

# Oklahoma

## STATE HIGH COST/PREDATORY LENDING REGULATIONS

Last Updated: May 2016

**LAW:** "Oklahoma Home Ownership and Equity Protection Act" a/k/a subsection 10 mortgages (14A O.S. 2001, Section 1-301)

**LOAN AMOUNT COVERED:** No limitation

**BORROWERS COVERED:**

- |                                     |               |                                     |        |
|-------------------------------------|---------------|-------------------------------------|--------|
| <input checked="" type="checkbox"/> | Individuals   | <input checked="" type="checkbox"/> | Trusts |
| <input type="checkbox"/>            | Organizations | <input type="checkbox"/>            | Other: |

**TOTAL LOAN AMOUNT (TLA) IS DEFINED AS:** Not defined, we use Section 32/HCML definition for calculations

- |                                     |  |                          |             |
|-------------------------------------|--|--------------------------|-------------|
| <input type="checkbox"/>            | Loan Amount as defined in HOEPA 226.32 | <input type="checkbox"/> | Note Amount |
| <input checked="" type="checkbox"/> | Loan Amount as defined in HCML 1026.32 | <input type="checkbox"/> | Other:      |

**LOAN TYPES COVERED:**

- |                                     |              |                                     |     |
|-------------------------------------|--------------|-------------------------------------|-----|
| <input checked="" type="checkbox"/> | Conventional | <input checked="" type="checkbox"/> | FHA |
| <input checked="" type="checkbox"/> | VA           | <input checked="" type="checkbox"/> | RHS |
| <input type="checkbox"/>            | Other:       |                                     |     |

**LOAN PURPOSES COVERED:**

- |                                     |                            |                                     |                                    |
|-------------------------------------|----------------------------|-------------------------------------|------------------------------------|
| <input type="checkbox"/>            | Purchase                   | <input checked="" type="checkbox"/> | Construction to Perm               |
| <input type="checkbox"/>            | Builder                    | <input checked="" type="checkbox"/> | Refinance                          |
| <input checked="" type="checkbox"/> | Equity Out                 | <input checked="" type="checkbox"/> | Home Equity Closed End             |
| <input type="checkbox"/>            | One Time Closing           | <input type="checkbox"/>            | Modification                       |
| <input type="checkbox"/>            | Purchase Plus Improvements | <input checked="" type="checkbox"/> | Refinance Plus Improvements        |
| <input type="checkbox"/>            | Lot Loan                   | <input checked="" type="checkbox"/> | Home Improvement                   |
| <input type="checkbox"/>            | Borrower Interim           | <input type="checkbox"/>            | One Time Closing with Modification |
| <input type="checkbox"/>            | HELOC                      | <input type="checkbox"/>            | Assumption                         |

**BRIDGE LOANS COVERED**

- |                                     |     |                          |    |
|-------------------------------------|-----|--------------------------|----|
| <input checked="" type="checkbox"/> | Yes | <input type="checkbox"/> | No |
|-------------------------------------|-----|--------------------------|----|

**PROPERTY OCCUPANCY COVERED:**

- |                                     |                   |                          |             |
|-------------------------------------|-------------------|--------------------------|-------------|
| <input checked="" type="checkbox"/> | Primary Residence | <input type="checkbox"/> | Second Home |
| <input type="checkbox"/>            | Investment        | <input type="checkbox"/> | Raw Land    |

**APR THRESHOLDS:** <https://www.ok.gov/okdocc/documents/1.%20Title%2014A%20UCCC%2009.pdf> and <http://www.oklegislature.gov/osStatuesTitle.html>

- |                                     |     |                          |              |                          |        |
|-------------------------------------|-----|--------------------------|--------------|--------------------------|--------|
| <input checked="" type="checkbox"/> | APR | <input type="checkbox"/> | Unteased APR | <input type="checkbox"/> | Other: |
|-------------------------------------|-----|--------------------------|--------------|--------------------------|--------|

First Lien: 8 %

Subordinate Lien: 10 %

**APR COMPARED AGAINST:** 14A O.S. 2001, Section 1-301

- |                                     |                |                          |            |
|-------------------------------------|----------------|--------------------------|------------|
| <input type="checkbox"/>            | APOR           | <input type="checkbox"/> | APR Itself |
| <input checked="" type="checkbox"/> | Treasury Yield | <input type="checkbox"/> | Other:     |

**DATE FOR APR TEST:**

- Application  Closing
- Other: 15<sup>th</sup> day of the month immediately preceding the month the creditor receives the application

**FEE TEST METHOD:** 14A O.S. 2001, Section 1-301

- Use HC Flag
- Use APR & Paid To (§1026.32)
- Use APR & Paid To, except: do not include interest,

**FEE TEST THRESHOLDS:** 14A O.S. 2001, Section 1-301

All liens: Greater of 8% or \$1020

**ADJUSTMENTS:**

- No  Yes | How: Every January 1 with CPI

**FEES INCLUDED IN TEST:** 14A O.S. 2001, Section 1-301

- (i) all items included in the finance charge, except interest or the time-price differential;
- (ii) all compensation paid to mortgage brokers;
- (iii) each of the charges listed in 15 U.S.C., Section 1605(e), except an escrow for future payment of taxes, unless:
- (aa) the charge is reasonable;
- (bb) the creditor receives no direct or indirect compensation; and
- (cc) the charge is paid to a third party unaffiliated with the creditor;
- (iv) premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage, whether or not the debt-cancellation coverage is insurance under applicable law, that provides for cancellation of all or part of the consumer's liability in the event of the loss of life, health, or income or in the case of accident, written in connection with the credit transaction; and
- (v) such other charges as the Administrator determines to be appropriate.

**OTHER ITEMS TO BE TESTED/CONSIDERED:**

**SPECIAL NOTES:** 14A O.S. 2001, Section 1-301

A mortgage transaction subject to this section shall not include the following terms:

- (1) **Balloon payment.**
- (A) For a loan with a term of less than five years, a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance.
- (B) **Exception.** The limitations in paragraph (d)(1)(A) of this section do not apply to loans with maturities of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling.
- (2) **Negative amortization.** A payment schedule with regular periodic payments that cause the principal balance to increase.
- (3) **Advance payments.** A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds.
- (4) **Increased interest rate.** An increase in the interest rate after default.
- (5) **Rebates.** A refund calculated by a method less favorable than the actuarial method (as defined by section 933(d) of the Housing and Community Development Act of 1992, 15 U.S.C. 1615(d)), for rebates of interest arising from a loan acceleration due to default.
- (6) **Prepayment penalties.** Except as allowed under paragraph (d)(7) of this section, a penalty for paying all or part of the principal before the date on which the principal is due. A prepayment penalty includes computing a refund of unearned interest by a method that is less favorable to the consumer than the actuarial method, as defined by section 933(d) of the Housing and

Community Development Act of 1992, 15 USC 1615(d).

(7) **Prepayment penalty exception.** A mortgage transaction subject to this section may provide for a prepayment penalty (including a refund calculated according to the rule of 78s) otherwise permitted by law if, under the terms of the loan:

- (A) The penalty will not apply after the two-year period following consummation;
- (B) The penalty will not apply if the source of the prepayment funds is a refinancing by the creditor or an affiliate of the creditor;
- (C) At consummation, the consumer's total monthly debt payments (including amounts owed under the mortgage) do not exceed 50 percent of the consumer's monthly gross income, as verified in accordance with 160:45-9-4(a)(4)(B); and
- (D) The amount of the periodic payment of principal or interest or both may not change during the four-year period following consummation.

(8) **Due-on-demand clause.** A demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in the following circumstances:

- (A) There is fraud or material misrepresentation by the consumer in connection with the loan;
- (B) The consumer fails to meet the repayment terms of the agreement for any outstanding balance; or
- (C) There is any action or inaction by the consumer that adversely affects the creditor's security for the loan, or any right of the creditor in such security.

**50/ Total loan amount.** For purposes of the "points and fees" test, the total loan amount is calculated by taking the amount financed, as determined according to 160:45-5-2(2), and deducting any cost listed in 160:45-9-2(b)(1)(C) and 160:45-9-2(b)(1)(D) that is both included as points and fees under 160:45-9-2(b)(1) and financed by the creditor.