

MASSACHUSETTS HIGH-COST RECAP

What loans are subject to rule:

A consumer-purpose mortgage to an individual or trust secured by the borrower's principal dwelling.

Fees included:

If the total points and fees, after excluding conventional prepayment penalty or up to two bona fide discount points, exceed the greater of 5% of the total loan amount, or \$1,243 (adjusted for CPI), the loan is considered a high-cost transaction.

Points and fees include those prepaid finance charges payable to the creditor, mortgage broker, or an affiliate, prepayment fees and penalties if the loan is refinancing a loan held by the same lender, all broker compensation, and all credit insurance financed upfront.

APR threshold test:

The loan is a high-cost transaction if the following occurs:

First Lien: The APR exceeds comparable U.S. Treasury securities index by more than 8%

Subordinate Lien: The APR exceeds comparable U.S. Treasury securities index by more than 9%

APR compared against: Treasury Yield as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the creditor

Additional limitations:

- No prepayment penalties
- No due-on-demand clause except due to fraud/misrepresentation or default
- Undiscounted interest rate is 4 percentage points plus the weekly average yield of US Treasury 5-year maturity on 15th day of month immediately preceding the month in which the loan is made
- No balloon payment
- No negative amortization
- No advance payments in excess of 2 payments total.
- No increase in the interest rate after default
- Borrower must complete a counseling session with a HUD-approved counselor prior to closing.
- Lender must take borrower's ability to repay into account when underwriting the transaction.
- No more than 5% of the total loan amount or \$800, whichever is greater, of points and fees may be financed.
- No charge may be assessed to modify, renew, extend or amend a high-cost home mortgage loan, or to defer a payment due.
- No arbitration restrictions

- 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.
- A creditor may not encourage default of an existing loan in anticipation of a high-cost home loan closing.

Disclosures required:

Compliance with federal provisions constitutes compliance, but if Section 32 disclosures are not provided, there is a state High-Cost Home Loan Disclosure. This is Doc ID 5643 in the PPDocs, Inc. document library.

A Notice to Purchasers or Assignees must be provided to a purchaser or assignee of the high-cost home loan. This is Doc ID 4551 in the PPDocs, Inc. document library.

If lender solicits credit insurance, receives compensation for the sale of such insurance, and the charges are prepaid with the loan proceeds and financed in the principal amount of the loan, then the Optional Insurance Disclosure must be provided. This is Doc ID 4552 in the PPDocs, Inc. document library.

Underlying Regulation:

Statute: MA Predatory Home Loan Practices Act 2004: [Mass. Gen. Laws ch. 183C: Predatory Home Loan Practices](https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter183C) <https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter183C>

Regulation: [209 CMR 32.00: Truth in Lending](https://www.mass.gov/regulations/209-CMR-3200-truth-in-lending-0) <https://www.mass.gov/regulations/209-CMR-3200-truth-in-lending-0>