

# Minnesota

## STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: 02/26/18 By: RC

Coded: 3/2/2018 By: ZB

Reviewed: \_\_\_\_\_ By: \_\_\_\_\_

**LAW:** MN Residential Mortgage Originator & Servicer Licensing Act- Subprime Loans (58.13 Standards of Conduct and 58.137 Interest, Points, Finance Charges, Fees and Other Charges)

**LOAN AMOUNT COVERED:** FNMA loan limits

**BORROWERS COVERED:**

Individuals  Trusts  
 Organizations  Other:

**TOTAL LOAN AMOUNT (TLA) IS DEFINED AS:** 58.137 Interest, Points, Finance Charges, Fees and Other Charges

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:

**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

**APR THRESHOLDS:** <https://www.revisor.mn.gov/statutes/?id=58.02>

APR  Unteased APR  Other:

First Lien: **ARM** 2% (only if the interest rate cannot decrease below the fully indexed rate at the time of origination) otherwise 3%

**Fixed** 3%

Subordinate Lien: 5 %

**APR COMPARED AGAINST:** 58.02 Definitions

- |                                                    |                                     |
|----------------------------------------------------|-------------------------------------|
| <input type="checkbox"/> APOR                      | <input type="checkbox"/> APR Itself |
| <input checked="" type="checkbox"/> Treasury Yield | <input type="checkbox"/> Other:     |

**DATE FOR APR TEST:**

- |                                                                                                                                                                                                                                                                                        |                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <input type="checkbox"/> Application                                                                                                                                                                                                                                                   | <input type="checkbox"/> Closing |
| <input checked="" type="checkbox"/> Other: 15 <sup>th</sup> day of the preceding month if the rate is set between the first and the 14 <sup>th</sup> day of the month and as of the 15 <sup>th</sup> day of the current month if the rate is set on or after the 15 <sup>th</sup> day. |                                  |

**FEE TEST METHOD:** 58.137 Interest, Points, Finance Charges, Fees and Other Charges

- |                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Use HC Flag                                                                                   |
| <input type="checkbox"/> Use APR & Paid To (§1026.32)                                                                  |
| <input checked="" type="checkbox"/> Use APR & Paid To, except: include discount points, exclude all USDA Guarantee fee |

**FEE TEST THRESHOLDS:** 58.137 Interest, Points, Finance Charges, Fees and Other Charges

All liens: > 5% lender fees of TLA

**ADJUSTMENTS:**

- |                                        |                              |      |
|----------------------------------------|------------------------------|------|
| <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes | How: |
|----------------------------------------|------------------------------|------|

**FEES INCLUDED IN TEST:** 58.137 Interest, Points, Finance Charges, Fees and Other Charges

“Lender fee” means interest, points, finance charges, fees, and other charges payable in connection with the residential mortgage loan: (1) by the borrower to any residential mortgage originator or to any assignee of any residential mortgage originator; or (2) by the lender to a mortgage broker. Lender fee does not include recording fees, mortgage registration taxes, pass-throughs, or other amounts that are paid by any person to any government entity, filing office, or other third party that is not a residential mortgage originator or an assignee of a residential mortgage originator. Lender fee also does not include any amount that is set aside to pay taxes or insurance on any property securing the residential mortgage loan.

**OTHER ITEMS TO BE TESTED/CONSIDERED:** 58.13 Standards of Conduct and 58.137 Interest, Points, Finance Charges, Fees and Other Charges

**Lenders can only finance a maximum of 5% “lender fees”.**

MN also has a prepayment penalty test for all mortgage loans limited to;

- (a) A residential mortgage originator making a residential mortgage loan that is a prime loan to a borrower located in this state shall not charge, receive, or collect any prepayment penalty, fee, premium, or other charge:
- (1) for any partial prepayment of the residential mortgage loan; or
  - (2) for any prepayment of the residential mortgage loan upon the sale of any residential real property, or the sale of any stock, interest, or lease relating to cooperative ownership of residential real property, securing the loan; or
  - (3) for any prepayment of the residential mortgage loan if the prepayment is made more than 42 months after the date of the note or other agreement for the residential mortgage loan; or
  - (4) for any prepayment of the residential mortgage loan if the aggregate amount of all prepayment penalties, fees, premiums, and other charges exceeds the lesser of (i) an amount equal to two percent of the unpaid principal balance of the residential mortgage loan at the time of prepayment, or (ii) an amount equal to 60 days' interest, at the interest rate in effect on the residential mortgage loan at the time of prepayment, on the unpaid principal balance of the residential mortgage loan at the time of prepayment.
- (b) If a residential mortgage originator offers or makes residential mortgage loans to any borrowers located in this state with prepayment penalties, fees, premiums, or other charges exceeding the maximum amount under paragraph (a), clause (4), then the residential mortgage originator shall provide the following disclosure to each prospective borrower located in this state that requests a residential mortgage loan from the residential mortgage originator, whether or not the prospective borrower receives a

residential mortgage loan:

**THIS IS VERY IMPORTANT**

**THIS LENDER CHARGES YOU A SUBSTANTIAL PENALTY IF YOU PAY OFF OR REFINANCE YOUR LOAN BEFORE MATURITY. ASK THE LENDER HOW MUCH THE PENALTY WILL BE FOR YOUR LOAN.**

The residential mortgage originator shall read the disclosure to the prospective borrower when the prospective borrower requests a residential mortgage loan, and again within three days before the borrower signs the note or other agreement for the residential mortgage loan. The residential mortgage originator also shall provide the disclosure to the prospective borrower in writing so that it is received by the prospective borrower within five days after the residential mortgage originator receives the prospective borrower's request for a residential mortgage loan, and again within three days before the prospective borrower signs the note or other agreement for the residential mortgage loan. The written disclosure must be stated in at least 16-point capitalized boldface type on a single sheet of paper that contains only the disclosure, the date on which the disclosure form is sent or provided, the name, address, and telephone number of the residential mortgage originator, the name and address of the prospective borrower, and, at the option of the residential mortgage originator, the prospective borrower's dated and signed acknowledgment of receipt of the disclosure form. The provisions of the disclosure form, other than the disclosure in this subdivision, are not required to be in at least 16-point capitalized boldface type. The prospective borrower shall be permitted to keep a copy of each written disclosure form. When a prospective borrower asks a residential mortgage originator for information about a prepayment penalty, the residential mortgage originator shall give the prospective borrower the requested information, and shall tell the borrower the highest aggregate amount of the prepayment penalties, fees, premiums, and other charges that the residential mortgage originator would charge to the prospective borrower for prepayment of the residential mortgage loan one year after it is funded, based on a hypothetical unpaid principal balance of \$100,000 and also based on the highest interest rate that the residential mortgage originator would charge to the prospective borrower. A mortgage originator responding to requests for residential mortgage loans via the Internet may make the disclosure in a manner acceptable to the commissioner.

(c) A residential mortgage originator shall not enter into a subprime loan that contains a provision requiring or permitting the imposition of a penalty, fee, premium, or other charge in the event the residential mortgage loan is prepaid in whole or in part. This prohibition does not apply to any loan with a principal amount that, or, in the case of an open-end credit plan, in which the borrower's initial maximum credit limit, exceeds the conforming loan size limit for a single-family dwelling as established from time to time by Fannie Mae.

**SPECIAL NOTES:**