

Allowable Fees and Charges -Texas-

FEES AND CHARGES	FIRST LIEN	SECOND LIEN
Administrative Fee	Not regulated.	Texas Finance Code Section 342.308(a)(9) allows an administrative fee not to exceed \$25 for a loan or more than \$1,000 or \$20 for a loan of \$1,000 or less.
Application Fee	No limit on the amount or type of fee. Maximum Fee: None. Customer Fee: A combination of the appraisal fee and the credit report fee represents the application fee.	Not allowed.
Appraisal Fee	Not regulated. Maximum Fee: None. Customer Fee: The actual fee charged.	Texas Finance Code Section 342.308(a)(4) allows "reasonable fees for an appraisal of real property offered as security for the loan prepared by a certified appraiser who is not a salaried employee of the lender." Maximum Fee: "a reasonable fee." Customary Fee: The actual fee charged.
Assignment Fee	Not regulated. Maximum Fee: None. Customary Fee: Not customary.	Not allowed.
Assumption Fee	Not regulated. Maximum Fee: None. Customary Fee: Not customary.	Not allowed.
Attorney's Fee	Texas Gov't Code Ann. Sec. 83.001 states: "§83.001. Prohibited Acts (a) A person, other than a person designated in Subsection (b), may not charge or receive, either directly or indirectly, any compensation for all or part of the preparation of a legal instrument affecting title to real property, including a deed, deed of trust, note, mortgage, and transfer of release of lien. (b) This section does not apply to:	Texas Finance Code Section 342.308(a)(2) allows "reasonable fees charged to the lender by an attorney who is not a salaried employee of the lender for preparation of the loan documents in connection with the mortgage loan if the fees are evidenced by a statement for services addressed to the lender." See also "Document Preparation Fee." Maximum Fee: "a reasonable fee." Customary Fee: \$200.00 to \$500.00

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	<p>(1) an attorney licensed in this state; (2) a licensed real estate broker or salesman performing the acts of a real estate broker pursuant to The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes); or (3) a person performing acts relating to a transaction for the lease, sale, or transfer of any mineral or mining interest in real property. (c) This section does not prevent a person from seeking reimbursement for costs incurred by the person to retain a licensed attorney to prepare an instrument."</p> <p>Maximum Fee: None.</p> <p>Customary Fee: \$200.00 to \$500.00</p>	<p>Texas Finance Code Section 342.307 allows and any court costs and fees incurred in the collection of, or foreclosure of, any lien created by the loan if included in the contract.</p> <p>Maximum Fee: "a reasonable fee."</p>
Broker Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Determined by market conditions.</p>	<p>Not chargeable to the borrower.</p> <p>Office of Consumer Credit Commissioner Interpretive Letter 88-1, dated January 18, 1988, explains that brokers must be licensed under Article 5069-3 (Texas Credit Title Chapter 3A) if they are in the business of making, negotiating, or arranging secondary mortgage loans. If the funding lender absorbs the expense of the referral fee paid to the originating lender and the borrower pays the same basic interest rate and the same amount of prepaid interest regardless of which authorized lender makes the loan, the lender may pay a licensed lender (broker) a fee."</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Determined by market conditions.</p>
Broker Points	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Determined by market conditions.</p>	<p>Not chargeable to the borrower.</p> <p>Office of Consumer Credit Commissioner in a letter to Secondary Mortgage Lenders dated December 31, 1981, expressly states "Brokerage fees are not authorized."</p>

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		<p>Office of Consumer Credit Commissioner Interpretive Letter 88-1, dated January 18, 1988, explains that brokers must be licensed under Article Chapter 3A) if they are in the business of making, negotiating, or arranging secondary mortgage loans. If the funding lender absorbs the expense of the referral fee paid to the originating lender and the borrower pays the same basic interest rate and the same amount of prepaid interest regardless of which authorized lender makes the loan, then the lender may pay a licensed lender (broker) a fee."</p> <p>Maximum Fee: None. Customary Fee: Determined by market conditions.</p>
Closing Agent Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary because the Title Companies, typically selected by the seller or the real estate agent, normally conduct residential loan closings.</p>	Not allowed.
Commitment Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	Not allowed. Office of Consumer Credit Commissioner in a letter to Secondary Mortgage Lenders dated December 31, 1981, expressly states "Commitment fees are not authorized."
Copy Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	Not allowed.
Courier Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fee charged.</p>	Not allowed.
Credit Investigation Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	Not allowed.
Credit Report Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fee charged.</p>	<p>Texas Finance Code Section 342.308(a)(5) allows the "the reasonable cost of a credit report."</p> <p>Maximum Fee: "reasonable cost." Customary Fee: The actual fee charged.</p>

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Disbursement Fee	Not regulated. Maximum Fee: None. Customary Fee: Not customary because the Title Companies, typically selected by the seller or the real estate agent, normally conduct residential loan closings.	Not allowed.
Discount Points	Not regulated. Maximum Fee: None. Customary Fee: Determined by market conditions.	Points or other prepaid finance charges cannot be charged on precomputed loans but may be charged on simple interest loans. Office of Consumer Credit Commissioner Interpretive letter 81-9 dated July 14, 1981. According to an unpublished letter from the Office of Consumer Credit Commissioner dated December 1, 1981, points, origination fees and discounts may be charged as interest provided that, when added to the other interest and amortized over the term of the loan, the yield to the lender does not exceed the allowable interest rate at the time the loan was made." Maximum Fee: Limited by the states usury law. Customary Fee: Determined by market conditions.
Document Preparation Fee	Allowed, but the documents must be drawn by a licensed attorney. See "Attorney's Fee" above. Maximum Fee: None Customary Fee: \$200.00 to \$500.00	Allowed, but the documents must be drawn by a licensed attorney not a salaried employee of the lender and if the fees are evidenced by a statement for services rendered addressed to the lender." See "Attorney's Fee" above. Maximum Fee: "a reasonable fee." Customary Fee: \$100.00 to \$200.00.
Document Redraw Fee	Not regulated. Maximum Fee: None. Customary Fee: Determined by contract and reason for redraw.	Not allowed.
Fax Fee	Not regulated. Maximum Fee: None. Customary Fee: Actual Cost.	Not allowed.

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Federal Express Fee	Not regulated. Maximum Fee: None. Customary Fee: Actual Fee charged.	Not allowed.
Fee for providing Amortization Schedule	Not regulated. Maximum Fee: None. Customary Fee: The actual cost of providing schedule.	Not allowed.
Flood Certification Fee	Not regulated. Maximum Fee: None. Customary Fee: The actual fee charged.	Texas Finance Code Section 342.308(a)(8) allows "reasonable fees relating to real property offered as security for the loan that are incurred to comply with a federally mandated program if the collection of the fees or the participation in the program is required by a federal agency." Maximum Fee: "a reasonable fee." Customary Fee: The required fees.
Funding Fee	Not regulated. Maximum Fee: None. Customary Fee: Determined by investor.	Not allowed.
Late Charges	There are no restrictions on late fees. Maximum Fee: None. Customary Fee: The Fannie Mae standard of 5% after 15 days.	On precomputed loans, late charges may not exceed 5% of any scheduled installment not paid for 10 days or more following the date the payment is due. Late charges shall not be collected more than once on the same installment. Texas Finance Code Section 342.302 Office of Consumer Credit Commissioner Interpretive letter 81-29 dated December 4, 1981, explains that on a simple interest loan, if the lender does not earn additional interest on the unpaid principal balance when a payment is not made as scheduled, then the late charge allowable for precomputed loans may be assessed if the contract so provides."
Lock in Fee	Not regulated. Maximum Fee: None. Customary Fee: Determined by market	Not allowed.
Notary Fee	Not regulated. Maximum Fee: None. Customary Fee: Not customary because title companies normally conduct residential closings.	Not allowed.

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NSF Fee	<p>Allowed under Texas Occupations and Business Code Article 9022 of Title 132. "Processing fee by holder of dishonored check" provides as follows:</p> <p>"(a) The holder of a check or its assignee, agent, representative, or any other person retained by the holder to seek collection of the face value of the dishonored check on return of the check to the holder following its dishonor by a payor may charge the drawer or endorser a reasonable processing fee, which shall not exceed \$25..."</p> <p>Maximum Fee: \$25.00. Customary Fee: \$25.00</p>	<p>Maximum Fee: \$25.00 Customary Fee: \$25.00 V.A.C.S. Art. 9022(a) allows \$25.00 for all loans governed by Chapter 342.</p>
Origination Fee or Points	<p>Not regulated. Maximum Fee: None. Customary Fee: Determined by market conditions.</p>	<p>Points or other prepaid financed charges cannot be charged on precomputed loans but may be charged on simple interest loans. Office of Consumer Credit Commissioner Interpretive letter 81-9 dated July 14, 1981. According to an unpublished letter from the Office of Consumer Credit Commission dated December 31, 1981, points, origination fees and discounts may be charged as interest provided that, when added to the other interest and amortized over the term of the loan, the yield to the lender does not exceed the allowable interest rate at the time the loan was made." Maximum Fee: Limited by the states usury law. Customary Fee: Determined by market conditions.</p>
Points	<p>Not regulated. Maximum Fee: None. Customary Fee: Determined by market conditions.</p>	<p>Points or other prepaid finance charges cannot be charged on precomputed loans but may be charged on simple interest loans. Office of Consumer Credit Commissioner Interpretive letter 81-9 dated July 14, 1981. According to an unpublished letter from the Office of Consumer Credit Commissioner dated December 31, 1981, points, origination fees and discounts may be charged as interest provided that, when added to the other interest and amortized over the term of the loan, the yield to the lender does not exceed the allowable interest rate at the time the loan was made."</p>

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		Maximum Fee: Limited by the states usury law. Customary Fee: Determined by market conditions.
State Maximum Prepayment Penalty	Texas Finance Code Section 302.107 prohibits prepayment penalties on residential mortgage loans secured by the homestead of the borrower if the interest rate on the loan is greater than 12% unless the charge or penalty is required by an agency created by federal law. Maximum Fee: None. Customary Fee: Not customary.	A prepayment penalty may not be charged on a secondary mortgage loan with simple interest accrual.
Processing Fee	Not regulated. Maximum Fee: None. Customary Fee: \$150.00 to \$300.00.	Not allowed. Office of Consumer Credit Commissioner Interpretive Letter 87-5, dated December 9, 1987.*
Recording Fee	Allowed. Maximum Fee: None. Customary Fee: The actual fee charged.	Texas Finance Code Section 342.308(a)(3) allows "charges prescribed by law that are paid to public officials for determining the existence of a security interest or for perfecting, releasing, or satisfying a security interest." Maximum Fee: Statutory fee. Customary Fee: The actual fee prescribed.
Release Fees	Allowed. Maximum Fee: None. Customary Fee: The actual fee paid to a government entity for recording the release.	Texas Finance Code Section 342.308(a)(3) allows "charges prescribed by law that are paid to public officials for determining the existence of a security interest or for perfecting, releasing, or satisfying a security interest." Maximum Fee: Statutory fee. Customary Fee: The actual fee prescribed.
Review Appraisal Fee	Not regulated. Maximum Fee: None. Customary Fee: Not customary.	Not allowed. See "Appraisal Fee."
Satisfaction Fee	Not regulated. Maximum Fee: None. Customary Fee: The actual cost incurred in preparing and recording the release.	Texas Finance Code Section 342.308(a)(3) allows "charges prescribed by law that are paid to public officials for determining the existence of a security interest by for perfecting, releasing, or satisfying a security interest."

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		<p>See "Release fee."</p> <p>Maximum Fee: Statutory fee.</p> <p>Customary Fee: The actual fee prescribed.</p>
Servicing Release Premium	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	Not allowed.
State Specific Tax Fees on Mortgage Transactions	None.	None.
Tax Service Fee	<p>Allowed.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fee charged.</p>	Not allowed.
Transfer Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	Not allowed.
Underwriting Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: \$100.00 to \$300.00.</p>	Not allowed.
Warehouse Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	Not allowed.
Wire Fee	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fee charged.</p>	Not allowed.
Title Examination, Title Insurance and Title Search Fees	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fees charged.</p>	<p>Texas Finance Code Section 342.308(a)(1) allow "reasonable fees for title examination and preparation of an abstract of title by an attorney who is not an employee of the lender; or a title company or property search company authorized to do business in this State; or premiums or fees for title insurance or title search for the benefit of the mortgagee, and, at the mortgagee's option, for title insurance or title search for the benefit of the mortgagor."</p>

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		<p>Maximum Fee: "a reasonable fee."</p> <p>Customary Fee: The actual fee charged.</p>
Survey Fees	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fee charged.</p>	<p>Texas Finance Code Section 342.308(a)(6) allows "reasonable fees for a survey of real property offered as security for the loan prepared by a registered surveyor who is not a salaried employee of the lender."</p> <p>Maximum Fee: "a reasonable fee."</p> <p>Customary Fee: The actual fee charged.</p>
Federally Mandated Program Fees	Allowed.	<p>Texas Finance Code Section 342.308(a)(8) allows "reasonable fees relating to real property offered as security for the loan that are incurred to comply with a federally mandated program if the collection of the fees or the participation in the program is required by a federal agency."</p> <p>Maximum Fee: "a reasonable fee."</p> <p>Customary Fee: The required fees.</p>
Trustee Fees	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Maximum Fannie Mae trustee fee for a non-judicial foreclosure is \$500.00.</p>	<p>Texas Finance Code Section 342.307 allows "reasonable fees or charges paid to the trustee in connection with a deed of trust or similar instrument executed in connection with the secondary mortgage loan, including fees for enforcing the lien against or posting for sale, selling, or releasing the property secured by the deed of trust." This fee must be expressly provided for in the loan contract.</p> <p>Maximum Fee: a "reasonable fee."</p>
Mortgage Protection Insurance	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: The actual fee charged.</p>	<p>Allowed.</p> <p>Texas Finance Code Section 342.308(a)(7) allows "insurance that protects the mortgagee against default by the mortgagor."</p>
Seller Points	<p>Not regulated.</p> <p>Maximum Fee: None.</p> <p>Customary Fee: Not customary.</p>	<p>If a lender is to receive seller points, such compensation must be considered as part of the interest received on the loan. Since seller points are received at the time of the loan they should be considered as prepaid interest in</p>

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		<p>calculating the interest rate on the contract for the purpose of determining whether the rate charged is within the lawful interest rate ceiling. Office of Consumer Credit Commissioner Interpretive Letter 82-14 dated July 20, 1982*</p> <p>Maximum Fee.</p> <p>Customary Fee: Not customary.</p>