

Texas

STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: 2/28/18 By: BH

Coded: 3/6/208 By: ZB

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LAW: Texas High Cost Home Loan Law (Chapter 343.201 Texas Finance Code)

LOAN AMOUNT COVERED: Must be between \$20,000 and up to ½ of the FNMA loan limit for 1st liens

BORROWERS COVERED:

Individuals
 Organizations

Trusts
 Other:

TOTAL LOAN AMOUNT (TLA) IS DEFINED AS:

Loan Amount as defined in HOEPA §226.32
 Loan Amount as defined in HCML §1026.32

Note Amount
 Other:

LOAN TYPES COVERED:

Conventional
 VA
 Other:

FHA
 RHS

LOAN PURPOSES COVERED:

Purchase
 Builder Interim
 Equity Out
 One Time Closing
 Purchase Plus Improvements
 Lot Loan
 Borrower Interim
 HELOC

Construction to Perm
 Refinance
 Home Equity Closed End
 Modification
 Refinance Plus Improvements
 Home Improvement
 One Time Closing with Modification
 Assumption

BRIDGE LOANS COVERED

Yes

No

PROPERTY OCCUPANCY COVERED:

Primary Residence 1-4 Units
 Investment

Second Home
 Raw Land

APR THRESHOLDS : <http://www.statutes.legis.state.tx.us/Docs/FI/htm/FI.343.htm#343.201>

APR Unteased APR Other:

First Lien: > 6.5%

Subordinate Lien: > 8.5%

APR COMPARED AGAINST: Regulation Z TILA §1026.32

APOR
 Treasury Yield

APR Itself
 Other:

DATE FOR APR TEST:

Application
 Other: Date interest rate is set

Closing

FEE TEST METHOD: Regulation Z TILA §1026.32

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

FEE TEST THRESHOLDS:

All liens: > or = 5 % of TLA \geq \$21,032
Lesser of 8% or \$1,052 for TLA < \$21,032

ADJUSTMENTS:

No Yes | How: Adjusts annually per CPI

FEES INCLUDED IN TEST:

Same as Regulation Z TILA §1026.32

SPECIAL NOTES: Chapter 343.201 Texas Finance Code

High Cost Loan Limitations and Prohibitions:

Sec. 343.202. BALLOON PAYMENT. A high-cost home loan may not contain a provision for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments, unless the balloon payment becomes due not less than 60 months after the date of the loan. This prohibition does not apply if the payment schedule is adjusted to account for the seasonal or otherwise irregular income of the borrower or if the loan is a bridge loan in connection with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

Sec. 343.203. NEGATIVE AMORTIZATION. A high-cost home loan may not provide for a payment schedule with regular periodic payments that cause the principal balance to increase, except that this section does not prohibit negative amortization as a consequence of a temporary forbearance, bridge loan, or restructure sought by the borrower.

Sec. 343.204. CONSIDERATION OF OBLIGOR'S PAYMENT ABILITY. (a) In this section, "obligor" means a person obligated to pay a loan, including a borrower, cosigner, or guarantor. If more than one person is obligated to pay a loan, the term refers to those persons collectively.

(b) A lender may not engage in a pattern or practice of extending credit to consumers under high-cost home loans based on the consumers' collateral without regard to the obligor's repayment ability, including the obligor's current and expected income, current obligations, employment status, and other financial resources, other than the obligor's equity in the dwelling that secures repayment of the loan.

Sec. 343.205. PREPAYMENT PENALTIES PROHIBITED. A lender may not make a high-cost home loan containing a provision for a prepayment penalty.

Sec. 343.206. CHARGE PROHIBITED FOR PRODUCT OR SERVICE NOT RECEIVED. A lender, in connection with a high-cost home loan, may not charge a borrower an amount for a service or product if the borrower does not receive the service or product.