

NEW MEXICO HIGH-COST RECAP

What loans are subject to rule:

A consumer-purpose loan to an individual or trust that will be secured by the borrower's primary dwelling, in a loan amount not exceeding FNMA loan limits. Bridge loans are excluded.

Fees included:

Total points and fees will include fees payable to the creditor, mortgage broker, or affiliate, including loan discount points and any compensation; document preparation charges, and any financed credit insurance. An amount up to two points may be excluded consisting of bona fide discount points (provided APR does not exceed US Treasury Yield as of the 15th day of the month immediately preceding the month of closing by more than 1.5% for a first lien or 3% for a subordinate lien) and conventional prepayment penalties (provided APR does not exceed US Treasury Yield as of the 15th day of the month immediately preceding the month of closing by more than 2%, or the prepayment penalties do not exceed 2% of the amount prepaid).

The following limitations must be exceeded for loan to be considered high-cost:

- 5% of total loan amount for loan with total loan amount of \$20,000 or more; or
- Lesser of 8% of total loan amount or \$1,000 for loan with total loan amount less than \$20,000

APR threshold test:

The note rate is compared against the US Treasury Yield as of the 15th day of the month immediately preceding the month of closing to determine if the loan is a high-cost. For an ARM transaction, the fully indexed rate is used for comparison.

For a first lien, the interest rate may not be 7% or more over the US Treasury Yield. For a subordinate lien, the interest rate may not be 9% or more over the US Treasury Yield.

Additional limitations:

- Creditor may not finance points or fees in excess of 2% of the principal loan amount.
- Loan shall not contain a provision for increase in interest rate after default
- No arbitration provisions permitted
- Homeownership counseling required
- Notice to Borrower regarding high-cost home loan must be provided.

All home loans:

- No credit insurance may be financed
- No loan flipping
- Creditor must take borrower's ability to repay into account when underwriting loan

- ARM loan may not have negative amortization
- Advance payments are prohibited in excess of two periodic payments from the loan proceeds
- 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.
- No fee may be charged to modify, renew, extend or amend a home loan
- No creditor may charge more than \$75.00 to defer payment due
- Creditor may not recommend default on existing loans in anticipation of high-cost home loan closing.
- Max late payment of 5% for 15 days or more
- No debt acceleration permitted
- No prepayment penalty permitted
- ARM loan may not adjust more frequently than semi-annually
- ARM loan may not include a first change cap of more than 2% for first change dates less than five years after closing, or more than 6% for first change dates five years or later after closing
- ARM loans may not increase more than 1% semi-annually
- ARM loans may not have a lifetime rate cap of more than 6% over the initial interest rate
- Home loan with LTV of 80% or higher must have an escrow account if owner-occupied residence.

Disclosures required:

The Notice to Borrower must be provided within three business days of the creditor receiving the application or determining the loan is a high-cost transaction. This is Doc ID 2719 in the PPDocs, Inc. document library.

Underlying Regulation: [NM Statutes Section 58-21A-1 et seq.](#)

<https://law.justia.com/codes/new-mexico/2021/chapter-58/article-21a/>