

Mortgage loan is a consumer contract, needs to be on the credit application. You can recover the full amount of the loan.

Ask them for the credit application with this disclaimer on it.

16 CFR 433.2

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<http://cfr.mex.com/vid/433-consumers-defenses-unfair-deceptive-19637478>

Preservation of consumers' claims and defenses, unfair or deceptive acts or practices.

In connection with any sale or lease of goods or services to consumers, in or affecting commerce as commerce is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for a seller, directly or indirectly, to: (a) Take or receive a consumer credit contract which fails to contain the following provision in at least ten point, bold face, type:

(b) Accept, as full or partial payment for such sale or lease, the proceeds of any purchase money loan (as purchase money loan is defined herein), unless any consumer credit contract made in connection with such purchase money loan contains the following provision in at least ten point, bold face, type:

**NOTICE**

**ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**



UCC 3-302. Holder in due course takes the note, free of all defenses or claim, that the payor, assignee, took it to your subject in defenses in claim, so they are not a holder in due course.

If the bank put the disclaimer (per 16 CFR 433.2) in the credit application, they can't transfer or sell the note, because they can't be a holder in due course because they are taking it subject to the defenses and claims you can assert.

UCC 3-305 (a) – they took it subject to that disclaimer.

UCC 3-306 counter-claim, proceeds are the derivative for selling the security (income). you are an investor and they never paid you for it. Amount of the instrument - proceeds from the note.

UCC 3-105 You made the first payment order on a mortgage loan transfer, and you have an adverse claim on the instrument under 8-102