

Ohio

STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: 2/27/18 By: BH

Coded: 3/5/2018 By: ZB

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LAW: Ohio Predatory Lending Act (Ohio Revised Code Sections 1349.25 et seq)

LOAN AMOUNT COVERED: No maximum limit

BORROWERS COVERED:

Individuals Trusts
 Organizations Other:

TOTAL LOAN AMOUNT (TLA) IS DEFINED AS: Ohio Revised Code Sections 1349.25 et seq

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: <http://codes.ohio.gov/orc/1349>

APR Unteased APR Other:

First Lien: > 6.5 %

Subordinate Lien: > 8.5 %

APR COMPARED AGAINST: Ohio Revised Code Sections 1349.25 et seq

APOR APR Itself
 Treasury Yield Other:

DATE FOR APR TEST:

- Application Closing
- Other: Date interest rate is set

FEE TEST METHOD: Ohio Revised Code Sections 1349.25 et seq

- Use HC Flag
- Use APR & Paid To (§1026.32)
- Use APR & Paid To, except: Excludes all of FHA/VA/USDA Fees

FEE TEST THRESHOLDS: Ohio Revised Code Sections 1349.25 et seq

All liens: > 5 % of TLA > or = \$25,000
 > 8 % of TLA < \$25,000

ADJUSTMENTS:

- No Yes | How:

FEES INCLUDED IN TEST: Ohio Revised Code Sections 1349.25 et seq

"Points and fees" has the same meaning as in section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C. 1602(aa), as amended, and the regulations adopted thereunder by the federal reserve board, as amended, and includes single premium credit insurance and all compensation paid directly or indirectly to a mortgage broker from any source. For transactions under an open end credit plan, "points and fees" includes fees paid for the ability to access the line of credit and fees paid in order to utilize the maximum amount of credit available.

"Points and fees" does not include fees paid to a federal or state government agency that insures payment of some portion of a home loan, including the federal housing administration and the United States department of veterans affairs, or an amount not to exceed one percentage point in indirect mortgage broker compensation paid by any source.

OTHER ITEMS TO BE TESTED/CONSIDERED:

"Total loan amount" means the principal of the loan minus points and fees that are included in the principal amount. For transactions under an open end credit plan, "total loan amount" shall be calculated by using the total line of credit allowed under the loan at closing

SPECIAL NOTES: Ohio Revised Code Sections 1349.25 et seq

Limitations and Prohibitions: 1349.27 Creditor or assignee - prohibitions.
 A creditor shall not do any of the following:
 (A) Make a covered loan that includes any of the following:
 (1) Terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due. For purposes of division (A)(1) of this section, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method.
 Division (A)(1) of this section does not apply to a prepayment penalty imposed in accordance with section 129(c)(2) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1639(c)(2), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.
 (2) Terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due;
 (3) Terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer;
 (4) Terms under which a rebate of interest arising from a loan acceleration due to default is calculated by a method less favorable than the actuarial method.
 (B) Make a covered loan that provides for an interest rate applicable after default that is higher than the interest rate that applies before default;
 (C) Make a covered loan having a term of less than five years that includes terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance. This division does not apply to any covered loan with a maturity of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

(D) Engage in a pattern or practice of extending credit to consumers under covered loans based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment;

(E) Make a payment to a contractor under a home improvement contract from amounts extended as credit under a covered loan, except in either of the following ways:

(1) By an instrument that is payable to the consumer or jointly to the consumer and the contractor;

(2) At the election of the consumer, by a third party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

(F) On or after October 1, 2002, make a covered loan that includes a demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in any of the following circumstances:

(1) There is fraud or material misrepresentation by the consumer in connection with the loan.

(2) The consumer fails to meet the repayment terms of the agreement for any outstanding balance.

(3) There is any action or inaction by the consumer that adversely affects the creditor's security for the loan or any right of the creditor in that security.

(G)

(1) Within one year after having made a covered loan, refinance a covered loan to the same borrower into another covered loan, unless the refinancing is in the consumer's interest. An assignee holding or servicing a covered loan shall not, for the remainder of the one-year period following the date of origination of the covered loan, refinance any covered loan to the same consumer into another covered loan, unless the refinancing is in the consumer's interest.

A creditor or assignee shall not engage in acts or practices to evade division (G) (1) of this section, including a pattern or practice of arranging for the refinancing of its own loans by affiliated or unaffiliated creditors, or modifying a loan agreement, whether or not the existing loan is satisfied and replaced by the new loan, and charging a fee.

(2) Division (G)(1) of this section shall apply on and after October 1, 2002.

(H) Make a covered loan without first obtaining a copy of the mortgage loan origination disclosure statement that was delivered to the buyer in accordance with division (A)(1) of section 1322.062 of the Revised Code;

(I) Finance, directly or indirectly, into a covered loan or finance to the same borrower within thirty days of a covered loan any credit life or credit disability insurance premiums sold in connection with the covered loan, provided that any credit life or credit disability insurance premiums calculated and paid on a monthly or other periodic basis shall not be considered financed by the person originating the loan. For purposes of this division, credit life or credit disability insurance does not include a contract issued by a government agency or private mortgage insurance company to insure the lender against loss caused by a mortgagor's default.

(J) Replace or consolidate a zero interest rate or other low-rate loan made by a governmental or nonprofit lender with a covered loan within the first ten years of the low-rate loan unless the current holder of the loan consents in writing to the refinancing. For purposes of this division, a "low-rate loan" means a loan that carries a current interest rate two percentage points or more below the current yield on United States treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as applicable, shall be used, in lieu of the current rate, to determine whether a loan is a low-rate loan.

(K) Make a covered loan if, at the time the loan was consummated, the consumer's total monthly debt, including amounts owed under the loan, exceed fifty per cent of the consumer's monthly gross income, as verified by the credit application, the consumer's financial statement, a credit report, financial information provided to the person originating the loan by or on behalf of the consumer, or any other reasonable means, unless the consumer submits both of the following:

(1) Verification that the consumer received prepurchase counseling from a counseling service that meets the criteria established by the superintendent of financial institutions under section 1349.271 of the Revised Code;

(2) A disclosure, signed by the consumer, that acknowledges the risk of entering into such a loan.