

Rhode Island

STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: 02/28/18 By: RC

Coded: 3/6/2018 By: ZB

Reviewed: _____ By: _____

LAW: R.I. Home Loan Protection Act (General Laws 34-25.2-4 and 2-7)

SECTION 34-25.2-11

§ 34-25.2-11. Exemption.

The provisions of this chapter shall not apply to:

(1) Any national bank, federal savings bank, federal credit union, credit union, or financial institution, as defined under § 19-1-1, or their wholly-owned subsidiary; and

(2) The Federal Housing Administration, the Department of Veterans Affairs, or other state or federal housing finance agencies.

LOAN AMOUNT COVERED: None set

BORROWERS COVERED:

Individuals Trusts
 Organizations Other:

TOTAL LOAN AMOUNT (TLA) IS DEFINED AS: General Laws 34-25.2-4 and 2-7

Loan Amount as defined in HOEPA 226.32 Note Amount/ Total line of credit
 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://webserver.rilin.state.ri.us/Statutes/TITLE34/34-25.2/34-25.2-4.HTM>

APR Unteased APR Other: Interest rate

First Lien: 8 %

Subordinate Lien: 9 %

APR COMPARED AGAINST: General Laws 34-25.2-4 and 2-7

APOR APR Itself
 Treasury Yield Other:

DATE FOR APR TEST:

Application Closing
 Other: 15th day of the month immediately preceding the month in which the loan application was received by the lender

FEE TEST METHOD: General Laws 34-25.2-4 and 2-7

Use HC Flag
 Use APR & Paid To (§1026.32)
 Use APR & Paid To, except: Exclude 1% of FHA/VA/USDA Fee, and up to 2% bona fide discount points or a conventional prepayment penalty. Total exclusions not to exceed 3%.

"Bona fide discount points" means an amount knowingly paid by the borrower for the express purpose of reducing, and which in fact does result in a bona fide reduction of, the interest rate applicable to the home loan; provided the undiscounted interest rate for the home loan does not exceed the conventional mortgage rate by two (2) percentage points for a home loan secured by a first lien, or by three and one-half (3.5) percentage points for a home loan secured by a subordinated lien.

"conventional mortgage rate" means the most recently published annual yield on conventional mortgages published by the board of governors of the federal reserve system as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor;

These rates are no longer published by the Federal Reserve System as of 10/16 and are now available from FreddieMac.

FEE TEST THRESHOLDS: General Laws 34-25.2-4 and 2-7

All liens: > or = 5 % of Note Amount or Credit Limit > or = \$50,000
> or = 8% of Note Amount or Credit limit < \$50,000

ADJUSTMENTS:

No Yes | How:

FEES INCLUDED IN TEST: General Laws 34-25.2-4 and 2-7

(o) "Points and fees" means:

- (1) All items included in the definition of finance charge in 12 C.F.R. 226.4(a) and 12 C.F.R. 226.4(b) except interest or the time price differential;
- (2) All items described in 12 C.F.R. 226.32(b)(1)(iii);
- (3) All compensation paid directly by a borrower to a loan broker including a loan broker that originates a loan in its own name in a table-funded transaction;
- (4) All compensation paid indirectly to a loan broker from any source other than the borrower in excess of one percentage point of the total loan amount, including a loan broker that originates a loan in its own name in a table-funded transaction;

(5) The cost of all premiums financed by the creditor, directly or indirectly for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the creditor directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor;

(6) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents; and

(7) All prepayment fees or penalties that are incurred by the borrower if the loan refinances a previous loan originated or currently held by the same creditor or an affiliate of the creditor.

(8) For open-end loans, the points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the loan documents, plus the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line.

OTHER ITEMS TO BE TESTED/CONSIDERED:

SPECIAL NOTES: General Laws 34-25.2-4 and 2-7

In connection with a high-cost home loan, no creditor shall directly or indirectly finance any points or fees which total is greater than five percent (5%) of the total loan amount or eight hundred dollars (\$800) whichever is greater.

§ 34-25.2-6 Limitations and prohibited practices regarding high-cost home loans. – A high-cost home loan shall be subject to the following additional limitations and prohibited practices:

(a) In connection with a high-cost home loan, no creditor shall directly or indirectly finance any points or fees which total is greater than five percent (5%) of the total loan amount of eight hundred dollars (\$800) whichever is greater.

(b) No prepayment fees or penalties shall be included in the loan documents for a high-cost home loan.

(c) No high-cost home loan may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

(d) No high-cost home loan may include payment terms under which the outstanding principal balance or accrued interest will increase at any time over the course of the loan because the regularly scheduled periodic payments do not cover the full amount of interest due.

(e) No high-cost home loan may contain a provision that increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(f) No high-cost home loan may include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(g) A creditor may not make a high-cost home loan without first receiving certification from a counselor with a third-party nonprofit organization approved by the United States Department of Housing and Urban Development that the borrower has received counseling on the advisability of the loan transaction.

(h) A high-cost home loan shall not be extended to a borrower unless a reasonable creditor would believe at the time the loan is closed that one or more of the borrowers will be able to make the scheduled payments associated with the loan based upon a consideration of his or her current and expected income, current obligations, employment status, and other financial resources, other than the borrower's equity in the collateral that secures the repayment of the loan. There is a rebuttable presumption that the borrower is able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, said borrower's total monthly debts, including amounts under the loan, do not exceed fifty percent (50%) of said borrower's monthly gross income as verified by tax returns, payroll receipts, and other third-party income verification.

(i) A creditor may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan, unless:

(1) the creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; and

(2) the instrument is payable to the borrower or jointly to the borrower and the contractor, or, at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the creditor, and the contractor prior to the disbursement.

(j) A creditor may not charge a borrower any fees or other charges to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan.

(k) A creditor shall not make available a high-cost home loan that provides for a late payment fee except as follows:

(1) The late payment fee shall not be in excess of three percent (3%) of the amount of the payment past due.

(2) The late payment fee shall only be assessed for a payment past due for fifteen (15) days or more or ten (10) days or more in cases of bi-weekly mortgage payment arrangement.

(3) The late payment fee shall not be imposed more than once with respect to a single late payment. If a late payment fee is deducted from a payment made on the loan, and the deduction causes a subsequent default on a subsequent payment, no late payment fee may be imposed for the default.

(4) A creditor shall treat each payment as posted on the same business day as it was received.

(l) All high-cost home loan documents that create a debt or pledge property as collateral shall contain the following notice on the first page in a conspicuous manner: "Notice: This a high-cost home loan subject to special rules under state law. Purchasers or assignees of this high-cost home loan may be liable for all claims and defenses by the borrower with respect to the home loan."