brain injured since 1991, saw and signed the loan documents. Anxious to get out from under the payments, the couple tried to sell the home on consignment with the dealer first. “We finally had to let the home go back and now Oakwood Homes reported us to the Credit Bureau as mortgage foreclosure.” According to Oakwood, the first payment increase corresponded to a call from the D’s saying that Ms. D. had lost her job. They sold the home for nearly what the D’s owed, but charged a deficiency balance of more than $15,000 for “substantial costs incurred in connection with the sale.” 58

Richard H. of Elmdorf was more explicit in his description of the promises that were made to him. The dealer couldn’t give him the monthly payment originally quoted, but said “that I could refinance at the end of the year. We signed the papers conditionally based on the refinancing at the end of the year.” Mr. H’s note rose in four annual steps from $436.73 per month to $641.73, with an overall interest rate of 10.5%. According to Oakwood Homes, Mr. H. could have refinanced his note at any time...at a fixed rate of 13%. 59

Insurance Add Ons
Fifty four of the 65 complete loan documents included some kind of add on insurance or warranty, most commonly property insurance and an extended appliance warranty (including heating and cooling) from the dealership. Insurance add-ons do not add to the value of the home, but they do add significant cost to the loan.

- 53 borrowers bought single premium property coverage from the dealer, financing it in the loan.
- 30 loans included a Homebuyer Protection Plan or Extended Service Warranty.
- 11 loans included single premium credit life insurance.

Much has been written about credit life insurance. A very expensive insurance product, as measured by the ratio of premiums charged to claims paid, Consumer Reports and others generally advise against buying it altogether. A recent Consumer Federation of America/Center for Economic Justice report estimates that consumers nationwide paid $2.5 billion too much for credit insurance in 2000 because commissions to the seller (auto dealers, manufactured home dealers, furniture and appliance dealers and others) drive up the cost. 60 Since relatively few loans included credit insurance, it appears that manufactured home consumers have begun to avoid this costly add-on.

On the other hand, single premium mobile owners property insurance was nearly universal in these loans. M manufactured home dealers typically offer from one to five years of property coverage for the mobile home and write it into the loan document. According to the 53 consumer files that included single premium property insurance, rates range from about $400 per year to more than $1400 per year. Since more expensive homes require more insurance, we calculated the cost of property coverage per dollar value of the home, and found it ranged from about 1 cent to more than 3 cents per dollar of coverage per year.

The consumers who filed complaints financed an average premium price of $1,630 (for an average term of 2 years). Including interest charges, these consumers will ultimately pay more than $5,200 for this coverage on average, and at the end of two years will still need to go out and buy insurance on the regular market. 61

Some consumers may not realize that shopping elsewhere is an option. A Kileen woman thought she had to buy property coverage through Vanderbilt, her lender. After looking at her documents, she realized that she paid $3045 for it, financed at 10.3%, over 23 years. “This makes for very expensive insurance,” she wrote to the OCCC. 62

Ms. F. of Shallowater, Texas, reported being told by the dealer that she had to purchase the property insurance from American Modern Insurance Company and they would add it into the loan. She replied that she already had mobile home insurance through Farmers and would transfer it to her new home. The dealer then said, according to Ms. F., that since she did not have a cash downpayment (instead she traded in her previous mobile home), she would have to buy their insurance. The dealer responded that the forms she signed notified her that she could obtain insurance elsewhere. 63 Timothy and

<table>
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<tr>
<th>Monthly payment</th>
<th>Amount Due</th>
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<td>$336.82</td>
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<td>$376.93</td>
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<tr>
<td>$411.81</td>
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<tr>
<td>$641.73</td>
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<table>
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<tr>
<th>When Payment Is Due</th>
<th>Amount Due</th>
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<tbody>
<tr>
<td>JUNE 19</td>
<td>1999</td>
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<tr>
<td>JUNE 19</td>
<td>2000</td>
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<tr>
<td>JUNE 19</td>
<td>2001</td>
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<tr>
<td>JUNE 19</td>
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Step rate loans assume that a consumer will be able to make higher monthly payments in future years. For most of these consumers, they will also have an additional payment for home insurance once their prepaid, financed insurance expires.
Special Order Homes

Consumers who purchase a “special order” home can lose a deposit of up to five percent of the cash price of the home if they try to back out, unless the home is not what was represented or the consumer did not receive a notice of the refund rule. There is no cancellation “window” at all for special order homes, nor does the law make any exception for people who do not get credit approved or do not want the credit terms they finally get. For consumers who are turned down for credit or use the title to their previous home as a deposit, the “special order” no-refund rule can be especially problematic.

After Nationwide Homes reported that a lender had approved them for a loan, a Joshua, Texas man signed a purchase contract, leaving $2,300 down. “When the home was finished, they came back and told me they was having problems getting my credit cleared, and I told them that was already supposed to be done,” he wrote to the OCCC. “They run my credit through 6 different financial groups. I told them to stop running my credit and cancel any further proceedings.”

The dealer, however, continued to look for lenders and insisted that since he had signed a purchase contract for a “special order” home, he was bound to take the home. “Two days after I requested my money back, I already found another home. They called and told me they had financing for me...They told me I had to take it because I special ordered it.” Under current law, this would be true even if the terms of the final financing were not agreeable to the consumer.

Any home that is available but not sitting on the lot can be a “special order” home. When Edward and Leticia G. of San Antonio went to purchase a manufactured home, they got a “special order” home and gave the dealer the title to their existing manufactured home as a down payment. According to their “special order” agreement, a special order home is one that is “not in inventory and must be ordered from the home manufacturer.” But when their credit information was processed by the lender, they were turned down. After three letters from the Attorney General, the dealer returned their title.

Under the law, a consumer can back out if the home is not what she ordered. Jacqueline B. of Austin put down $4,000 for a custom home. Then the sales person called to say that her home had not arrived but they had others on the lot she could see. She picked a different home, but asked the dealer to install a bay window. When she arrived to look at the altered home with a contractor, she found many defects and decided to reject the home. The dealer insisted that her “special order” agreement precluded the return of her deposit, even though her real “special order” home had never arrived and the lot home was unacceptable.

Debbie Foss (story p. 20 and 21) told the dealer to pull the insurance off at closing, but didn’t get another loan deal finalized for a year.

Dealers sometimes try to reassure uncertain buyers by telling them that the insurance will expire and their payments drop so they can get their own insurance later. But of course, single premium property insurance is paid in full up front but financed over the term of the loan. So when the insurance expires there is no drop in the monthly payment. Instead, consumers must add the new cost of property insurance to their monthly home cost.

About half of consumers also bought Homebuyer Protection Plans. These plans generally cost $480 to $580 and promised to pay for repairs to the appliances sold with the home and home systems like heating and air conditioning, sometimes with a consumer copayment at the time of repair.

The plans do not cover existing defects (including manufacturer defects), but after the termination of the original warranty they promise to pay repair costs for one year (used homes) or up to five years (new homes).

A Homebuyer Protection Plan costing $580 and financed at 11 percent over 30 years will actually cost nearly $2,000. According to the recent Consumer Reports appliance repair survey, consumers say fewer than 25 percent of major appliances (dishwashers, refrigerators, ranges, washers and dryers) need repair during the first five years, and repairs typically cost $100 to $140. To recoup the cost of the Plan plus interest, consumers with new appliances would have to order dozens of appliance repair visits during the Plan term (assuming a $35 per repair copayment). Even if we assume that repairs to air conditioning and heating units will cost more, these Homebuyer Protection Plans are an expensive gamble like their sister products, the extended warranties available at appliance outlets.

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“Under Water” Insurance, extended warranties, and financed points do not add to the collateral value of the home. But they add significantly to the amount owed on the home. Fifty nine of our 65 loan files included some form of add on, and 48 people added more than one extra to their loan.

NCLC’s new predatory lending standard recommends a total fee and add-on threshold of 3 percent of the total loan amount (defined as the cash price of the home plus any
installation costs less the down payment). This is similar to the fee standard set out in the Texas Constitution to protect Texas homeowners from predatory refinance loans. Unlike Texas law, the NCLC standard includes in the 3% cap all kinds of insurance wrapped into the loan (but not monthly insurance payments made from an escrow account and not financed). Under this standard, about three quarters of our 65 loans with detailed financial information could be considered “high cost loans” deserving of additional consumer protections.

Most of the loan documents we examined showed a 5% down payment or less. Consumers who financed more than 5% in extras on a note with only 5% down start out owing more than the home is worth. In all, half of loans we analyzed included more money to finance points, insurance and extended warranties than the consumers’ downpayment.

The true number of these consumers who are “underwater” is probably far higher, since dozens of consumers reported a variety of loan frauds (most commonly, overstating the down payment or reporting as a downpayment money the consumer borrowed), an increased home price between the oral agreement and the final closing, or received a home that was smaller, older, without upgrades, or otherwise less valuable than the make, model, year or type of home they thought they purchased.

Consumers also report that dealers will promise to pay off their credit cards, give them significant cash rebates, furniture packages or security system contracts—even though such payments also add considerable cost to the loan.

A consumer in Poteet reported that his manufactured home dealer promised to pay off two credit cards and a personal loan, and make the deal with zero down and insurance (both property and credit) included in the loan. The consumer was unhappy that only one of the two credit cards was paid, although the dealer appears to have fulfilled the remaining promises. A buyer from Utopia, Texas reported her dealer paid off three credit cards and an old, outstanding attorney fee along with the first year’s rent on the land and a $500 cash award for referring another customer.

A Kingsland, Texas woman signed a loan agreement that included money to pay off her car note, as well as a credit card bill, her septic tank, and installation of the pad under the home. Her mother wrote to the Attorney General because they felt deceived at closing. “[She] asked him the total sales price and what her payments would be, as they were paying off her car and a credit card bill and paying...
for the sewer hookup. He never answered exactly what the sales price would be but he did state that her payments would be around four hundred and something dollars.  

Although at closing her loan’s interest rate was higher than expected, she felt compelled to sign because the contractors had begun work on her lot and she couldn’t pay them without this loan. Some consumers report large cash rebates. A woman living near Lubbock reported that her dealer offered a $2,000 cash rebate from her home deal, but only paid her $1,000. The loan documents confirmed her claim, and the dealer sent her the remainder.  

A Spring branch woman bought a home with a “side deal” on paper promising $2,000 in cash to pay off credit card bills, which would come from the home loan. In this case, the dealer released $452 to allow the consumer to repair her car, but never released the rest.  

The real problem with such deals is the cost they add to the loan over and above the value of the home, leaving families “underwater” for years into their mortgage. Taken together, a total of 22 percent of complaints involved loans that may have been made for greater than the initial value of the home, leaving consumers underwater in the early years of their loan.  

Mr. and Mrs. G. of Rosharon were quoted a price of $30,000 for a simple, no frills single wide trailer (16x66). According to the industry’s standard appraisal manual, this home was valued at about $20,000. But the G. family wrote to the Attorney General when they received their first payment coupon announcing that they owed $45,902. The actual cash price on their paperwork turned out to be $42,695. Their 30 year note included $1,354 for property insurance, $1,467 for credit life and $4,456 for prepaid, financed points—giving them a principal balance to repay of $45,902.  

“I feel I was taken by the salesman for not speaking or understanding business English,” Ms. G. wrote, with the help of her daughter. “Why did the trailer go from $30,000 to $42,695 cost? I want to know if my trailer is worth $42,695. It’s a plain trailer. No frills.” Unfortunately, it appears that they may owe significantly more than the current value of the home according to the appraisal guide, and $15,000 more than they believed it was worth when they agreed to purchase it for $30,000.  

Current studies conflict on whether a mobile home will hold its value. Assum-

### Summary of Selected Consumer Protection Laws Related to Manufactured Home Sales Transactions

<table>
<thead>
<tr>
<th>Statute</th>
<th>Application to MH with retail installment contract on rental land</th>
<th>Application to MH with retail installment contract on land owned by consumer</th>
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<tbody>
<tr>
<td>Texas Manufactured Housing Standards Act (as amended by HB 1869, 77th Tex. Leg.)</td>
<td>Refund of “deposit” required within 15 days of a written request except for special order homes.</td>
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</tr>
<tr>
<td>Real Estate Settlement Procedures Act (RESPA)</td>
<td>Not applicable</td>
<td>Requires “good faith estimate” of settlement costs within three business days after application.</td>
</tr>
<tr>
<td>Texas Finance Code Sec. 343.102</td>
<td>For a loan with an interest rate of 12 percent or greater, lender must give borrower standard notice that they may have a high cost home loan within three business days after the date the application is made.</td>
<td>For a loan with an interest rate of 12 percent or greater, lender must give borrower standard notice that they may have a high cost home loan when lender makes RESPA disclosure.</td>
</tr>
<tr>
<td>DIDMCA OTS Regulations 12 CFR 590.4</td>
<td>Preempts state law limiting the amount of interest, discount points or other charges if lender complies with OTS regulations, including:  * Refund of precomputed interest must use actuarial method;  * No prepayment penalties;  * No late charges may be applied prior to the 15th day after scheduled due date;  * 30 day notice and right to cure before repossession.</td>
<td></td>
</tr>
<tr>
<td>Truth in Lending Act (TILA)</td>
<td>Requires disclosure of APR interest rate, amount financed and total finance charge (the “TILA box”).</td>
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<tr>
<td>Business and Commerce Sec. 17.46, Deceptive Trade Practices Unlawful</td>
<td>Makes a number of practices unlawful including:  * representation that goods have characteristics which they do not have;  * goods are original or new if they are deteriorated, reconditioned, reclaimed, used or secondhand;  * goods are of a particular standard, quality, style or model if they are of another;  * failure to disclose information if such failure was intended to induce consumer into transaction the consumer would not have entered with disclosure.</td>
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</table>
Consumers who reported that they couldn’t get copies of contracts were among those who also reported a variety of misrepresentations, including a higher than expected price, higher interest, and “buy-for” arrangements against the intent of the final buyer. Some of these consumers felt that they were at a particular disadvantage because they speak only Spanish, could not read the English language materials they signed at the time, and they did not get copies.

Dealers sometimes pressure consumers to sign contracts by telling them that a special sale price is only available if they sign now. A Montgomery, Texas couple wanted to look at both conventional slab homes and mobile homes. While awaiting loan approval for a conventional home, they visited a Nationwide dealer, who told them they could lock in the “February Incentive Sale Price” if they put down $250 and approved a credit check, which they did. Shortly thereafter the dealer called to say they would have to come in and work up a deal to “hold the incentive price.”

The couple came back to the lot, only to face the general manager who pushed them through a stack of papers even as they insisted that they were planning to buy the slab home if approved. The dealer left dates on the contracts blank, saying he would hold them til the couple made a final decision. Unfortunately, the dealer ordered the home, and refused to rescind the order when a lender approved them for the slab home, even though they had made no down payment. The dealer announced that he considered their original $250 to be earnest money establishing a valid contract.

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