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Indiana

STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: ___2/22/2018 – 07/31/18___ By: ___BH___ **RC**___

Coded: ___2/27/2018___ By: ___ZB___

Reviewed: ___3/1/2018___ By: ___BH___

LAW: Home Loan Practices Act (IC 24-9 ARTICLE 9)

LOAN AMOUNT COVERED: FNMA Loan Limits

BORROWERS COVERED: Person obligated to repay a home loan, including a co-borrower, cosigner, or guarantor

Individuals Trusts
 Organizations Other:

TOTAL LOAN AMOUNT (TLA) IS DEFINED AS: US § 1026.32

Loan Amount as defined in HOEPA 226.32 Note Amount
 Loan Amount as defined in HCML 1026.32 Other:

LOAN TYPES COVERED:

Conventional FHA
 VA RHS
 Other: Portfolio loans; Does not apply to loans made by banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies per IC 24-9-1-1

LOAN PURPOSES COVERED:

Purchase Construction to Perm
 Builder Refinance
 Equity Out Home Equity Closed End
 One Time Closing Modification
 Purchase Plus Improvements Refinance Plus Improvements
 Lot Loan Home Improvement
 Borrower Interim One Time Closing with Modification
 HELOC Assumption

BRIDGE LOANS COVERED

Yes No

PROPERTY OCCUPANCY COVERED:

Primary Residence Second Home
 Investment Raw Land

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APR THRESHOLDS: <http://www.in.gov/legislative/ic/code/title24/ar9/ch1.html>

APR Unteased APR Other:

First Lien: >6.5 %

Subordinate Lien: >8.5 %

APR COMPARED AGAINST: IC 24-9 ARTICLE 9

APOR APR Itself
 Treasury Yield Other:

DATE FOR APR TEST:

Application Closing
 Other: Date interest rate is set

FEE TEST METHOD: IC 24-9 ARTICLE 9

Use HC Flag
 Use APR & Paid To (§1026.32)
 Use APR & Paid To, except: Include all of PMI/MI, do not include affiliate fees if reasonable, do not include Per Diem interest

FEE TEST THRESHOLDS: IC 24-9 ARTICLE 9

All liens: >5 % of TLA ≥\$48,000
>6 % of TLA <\$48,000
07/31/18 update by RC – was \$44,000 previously.

PREPAYMENT PENALTY LIMITATIONS:

Max prepayment penalty 2% of loan amount prepaid during first 24 months. No prepayment penalty allowed after first 24 months.

ADJUSTMENTS:

No Yes | How: Subject to change each July 1 through state legislature

FEES INCLUDED IN TEST: IC 24-9 ARTICLE 9

Sec. 10(a)(1) "Points and fees" has the meaning assigned by 12 C.F.R. Section 226.32(b)(1), as defined on January 1, 2004
(2) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in the broker's own name.

DOES NOT INCLUDE:

- (1) Bona fide discount points
- (2) An amount not to exceed one and one-half (1 ½) points in indirect broker compensation, if the terms of the loan do not include:
 - (A) A prepayment penalty, in the case of a home loan described in IC 24-9-3-6(b); or
 - (B) A prepayment penalty that exceeds two percent (2%) of the home loan principal, in the case of a home loan other than a home loan described in IC 24-9-3-6(b).
- (3) Reasonable fees paid to an affiliate of the creditor.
- (4) Interest prepaid by the borrower for the month in which the home loan is closed.

SPECIAL NOTES: IC 24-9 ARTICLE 9

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Exempt Loans: this article does not apply to:

(1) a loan made or acquired by a person organized or chartered under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing and community development authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

IC 24-9-4-1

Limitations and prohibited practices

Sec. 1. The following additional limitations and prohibited practices apply to a high cost home loan:

(1) A creditor making a high cost home loan may not directly or indirectly finance any points and fees.

(2) This subdivision does not apply to a high cost home loan described in IC 24-9-3-6(b). Prepayment fees or penalties may not be included in the loan documents for a high cost home loan or charged to the borrower if the fees or penalties exceed in total two percent (2%) of the high cost home loan amount prepaid during the first twenty-four (24) months after the high cost home loan closing.

(3) This subdivision does not apply to a high cost home loan described in IC 24-9-3-6(b). A prepayment penalty may not be contracted for after the second year following the high cost home loan closing.

(4) This subdivision does not apply to a high cost home loan described in IC 24-9-3-6(b). A creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The terms of the offer must be made in writing and must be initialed by the borrower. The document containing the offer must be clearly labeled in large bold type and must include the following disclosure:

"LOAN PRODUCT CHOICE

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty."

(5) A creditor shall not sell or otherwise assign a high cost home loan without furnishing the following statement to the purchaser or assignee:

"NOTICE: This is a loan subject to special rules under IC 24-9. Purchasers or assignees may be liable for all claims and defenses with respect to the loan that the borrower could assert against the lender."

(6) A mortgage or deed of trust that secures a high cost home