

INDIANA HIGH-COST RECAP

What loans are subject to rule: Loans made by licensees in Indiana that will not be sold in the secondary market with a loan amount not exceeding the current FNMA conforming loan limit are subject to this rule. This is limited to primary occupancy 1-4 dwellings.

Fees included: The points and fees as defined by Indiana's high-cost regulations are limited to the total of the points and fees as described in 12 CFR 226.32(b)(1) on January 1, 2004, and all compensation paid directly or indirectly to a mortgage broker.

This does not include bona fide discount points, reasonable fees paid to an affiliate, prepaid interest for the month of closing, or an amount up to 1.5 points in indirect broker compensation as long as there is no prepayment penalty if the interest rate is adjustable, or the prepayment penalty doesn't exceed 2% of the principal loan amount on a fixed rate transaction.

The total points and fees may not exceed 5% of the loan principal for a home loan with a base loan amount of \$56,000 or more, or 6% of the loan principal for a home loan with a base loan amount of less than \$56,000.

APR threshold test: Indiana has a "trigger rate", which for fixed rate loans is the rate as of the date of closing, and for ARM loan the trigger rate is the sum of the index rate as of the closing date plus the maximum margin permitted at any time. For all other loans (such as a step rate), the trigger rate is the maximum rate that may be charged during the loan term.

This trigger rate is compared against the "benchmark rate", which is 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.

If the trigger rate exceeds the benchmark rate, the loan is considered a high-cost transaction.

Additional limitations:

- No financed points and fees
- No financed credit insurance
- No balloon payment within 10 years unless a bridge loan
- No advance payments
- No call provisions
- No negative amortization
- No increased default rates
- No late fees greater than 4% or less than 15 days
- No prepayment penalties after 24 months or in excess of 2% (in total) of principal loan amount for fixed rate loans
- No prepayment penalty on ARM loans

- Covered loan may not knowingly replace or consolidate a subsidized low-rate loan made by a governmental or nonprofit lender with a covered loan within the first 10 years of the original loan unless the current lienholder consents in writing to the refinancing.
- Creditor may not encourage default on existing loan in anticipation of high-cost home loan closing
- Creditor must take borrower's ability to repay into account when underwriting loan
- Payments to Contractors prohibited under home improvement, unless payable to borrower or jointly (borrower and contractor); or with the borrower's consent, by a 3rd party escrow agent per agreement between borrower, lender and contractor
- Lender may not charge borrower to modify, renew, extend, or amend a high-cost home loan, or to defer any payment due
- Required arbitration clauses are prohibited.

Disclosures required: There is a Notice to Borrower required to be provided at least 3 business days prior to closing. This is Doc ID 9473 in the PPDocs, Inc. document library.

If the loan will include a prepayment penalty fee, the lender must first offer borrower a loan product without a prepayment fee. This disclosure is Doc ID 5959 in the PPDocs, Inc. document library.

Prior to the sale or assignment of a high-cost home loan, the creditor must provide a Notice to Purchaser or Assignee informing them of the high-cost status of the loan being purchased or assigned. This document is Doc ID 9491 in the PPDocs, Inc. document library.

Underlying Regulation: Indiana Home Loan Practices

<https://iga.in.gov/legislative/laws/2020/ic/titles/024#24-9>