

# STATE HIGH COST/PREDATORY LENDING REGULATIONS

**State:** Indiana

**Law:** Home Loan Practices

**Cite:** IC 24-9 ARTICLE 9

**Public Link:** <http://www.in.gov/legislative/ic/code/title24/ar9/ch4.html>

**Loan Covered:**  Conventional  FHA  VA

**Maximum Loan Amount Covered:** Up to FNMA loan limits

**Loan Purposes Covered:**

<input checked="" type="checkbox"/> Purchase	<input checked="" type="checkbox"/> Construction/Perm
<input checked="" type="checkbox"/> Construction	<input checked="" type="checkbox"/> Refinance
<input type="checkbox"/> HELOC	<input checked="" type="checkbox"/> Home Equity/closed end
<input type="checkbox"/> Bridge Loan	<input checked="" type="checkbox"/> One-time Closing
<input checked="" type="checkbox"/> Purchase Plus	<input checked="" type="checkbox"/> Refinance Plus
<input checked="" type="checkbox"/> Home Improvement	<input type="checkbox"/> Lot (see below)
<input checked="" type="checkbox"/> One time with modification	<input type="checkbox"/> Reverse

**Borrower(s) Covered:** "Borrower" means a person obligated to repay a home loan, including a coborrower, cosigner, or guarantor

**Property Covered:** "Home loan" means a loan, other than an open end credit plan, a reverse mortgage transaction, or a loan described in IC 24-9-1-1, that is secured by a mortgage or deed of trust on real estate in Indiana on which there is located **or will** be located a structure or structures

- (1) designed primarily for occupancy of one (1) to four (4) families; and
- (2) that is or will be occupied by a borrower as the borrower's principal dwelling.

**Exempt Loans:** this article does not apply to:

(1) a loan made or acquired by a person organized or chartered under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing and community development authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

**Total Loan Amount is:**  SAME AS HOEPA/SECTION 32

Note

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**Indiana has a “Trigger” rate test and a “Benchmark” test.**

**Trigger rate** means:

- (1) for fixed rate home loans in which the interest rate will not vary during the term of the loan, the rate as of the date of closing;
- (2) for home loans in which the interest varies according to an index, the sum of the index rate as of the date of closing plus the maximum margin permitted at any time under the loan agreement; or
- (3) for all other home loans in which the rate may vary at any time during the term of the loan, the maximum rate that may be charged during the term of the home loan.

**Benchmark rate** means the interest rate established under Section 152 of the Federal Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1602 (aa)) and the regulations adopted under that act by the Federal Reserve Board, including 12 CFR 226.32 and the Official Staff Commentary to the regulations as amended.

**Rate Test:** 1<sup>st</sup> lien = trigger rate (as determined above) exceeds the value of the corresponding index in effect the 15<sup>th</sup> of the month preceding the month in which the application is received plus 8%.

Subordinate lien = trigger rate (as determined above) exceeds the value of the corresponding index in effect the 15<sup>th</sup> of the month preceding the month in which the application is received plus 10%.

**Fee Test:** total points and fees that exceed:

- (A) five percent (5%) of the loan principal for a home loan having a loan principal of at least forty thousand dollars (\$40,000); or
- (B) six percent (6%) of the loan principal for a home loan having a loan principal of less than forty thousand dollars (\$40,000).

**Special Notes:**

**"Bona fide discount points"**

Sec. 3. "Bona fide discount points" means loan discount points that:

- (1) are knowingly paid by the borrower;
- (2) are paid for the express purpose of reducing the interest rate applicable to the loan;
- (3) reduce the interest rate from an interest rate that does not exceed the benchmark rate; and
- (4) are recouped within the first four (4) years of the scheduled loan payments;

if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments so that the borrower's dollar amount of savings in interest during the first four (4) years of the loan is equal to or greater than the dollar amount of loan discount points paid by the borrower.

**"Points and fees"**

Sec. 10. (a) Except as provided in subsection (b), "points and fees" means the total of the following:

- (1) Points and fees (as defined in 12 CFR 226.32(b)(1) on January 1, 2004).
- (2) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in the broker's own name.

As used in subdivision (2), "compensation" does not include a payment included in subdivision (1).

(b) The term does not include the following:

- (1) Bona fide discount points.
- (2) An amount not to exceed one and one-half (1 1/2) points in indirect broker compensation, if the terms of the loan do not include a prepayment penalty that exceeds two percent (2%) of the home loan principle.
- (3) Reasonable fees paid to an affiliate of the creditor.
- (4) Interest prepaid by the borrower for the month in which the home loan is closed.

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