

TENNESSEE HIGH-COST RECAP

What loans are subject to rule:

A consumer-purpose transaction made by a mortgage company, mortgage banker, and/or mortgage broker, secured by the borrower's primary residence, in an amount not to exceed the lesser of the FNMA conforming loan limit or \$350,000. Purchase transactions, interim initial construction loans, and loans insured, guaranteed by, or sold to a government agency (including USDA, VA, and FHA) are excluded.

Fees included:

"Points and fees" include those charges included in "points and fees" under 1026.32. Up to and including 2 bona fide discount points, and charges paid to an affiliate in a reasonably similar amount that a non-affiliate would charge, are excluded from "points and fees". Any charge in excess of a reasonably similar amount should be included in the "points and fees" calculation.

The loan is considered a high-cost transaction if points and fees:

- Exceed 8% of total loan amount when total loan amount is \$30,000 or less; or
- Exceed the greater of 5% of total loan amount or \$2,400 when total loan amount is more than \$30,000.

APR threshold test:

The loan is considered a high-cost transaction if:

For a first-lien, the APR exceeds APOR as of the date the interest rate is set by more than 6.5%.

For a subordinate lien, the APR exceeds APOR as of the date the interest rate is set by more than 8.5%.

Additional limitations:

- Cannot Finance Points and Fees:
 - In excess of the greater of 3% of total loan amount or \$1,500 if total loan amount is more than \$30,000; or
 - 5% if total loan amount is \$30,000 or less
- Credit Insurance (of any kind) may not be financed unless they are paid monthly, OR:
 - Total benefits do not exceed \$50,000;
 - Principal of financed premiums is repayable during the term of the policy / contract; and
 - Amount payable does not exceed more than 103% of then-unamortized principal balance
- No Advance Payments – may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.
- Loan must be closed at the lender's office, at a TN attorney's office, TN title insurance office, settlement / closing agent office, or mortgage broker office.
- Late fees only allowed if:

- Doesn't exceed 5% of the amount of the payment past due or \$15, whichever is greater;
- Payment is past due for 10 days or more; and
- Not be imposed more than once per late payment
- No Prepayment penalties exceeding 2% of loan amount in first 24 months of term.
- No Balloon Payments
- No Negative Amortization
- No loan acceleration provision except for default
- No Default Interest Rate unless for an ARM and unrelated to default
- No fee to release lien except to record document

- Points and fees may not be charged if high-cost home loan is refinancing existing high-cost home loan with same lender or an affiliate, except on the portion of loan proceeds over and above amount necessary to refinance existing high-cost home loan.
- Lender must take borrower's ability to repay into account when underwriting high-cost home loan.
- High-cost home loan may not be used to refinance existing home loan within 30 months unless reasonable benefit provided to borrower.
- Lender must not encourage default on existing debts in anticipation of high-cost home loan closing

Disclosures required:

A Notice to Borrower (Doc ID 5338 in the PPDocs, Inc. document library) must be provided at least three business days prior to consummation.

The Loan Counseling Notice (Doc ID 9190 in the PPDocs, Inc. document library) must be provided within three business days of application, or three business days of discovering the loan is a high-cost transaction.

Underlying Regulation: [TN Code Ann. Title 45, Chapter 20](#)

<https://law.justia.com/codes/tennessee/2021/title-45/chapter-20/>