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Vermont

STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: 03/01/18 By: RC

Coded: 03/06/2018 By: ZB

Reviewed: 3/6/18 By: RC

LAW: Vermont High Rate, High Point Law (the ACT) (Title 9: Chapter 4. 104 and Vermont Banking Division, REGULATION B-98-2: High Rate, High Point Notices for Residential Real Estate Loans)

LOAN AMOUNT COVERED: No limit

BORROWERS COVERED:

- | | | | |
|-------------------------------------|---------------|-------------------------------------|--------|
| <input checked="" type="checkbox"/> | Individuals | <input checked="" type="checkbox"/> | Trusts |
| <input type="checkbox"/> | Organizations | <input type="checkbox"/> | Other: |

TOTAL LOAN AMOUNT (TLA) IS DEFINED AS: Title 9: Chapter 4. 104 and VT Banking Division, REGULATION B-98-2

- | | | | |
|--------------------------|--|-------------------------------------|-------------|
| <input type="checkbox"/> | Loan Amount as defined in HOEPA 226.32 | <input checked="" type="checkbox"/> | Note Amount |
| <input type="checkbox"/> | Loan Amount as defined in HCML 1026.32 | <input type="checkbox"/> | Other: |

LOAN TYPES COVERED:

- | | | | |
|-------------------------------------|--------------|-------------------------------------|-----|
| <input checked="" type="checkbox"/> | Conventional | <input checked="" type="checkbox"/> | FHA |
| <input checked="" type="checkbox"/> | VA | <input checked="" type="checkbox"/> | RHS |
| <input type="checkbox"/> | Other: | | |

LOAN PURPOSES COVERED:

- | | | | |
|-------------------------------------|----------------------------|-------------------------------------|------------------------------------|
| <input checked="" type="checkbox"/> | Purchase | <input checked="" type="checkbox"/> | Construction to Perm |
| <input type="checkbox"/> | Builder | <input checked="" type="checkbox"/> | Refinance |
| <input checked="" type="checkbox"/> | Equity Out | <input checked="" type="checkbox"/> | Home Equity Closed End |
| <input checked="" type="checkbox"/> | One Time Closing | <input type="checkbox"/> | Modification |
| <input checked="" type="checkbox"/> | Purchase Plus Improvements | <input checked="" type="checkbox"/> | Refinance Plus Improvements |
| <input type="checkbox"/> | Lot Loan | <input checked="" type="checkbox"/> | Home Improvement |
| <input checked="" type="checkbox"/> | Borrower Interim | <input checked="" type="checkbox"/> | One Time Closing with Modification |
| <input checked="" type="checkbox"/> | HELOC | <input checked="" type="checkbox"/> | Assumption |
| | | <input checked="" type="checkbox"/> | Reverse Mortgage |

BRIDGE LOANS COVERED

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

PROPERTY OCCUPANCY COVERED:

- | | | | |
|-------------------------------------|-------------------|-------------------------------------|-------------|
| <input checked="" type="checkbox"/> | Primary Residence | <input checked="" type="checkbox"/> | Second Home |
| <input checked="" type="checkbox"/> | Investment | <input type="checkbox"/> | Raw Land |

APR THRESHOLDS: <http://legislature.vermont.gov/statutes/chapter/09/004>

- | | | | | | |
|--------------------------|-----|--------------------------|--------------|-------------------------------------|----------------------|
| <input type="checkbox"/> | APR | <input type="checkbox"/> | Unteased APR | <input checked="" type="checkbox"/> | Other: Interest rate |
|--------------------------|-----|--------------------------|--------------|-------------------------------------|----------------------|

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APR COMPARED AGAINST: Title 9: Chapter 4. 104

- APOR
 Treasury Yield

- APR Itself
 Other: Overpayment Annual Rate + 3%
Trigger rate per 32 VSA 3108 (2018 is 7.0%)
<http://tax.vermont.gov/research-and-reports/interest-rates>

DATE FOR APR TEST:

- Application
 Other: Closing

FEE TEST METHOD: Title 9: Chapter 4 § 42

- Use HC Flag
 Use APR & Paid To (§1026.32)
 Use APR & Paid To, except:

FEE TEST THRESHOLDS: Title 9: Chapter 4 § 42

1st liens: > 4%

ADJUSTMENTS:

- No Yes | How: In accordance with 32 V.S.A. 3108 as published by the VT Commissioner of Taxes each December 15

FEES INCLUDED IN TEST: Title 9: Chapter 4 § 42

- (a) Except for interest as herein and hereinafter provided, a lender shall make no charges against a borrower for the use or forbearance of money other than:
- (1) the reasonable cost of credit investigation and appraisal fees;
 - (2) the reasonable cost of title evidence, including abstracts, legal opinions or title insurance;
 - (3) the reasonable cost of protection against insurable hazards;
 - (4) the reasonable cost of creditor life or disability insurance, or of a debt protection agreement as set forth in section 10405 of Title 8, if agreed to by the borrower;
 - (5) filing and recording fees, and other official fees, including fees required by Federal Housing Agencies, the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Corporation;
 - (6) reasonable value of services rendered in connection with the making of any loan of \$4,000.00 or less or any loan or loan commitment of any amount or manner of payment to finance an income producing business or activity subject to such rules as the commissioner of banking, insurance, securities, and health care administration adopts;
 - (7) the reasonable cost of private mortgage guaranty insurance subject to such limitation as the commissioner of banking, insurance, securities, and health care administration shall have approved; and
 - (8) reasonable fees associated with a credit card, agreed upon by the lender and borrower, including late charges and over-limit charges.

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(b) A borrower may procure an opinion and abstract of title from an attorney of his choice acceptable to the lender, or hazard insurance in a company or in companies of his choice acceptable to the lender, and in such cases the lender's acceptance shall not be unreasonably withheld.

(Added 1967, No. 377 (Adj. Sess.), eff. March 26, 1968; amended 1969, No. 66, §2, eff. April 17, 1969; 1973, No. 222 (Adj. Sess.), §5, eff. April 3, 1974; 1975, No. 216 (Adj. Sess.), §4, eff. March 27, 1976; 1979, No. 173 (Adj. Sess.), §13, eff. April 30, 1980; 1985, No. 36, §3; 1989, No. 225 (Adj. Sess.), §25(b); 1995, No. 9, §2; 1995, No. 180 (Adj. Sess.), §38(a).)

(a) The Commissioner may adopt disclosure rules for loans secured by a first lien on residential real estate in which the borrower is expected to be charged in excess of four points or interest in excess of three percent over the rate established pursuant to 32 V.S.A. § 3108, or both, on the loan. The rules may provide for restrictions on representations by the lender regarding the disclosures required by the rules.

OTHER ITEMS TO BE TESTED/CONSIDERED:

SPECIAL NOTES: Vermont Banking Division, REGULATION B-98-2

A disclosure must be given that is printed on colored paper.
YOU MAY BE ELIGIBLE FOR A LOAN WITH EITHER A LOWER INTEREST RATE, FEWER POINTS, OR BOTH, FROM ANOTHER LENDER

P&P does not prepare this disclosure.

§ 104. High rate loans

(a) The Commissioner may adopt disclosure rules for loans secured by a first lien on residential real estate in which the borrower is expected to be charged in excess of four points or interest in excess of **three percent over the rate established pursuant to 32 V.S.A. § 3108, or both, on the loan.** The rules may provide for restrictions on representations by the lender regarding the disclosures required by the rules.

(b) The Commissioner shall notify all mortgage lenders of the interest rate determined under 32 V.S.A. § 3108 annually.

(c) The Commissioner may impose an administrative penalty of not more than \$5,000.00 on any person that fails to comply with the provisions of this section. The Commissioner may order a lender to refund any discount points or other charges paid by a borrower who has not received disclosures required by the rule. (Added 1997, No. 98 (Adj. Sess.), § 7, eff. April 16, 1998; amended 2015, No. 23, § 89.)