

**STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF BANKING
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PROVIDENCE, RHODE ISLAND 02903**

BANKING REGULATION 3

HOME LOAN PROTECTION ACT

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Section 1. AUTHORITY.

This regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws §§ 34-25.2-12 and 42-35-3(b).

Section 2. PURPOSE.

The purpose of this regulation is to set forth procedures, interpretations, and clarifications in order to: (a) provide guidelines and requirements to Regulated Institutions as defined in R.I. Gen. Laws § 19-1-1 (unless otherwise exempt) and Lenders and Loan Brokers as defined in R.I. Gen. Laws § 19-14-1; and; (b) to ensure compliance with and the promotion of the purposes of the provisions of R.I. Gen. Laws § 34-25.2-1 *et seq.* entitled *Rhode Island Home Loan Protection Act* (hereinafter referred to as “the Act”). The actions and information required by this regulation are hereby declared to be necessary and appropriate to the public interest. This regulation is promulgated to clarify requirements necessary in order to comply with the Act. This regulation does not duplicate the requirements of the Act, but rather is a supplement to aid in the enforcement and understanding of certain components and requirements of the Act.

Section 3. SEVERABILITY.

If any provision of this regulation or the application thereof to any Person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this regulation are severable.

Section 4. DEFINITIONS.

Unless otherwise provided by this regulation or unless the context clearly requires otherwise, terms used in this regulation shall have the same meaning as the terms as defined in Title 19 of the Rhode Island General Laws or the Act. To the extent that this regulation references federal law, Regulated Institutions as defined in R.I. Gen. Laws § 19-1-1 (unless otherwise exempt) and Lenders and Loan Brokers as defined in R.I. Gen. Laws § 19-14-1 are required to comply with all federal legal requirements in effect at the relevant time. Any references to 12 U.S.C., 12 C.F.R. or R. I. Gen. Laws § 19-1-1 *et seq.* contained in the Act shall mean respectively 12 U.S.C., 12 C.F.R., or R. I. Gen. Laws § 19-1-1 *et seq.*, as amended, and in effect from time to time.

The following terms are defined as follows:

- A. **“Affiliate”** means any company that controls, is controlled by, or is under common control with another company as set forth in 12 U.S.C. § 1841.¹
- B. **“Annual Percentage Rate”** means the annual percentage rate for the loan calculated according to the provisions of 12 C.F.R. Part 226.²
- C. **“Applicant”** means a Person who applies for a Home Loan subject to the Act.
- D. **“Bona Fide Discount Points”** means an amount knowingly paid by the borrower for the express purpose of reducing, and which in fact does result in a bona fide reduction of, the interest rate applicable to the Home Loan; provided the Undiscounted Interest Rate for the Home Loan does not exceed the Conventional Mortgage Rate by two (2) percentage points for a Home Loan secured by a first lien, or by three and one-half (3.5) percentage points for a Home Loan secured by a lien other than a first mortgage. The amount of the interest rate reduction purchased by the discount points must be reasonably consistent with established industry norms and practices for secondary market mortgage transactions. For purposes of the Act it is presumed that a point is a bona fide loan discount point if it reduces the interest rate by a minimum of 25 basis points or ¼ of a point provided all other terms of the loan remain the same.
- E. **“Bona Fide and Reasonable Fees”**

The following fees are examples of fees that are considered to be bona fide and reasonable:

- (i) a tax payment service fee that does not exceed the customary fee for such service; (R.I.Gen. Laws §19-9-2 prohibits any mortgagee holding the mortgagor's funds in escrow for the payment of taxes from charging an annual "tax service fee" or other annual) fee for ascertaining whether or not the real estate taxes have in fact been paid;
- (ii) flood certification fees that do not exceed the amount charged by the flood certification service provider;
- (iii) pest infestation fees that do not exceed the amount charged by the pest infestation inspector service provider;
- (iv) flood determination fees that do not exceed the amount charged by the flood determination service provider;
- (v) appraisal fees that do not exceed the amount charged by the appraiser;
- (vi) inspection fees relative to inspections performed prior to closing that do not exceed the amount charged by the inspection service provider;

¹ See Appendix 1-Relevant parts of 12 U.S.C. § 1841. All Federal Statutes and Regulations may be accessed at <http://www.gpoaccess.gov/cfr/index.html> . NOTE: All Persons subject to this Regulation must ensure that they are complying with the federal statutes and regulations in effect at the time of the transaction.

² See Appendix 2-Relevant parts of 12 C.F.R. 226.22 All Federal Statutes and Regulations may be accessed at <http://www.gpoaccess.gov/cfr/index.html> . NOTE: All Persons subject to this Regulation must ensure that they are complying with the federal statutes and regulations in effect at the time of the transaction.

- (vii) credit report fees that do not exceed the amount charged by the credit report service provider;
- (viii) survey fees that do not exceed the amount charged by the survey service provider;
- (ix) attorney fees that do not exceed the amount charged by the attorney;
- (x) notary fees that do not exceed customary fees for such service and that do not exceed the amount charged by the notary service provider;
- (xi) escrow charges that do not exceed customary fees for such service and that do not exceed the amount charged by the escrow service provider;
- (xii) title insurance premium, fire and hazard insurance premiums, and flood insurance premiums for insurance that do not exceed the amount charged by the insurance provider. Premiums for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property includes single interest insurance if the insurer waives all right of subrogation against the consumer. In order for the fees specified in this subsection (xii) to be excluded fees under the provisions of R. I. Gen. Laws § 34-25.2-4(o)(9) the following conditions must be met:

- (a) The insurance coverage may be obtained from a Person of the consumer's choice and this fact is disclosed. (A Creditor may reserve the right to refuse to accept, for reasonable cause, an insurer offered by the consumer); and
- (b) If the coverage is obtained from or through the Creditor, the premium for the initial term of insurance coverage shall be disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall also be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under 12 C.F.R. 226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

F. “Compensation” means payments, costs, benefits, and/or fees whether paid to a Regulated Institution as defined in R.I. Gen. Laws § 19-1-1 (unless otherwise exempt) or Lender or Loan Broker as defined in R.I. Gen. Laws § 19-14-1 in connection with a Home Loan.

G. “Composite Rate” means, for any Home Loan with a variable rate feature, a composite Annual Percentage Rate, calculated taking into account the initial interest rate for as long as it remains in effect and adjusting the interest rate in accordance with the loan documents, including any periodic and maximum caps on adjustments, until the interest rate charged is a Fully Indexed Rate. For any Previous Loan, the Composite Rate means a composite Annual Percentage Rate similarly calculated, taking into account the interest rate in effect on the fifteenth (15th) day of the month immediately preceding the month in which the loan application was received by the lender and adjusting the interest rate in accordance with the Previous Loan documents, including any periodic and maximum caps on adjustments, until the interest rate charged is a Fully Indexed Rate. The principles used in calculating the Annual Percentage Rate for a loan

with an adjustable rate feature pursuant to C.F.R. 226.17(c)(1) shall be applied in calculating the Composite Rate.

- H. **“Consummation”** is defined as the point in time at which all parties execute the promissory note, Consummation typically occurs at closing.
- I. **“Conventional Mortgage Rate”** means the most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as published in statistical release H.15 or any publication that may supersede it, as of the applicable time set forth in 12 C.F.R. 226.32(a)(1)(i).³
- J. **“Creditor”** means any Person who Regularly Makes Available a Home Loan and shall include a loan broker.
- K. **“Excluded Points and Fees”** means the items delineated in R.I. Gen. Laws § 34-25.2-4(o)(9) for purposes of calculating the Total Points and Fees threshold contained in the Act.

“Excluded Points and Fees:”

- (i) Points and Fees up to and including one percent (1%) of the total Home Loan amount attributable to bona fide fees paid to a federal or state government agency that insures payment of some portion of a Home Loan plus an amount not to exceed two percent (2%) of the total new Home Loan amount attributable to a Bona Fide Discount Points or a conventional prepayment penalty. In no case shall the total Excluded Points and Fees in connection with a Home Loan exceed three percent (3%) of the total Home Loan amount; “Excluded Points and Fees” are limited to 3% of the total new Home Loan amount regardless whether the terms of the new Home Loan include a 2% percent prepayment penalty as well as 2% Bona Fide Discount Points. To illustrate, if the total new Home Loan amount is \$100,000 and the new Home Loan terms include Bona Fide Discount Points of 2%, a prepayment penalty of 2%, and bona fide fees paid to a federal or state government agency that insures payment of some portion of the new Home Loan that total 2% of the new Home Loan amount, the total amount of Excluded Points and Fees permitted under this section shall not exceed \$3,000 ($\$100,000 \times .03$).
- (ii) Taxes, filing fees, recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing or satisfying a security interest; or

³ See Appendix 3-Relevant parts of 12 C.F.R. 226.32(a)(1)(i). All Federal Statutes and Regulations may be accessed at: <http://www.gpoaccess.gov/cfr/index.html> NOTE: All Persons subject to this Regulation must ensure that they are complying with the federal statutes and regulations in effect at the time of the transaction.

(iii) Bona Fide and Reasonable Fees paid to a Person other than the Creditor or an Affiliate of the Creditor for the following: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determination; appraisal fees; fees for inspections performed prior to closing; credit reports; surveys; attorneys' fees; notary fees; escrow charges, so long as not otherwise included under R.I. Gen. Laws § 34-25.2-4(o)(1); title insurance premiums; and fire and hazard insurance and flood insurance premiums, provided that the conditions in 12 C.F.R. 226.4(d)(2) are met;⁴

(iv) The three percent (3%) limitation contained in Section 4 K(i) of this regulation shall not apply to the taxes and fees enumerated in Sections 4 K(ii) and Section K(iii) of this regulation.

L. “Flipping a Home Loan” means the making of a Home Loan to a borrower that refinances a Previous Loan that was Consummated within the prior sixty (60) months when the new Home Loan does not have reasonable, tangible net benefits in accordance with R.I. Gen. Laws § 34-25.2-4(q) to the borrower considering all of the circumstances, including, but not limited to, the terms of both the new Home Loan and refinanced loans, the cost of the new Home Loan, and the borrower’s circumstances. For purposes of this definition, one thousand eight hundred twenty-five (1,825) days shall constitute sixty (60) months, irrespective of the fact that there may be a leap year within said period.

M. “Fully Indexed Rate” means, for any Home Loan or a Previous Loan with a variable rate feature, the sum of (i) a recent value of the index used under the loan documents for interest rate adjustments plus (ii) the margin used for interest rate adjustments. For a Home Loan, a recent value of the index is one in effect on the fifteenth (15th) day of the month immediately preceding the month in which the loan application was received by the lender. For a Previous Loan, a recent value of the index is one in effect on the fifteenth (15th) day of the month immediately preceding the month in which the loan application was received by the lender. For refinances, the date used for the recent value of the index should be the same for the Previous Loan and the Home Loan that refinances the Previous Loan.

N. “High-Cost Home Loan” means a Home Loan in which the terms of the loan meet or exceed one or more of the thresholds as defined in R.I. Gen. Laws § 34-25.2-4(r).

O. “Home Loan” means a loan, including an open-end credit plan, other than a reverse mortgage transaction where the loan is secured by:

(i) a mortgage or deed of trust on real estate in the State of Rhode Island upon which there is located or there is to be located a structure or structures

⁴ See Appendix 4-Relevant parts of 12 C.F.R. 226.4. All Federal Statutes and Regulations may be accessed at <http://www.gpoaccess.gov/cfr/index.html>. NOTE: All Persons subject to this Regulation 3 must ensure that they are complying with the federal statutes and regulations in effect at the time of the transaction

designed principally for occupancy of from one (1) to four (4) families which is or will be occupied by a borrower as the borrower's principal dwelling; or

- (ii) a security interest on a manufactured home located or to be located within the State of Rhode Island which is or will be occupied by a borrower as borrower's principal dwelling.

P. "Negative Amortization" means a gradual increase in mortgage debt that occurs when the monthly payment is insufficient to cover the interest due, and the balance owed keeps increasing.

Q. "New Note Rate" means the rate of interest payable by a borrower on the new Home Loan. If the new Home Loan is an adjustable rate Home Loan, the New Note Rate shall be the Composite Rate.

R. "Person" means (as defined in R.I. Gen. Laws § 19-1-1(10)) individuals, partnerships, corporations, limited liability companies or any other entity however organized.

S. "Points and Fees" means:

- (i) All items included in the definition of finance charge in 12 C.F.R. 226.4(a) and 12 C.F.R. 226.4(b)⁵ except interest or the time price differential;
- (ii) All items described in 12 C.F.R. 226.32(b)(1)(iii);⁶
- (iii) All Compensation paid directly by a borrower to a loan broker including a loan broker that originates a loan in its own name in a table-funded transaction; direct Compensation shall include any fees or benefit paid by a borrower to a loan broker.
- (iv) All Compensation paid indirectly to a loan broker from any source other than the borrower in excess of one percentage point of the total loan amount, including a loan broker that originates a loan in its own name in a table-funded transaction; Indirect Compensation shall include any fees or benefit paid to a loan broker from any source other than the borrower.
- (v) The cost of all premiums financed by the Creditor, directly or indirectly for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the Creditor directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt

⁵ See Appendix 4-Relevant parts of 12 C.F.R. 226.4. All Federal Statutes and Regulations may be accessed at <http://www.gpoaccess.gov/cfr/index.html>. NOTE: All persons subject to this Regulation must ensure that they are complying with the federal statutes and regulations in effect at the time of the transaction

⁶ See Appendix 3-Relevant parts of 12 C.F.R. 226.32(a)(i) and 12 C.F.R. 226.32(b)(1)(iii).

cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the Creditor;

- (vi) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents; and
- (vii) All prepayment fees or penalties that are incurred by the borrower if the Home Loan refinances a Previous Loan originated or currently held by the same Creditor or an Affiliate of the Creditor.
- (viii) For open-end Home Loans, the Points and Fees are calculated by adding the total Points and Fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the Home Loan documents, plus the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line. This section should be construed to include the minimum fee that can be charged pursuant to the provisions of the Home Loan documents during the term of the loan. The minimum fees that borrow would be required to pay to draw down the Home Loan shall include:
 - (a) in cases where the draw fee is calculated as a percentage of each draw, said percentage applied to the total amount of credit available under the open-end Home Loan. To illustrate, if the total amount of credit available under the open-end Home Loan is \$50,000 and the draw fee is 1.0% of the amount drawn, the draw fees to be included would be \$500 ($\$50,000 \times .01$);
 - (b) in cases where the draw fee is a stated dollar amount (i.e. \$25 for each draw) and the Home Loan contract does not provide for a minimum draw amount, the amount of the minimum specified draw fee (i.e. in this example, \$25) To illustrate, if the draw fee is \$25 per draw, the draw fees to be included would be \$25;
 - (c) in cases where the draw fee is a stated dollar amount and the Home Loan contract provides for a maximum draw amount, the amount of the draw fees to be included would be calculated as follows: (Total dollar amount available under the open-end loan divided by the maximum draw amount) times the stated draw fee dollar amount. To illustrate, if the draw fee is \$25 per draw and the maximum draw amount on a \$100,000 open-end loan is \$1,000, the draw fees to be included would be \$2,500 ($[\$100,000/\$1,000] \times \25)
 - (d) These examples demonstrate the minimum fees possible to draw down an amount equal to the total credit line. The above three (3) examples are not all inclusive and may not describe all possible terms with respect to draw fees. Therefore, it is the Creditor's duty to perform the correct good-faith analysis resulting in the inclusion of all additional minimum fees.

- T. “Previous Loan”** means the outstanding Home Loan to be refinanced through the proceeds of the new Home Loan made to the same borrower. A loan is a Previous Loan even though there is not complete identity between the obligors on the Previous Loan and the new Home Loan, so long as at least one borrower is obligated on both the Previous Loan and the new Home Loan. See Section 4(S)(vii) of this Regulation.
- U. “Previous Note Rate”** means the rate of interest payable by a borrower on a Previous Loan. If the Previous Loan is an adjustable rate Home Loan, the Previous Note Rate shall be the Composite Rate.
- V. “Regularly Makes Available”** A Person Regularly Makes Available a Home Loan if the Person originates or extends one or more Home Loan. See definition of Creditor in Section 4(J) of this Regulation.
- W. “Undiscounted Interest Rate”** means the contract rate of interest that would be contained in the promissory note if no Bona Fide Discount Point(s) were paid by the borrower.

Section 5. PROVISIONS.

A. Records/Record-Keeping

Each Person subject to the requirements of the Act shall maintain records for each and every loan file supporting and substantiating the tangible net benefit and/or High-Cost Home Loan analysis performed during the transaction.

- (i) Each Person subject to the requirements of the Act must keep a list of all loans in which the “tangible net benefit” has been assented to by the borrower. The Creditor is required to maintain on file and be in possession of documentation clearly identifying and substantiating the “tangible net benefit” that existed at the time the Home Loan was consummated. Failure to clearly identify, document, and substantiate the respective tangible net benefit will be deemed a violation of this regulation, of R.I. Gen. Laws § 34-25.2-5(b), and a basis for administrative action pursuant to R.I. Gen. Laws § 19-14-13. The analysis performed regarding whether the borrower has a “tangible net benefit” must be accurate and based upon verified information as reflected by the Form 3 HPLA Disclosure entitled “Rhode Island Home Loan Protection Act Disclosure Tangible Net Benefit” as required by this regulation.
- (ii) Each Person subject to the requirements of the Act must keep a list of all loans in which the High-Cost Home Loan has been assented to by the borrower. The analysis performed regarding whether or not a loan is a “High-Cost Home Loan” must be accurate and based upon verified information as reflected by the Forms 4 and HPLA 5 Disclosures entitled, respectively, “Rhode Island Home

Loan Protection Disclosure High Cost Home Loan” and “Rhode Island Home Loan Protection Disclosure Consumer Caution and Home Ownership Counseling Notice and Certification” as required by this regulation. Failure to clearly identify, document, and substantiate the respective High-Cost Home Loan will be deemed a violation of this regulation, and a basis for administrative action pursuant to R.I. Gen. Laws § 19-14-13.

- (iii) The individual authorizing the Home Loan after reviewing said tangible net benefit and/or High Cost-Home Loan analysis shall date and sign the written record of analysis by confirming that he/she has reviewed the analysis and confirms whether or not the loan is a High Cost-Home Loan and whether or not there is a tangible net benefit under the terms of the Act.
- (iv) All Applicants must be provided with Disclosure Forms 1 and 2 within three (3) business days of application. Verification of the date of submission to Applicant and a fully executed copy of Disclosure Forms 1 and 2 (attached hereto in Appendix 5) must be maintained in each loan file.
- (v) All Applicants who refinance a Previous Loan that was Consummated within the prior sixty (60) months must be provided with Flipping a Home Loan Disclosure Form 3 entitled “Rhode Island Home Loan Protection Act Disclosure-Tangible Net Benefit” prior to or upon Consummation of the Home Loan. Verification of the date of submission to Applicant and a fully executed copy of Disclosure Form 3 (attached hereto in Appendix 5) must be maintained in each loan file.
- (vi) All Applicants who are applying for a High-Cost Home Loan must be provided Disclosure Form 4 entitled “High-Cost Home Loan” and Form 5 entitled “Consumer Caution and Homeowner Ship Counseling Notice and Certification” (attached hereto in Appendix 5) at such time that it is determined by the Creditor that the new loan is a High-Cost Home Loan, but in sufficient time as to enable the Applicant to receive, prior to closing the loan, face-to-face counseling on the advisability of the High-Cost Home Loan transaction, with a third-party non profit organization. Verification of the date of submission to Applicant and a fully executed copy of Disclosure Form 4 and Disclosure Form 5 must be maintained in each loan file.
- (vii) All Persons subject to the Act must use the exact disclosure forms attached herein in Appendix 5. The disclosures shall not be altered or changed in any manner.
- (viii) All Persons subject to the Act shall maintain evidence that includes a verifiable invoice or substantially similar document for Bona

Fide and Reasonable Fees. Substantially similar documents may include, without limitation, a master service agreement with the service provider that is applicable to all loans. Such documents relating to Bona Fide and Reasonable Fees need not be maintained in each individual loan file.

- (ix) The above records, which may be maintained by optical imaging, must be available to the Director of the Department or his or her designee.
- (x) The above records shall in the case of a Creditor who is a loan broker, be maintained for a minimum of three (3) years from the application date, and in the case of a Creditor who is a lender, a minimum of three (3) years from the date a loan is paid in full or sold.

B. Five (5) Prohibited Acts and Practices on All Home Loans

- (i) **Financing of Credit Insurance Premiums or Any Other Health or Life Insurance Premiums or Debt Cancellation Charges.**

No financing, either directly or indirectly, of any credit life, credit disability, credit unemployment, or credit property insurance, or any other life or health insurance, or any payments either directly or indirectly for any debt cancellation or suspension agreement or contract. Any insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed.

- (ii) **Flipping a Home Loan.**

No knowing or intentional engagement in the unfair act or practice of Flipping a Home Loan. Flipping a Home Loan is the making of a Home Loan to a borrower that refinances an Previous Loan that was Consummated within the prior sixty (60) months when the new loan does not have reasonable, tangible net benefits in accordance with R. I. Gen. Laws § 34-25.2-4(q) to the borrower considering all of the circumstances, including, but not limited to, the terms of both the new and refinanced loans, the cost of the new loan, and the borrower's circumstances.

(a) **Tangible Net Benefit:** In order to make a loan to an Applicant that refinances a Previous Loan that was Consummated within the prior sixty (60) months the Creditor must confirm in writing and maintain a record of the tangible net benefit analysis as soon as it is determined, and, explain and provide Disclosure Form 3 to the Applicant prior to or upon Consummation of the Home Loan. The Creditor is required to confirm a tangible net benefit" as defined in R. I. Gen. Laws § 34-25.2-4 (q)(1)-(6):

- (1) **New Monthly Payment:** The Applicant's/borrower's new monthly payment(s) must be lower than the total of all monthly obligations being financed, taking into account the costs and fees as disclosed on the HUD-1 settlement statement. The new monthly payment on any Home Loan product other than a conventional fixed rate Home Loan would be the payment that fully amortizes the Home Loan at the Composite Rate of interest over the term of the Home Loan. Costs and fees as disclosed on the HUD-1 settlement statement shall include all costs and fees regardless of whether incorporated into and financed through the subject Home Loan. The "taking into account" and time for recouping of such costs and fees shall be calculated over a period of twenty-four (24) months and said amount should be added for the calculation of the final new monthly payment for purposes of R.I. Gen. Laws § 34-25.2-4(q)(1).
 - (2) **Beneficial Change in Amortization Period.** There must be a beneficial change in the amortization period of the new Home Loan(s).
 - (3) **Borrower Receives Cash in Excess of Costs and Fees.** The Borrower receives cash in excess of the costs and fees as disclosed on the HUD-1 settlement statement as part of the refinancing. A borrower receives cash in excess of costs and fees when the borrower receives funds and/or proceeds beyond the amount required to payoff existing Previous Loan(s) plus all fees and costs associated with the Home Loan.
 - (4) **Current Interest Rate is Reduced:** The Previous Note Rate of interest is reduced or in the event that more than one Previous Loan is being refinanced, the weighted average Previous Note Rate of interest is reduced.
 - (5) **Change from Adjustable Rate Loan to a Fixed Rate Loan.**
 - (6) **Bona Fide Personal Need:** The refinancing is necessary to respond to a bona fide personal need as verified in Disclosure Form 3 (Attached hereto in Appendix 5). The borrower must disclose and the Creditor must identify the specific nature of the "bona fide personal need."
- (iii) **Encouraging or Recommending Default.**
No Creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection to the closing or planned closing of a Home Loan that refinances all or any portion of such existing loan or debt.
 - (iv) **Acceleration in Creditor's Sole Discretion.**

No Home Loan may contain a provision that permits the Creditor, in its sole discretion, to accelerate the indebtedness. This provision does not prohibit the acceleration of the Home Loan in good faith due to the Applicant/borrower's failure to abide by the material terms of the Home Loan.

(v) **Requiring Borrowers to Assert Claims in Less Convenient, More Costly, or More Dilatory Forum.**

No Home Loan may contain a provision that allows a party to require an Applicant/borrower to assert any claim or defense in a forum that is less convenient, more costly, or more dilatory for the resolution of a dispute than a judicial forum established in this state where the Applicant/borrower may otherwise properly bring a claim or defense or limits in any way a claim or defense the Applicant/borrower may have.

C. Prohibited Acts: High-Cost Home Loans

Pursuant to R.I. Gen. Laws § 34-25.2-6 a High-Cost Home Loan is also subject to additional limitations and prohibited practices listed in following subsections (i-xii):

- (i) In connection with a High-Cost Home Loan, no Creditor shall directly or indirectly finance any points or fees which total is greater than five percent (5%) of the total Home Loan amount or eight hundred dollars (\$800) whichever is greater.
- (ii) No prepayment fees or penalties shall be included in the Home Loan documents for a High-Cost Home Loan.
- (iii) No High-Cost Home Loan may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.
- (iv) No High-Cost Home Loan may include payment terms under which the outstanding principal balance or accrued interest will increase at any time over the course of the Home Loan because the regularly scheduled periodic payments do not cover the full amount of interest due (this is known as Negative Amortization).
- (v) No High-Cost Home Loan may contain a provision that increases the New Note Rate after default. This provision does not apply to New Note Rate changes in a variable rate loan otherwise consistent with the provisions of the High-Cost Home Loan documents, provided the change in the New Note Rate is not triggered by the event of default or the acceleration of the indebtedness.

- (vi) No High-Cost Home Loan may include terms under which more than two (2) periodic payments required under the High-Cost Home Loan are consolidated and paid in advance from the loan proceeds provided to the Applicant/borrower.
- (vii) A Creditor may not make a High-Cost Home Loan without first receiving certification from a counselor with a third-party nonprofit organization approved by the United States Department of Housing and Urban Development that the Applicant/borrower has received counseling on the advisability of the loan transaction
- (viii) A High-Cost Home Loan shall not be extended to an Applicant/borrower unless a reasonable Creditor would believe at the time the High-Cost Home Loan is closed that one or more of the Applicants/borrowers will be able to make the scheduled payments associated with the High-Cost Home Loan based upon a consideration of his or her current and expected income, current obligations, employment status, and other financial resources, other than the Applicant's/borrower's equity in the collateral that secures the repayment of the High-Cost Home Loan. There is a rebuttable presumption that the Applicant/borrower is able to make the scheduled payments to repay the obligation if, at the time the High-Cost Home Loan is Consummated, said borrower's total monthly debts, including amounts under the High-Cost Home Loan , do not exceed fifty percent (50%) of said borrower's monthly gross income as verified by tax returns, payroll receipts, and other third-party income verification.
- (ix) A Creditor may not pay a contractor under a home-improvement contract from the proceeds of a High-Cost Home Loan , unless:
 - (a) the Creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; and
 - (b) the instrument is payable to the Applicant/borrower or jointly to the Applicant/borrower and the contractor, or, at the election of the Applicant/borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the Applicant/borrower, the Creditor, and the contractor prior to the disbursement.
- (x) A Creditor may not charge an Applicant/borrower any fees or other charges to modify, renew, extend, or amend a High-Cost Home Loan or to defer any payment due under the terms of a High-Cost Home Loan.
- (xi) A Creditor shall not make available a High-Cost Home Loan that provides for a late payment fee except as follows:

- (a) The late payment fee shall not be in excess of three percent (3%) of the amount of the payment past due.
 - (b) The late payment fee shall only be assessed for a payment past due for fifteen (15) days or more or ten (10) days or more in cases of bi-weekly mortgage payment arrangement.
 - (c) The late payment fee shall not be imposed more than once with respect to a single late payment. If a late payment fee is deducted from a payment made on the High-Cost Home Loan, and the deduction causes a subsequent default on a subsequent payment, no late payment fee may be imposed for the default.
 - (d) A Creditor shall treat each payment as posted on the same business day as it was received.
- (xii) All High-Cost Home Loan documents that create a debt or pledge property as collateral shall contain the following notice on the first page in a conspicuous manner in at least 12 point font: "Notice: This a High-Cost Home Loan subject to special rules under state law. Purchasers or assignees of this High-Cost Home Loan may be liable for all claims and defenses by the Applicant/borrower with respect to the High-Cost Home Loan ."

D. Additional Provisions Regarding High Cost Home Loans

- (i) **Rate Threshold:** In determining whether the interest rate on a Home Loan meets or exceeds the "Rate Threshold" in R.I. Gen. Laws § 34-25.2-4(r)(1):
 - (a) the interest rate used shall be the Composite Rate for any Home Loan that is not a conventional fixed rate Home Loan ; and
 - (b) the yield on comparable United States treasury securities in effect on the fifteenth (15th) day of the month immediately preceding the month in which the Home Loan application was received by the lender shall be determined using statistical release H.15 or any publication that may supersede it as published by the Board of Governors of the Federal Reserve System, applying the principles set forth in 12 C.F.R. 226.32(a)(1)(i).
- (ii) **Points and Fees Threshold:** In determining whether total Points and Fees meet or exceed the Points and Fees threshold in R.I. Gen. Laws § 34-25.2-4(r)(2), total Home Loan amount is defined as:
 - (a) the face amount of the Home Loan for closed-end credit;
 - (b) the total line of credit allowed as of the closing for open-end credit.

- (iii) **Counseling:** Upon determination that an Applicant is obtaining a High-Cost Home Loan, the Creditor must provide the Applicant with Disclosure Form 4 attached hereto in Appendix 5. The Creditor must provide the Applicant with Form 5 entitled “Consumer Caution and Homeowner Ship Counseling Notice and Certification.”

E. Typographical Error in R.I. Gen. Laws § 34-25.2-6(a):

R.I. Gen. Laws § 34-25.2-6(a) should be construed as “In connection with a High-Cost Home Loan, no Creditor shall directly or indirectly finance any points or fees which total is greater than five percent (5%) *or* eight hundred dollars (\$800), whichever is greater.” (The inclusion of “of” where the “or” is written in bold, is not consistent with the legislative intent and renders the subsection nugatory.)

- F. R.I. Gen. Laws § 34-25.2-5(e) does not prohibit the waiver of the homestead exemption.

Section 6. ENFORCEMENT

Any violation of this Regulation may constitute a basis for administrative action against a licensee of the Department pursuant to R.I.Gen. Laws § 19-14-13.

Section 7. EFFECTIVE DATE.

Effective date: All Persons subject to the Act are required to comply with all provisions of this regulation upon its effective date which shall be twenty (20) days after the filing of this regulation with the Rhode Island Secretary of State which is May 1, 2007. However, the Department shall not take any enforcement action on any issues related to the use of disclosures prior to June 1, 2007.

**PROHIBITED ACTS OF LENDERS AND LOAN BROKERS
IN R.I. GEN. LAWS § 34-25.2-1 ET SEQ.**

PROHIBITED ACTS AND PRACTICES DISCLOSURE REGARDING ALL HOME LOANS

1. **No financing, either directly or indirectly**, of any credit life, credit disability, credit unemployment, or credit property insurance, or any other life or health insurance, or any payments either directly or indirectly for any debt cancellation or suspension agreement or contract. Any insurance premiums or debt cancellation or suspension fees that are **CALCULATED and PAID IN FULL** on a monthly basis shall not be considered financed.
2. No **knowing or intentional** engagement in the unfair act or practice of **“Flipping a Home Loan.”** Flipping a Home Loan is **the making of a Home Loan** to a borrower that refinances a Previous Loan that was consummated within the prior 60 months when the new loan does not have reasonable, **tangible net benefits** in accordance with R. I. Gen. Laws § 34-25.2-4(q) to the borrower considering all of the circumstances, including, but not limited to, the terms of both the new and refinanced loans, the cost of the new loan, and the borrower’s circumstances.
3. No Creditor* **shall recommend or encourage default** on an existing loan or other debt prior to and in connection to the closing or planned closing of a Home Loan that refinances all or any portion of such existing loan or debt.
4. No Home Loan may contain a provision that **permits the Creditor, in its sole discretion, to accelerate the indebtedness.** This provision does not prohibit the acceleration of the loan in good faith due to the borrower’s failure to abide by the material terms of the loan.
5. No Home Loan may contain a provision that allows a party **to require a borrower to assert any claim or defense in a forum that is less convenient, more costly, or more dilatory** for the resolution of a dispute than a judicial forum established in this state where the borrower may otherwise properly bring a claim or defense or limits in any way a claim or defense the borrower may have.

Creditor: _____

Creditor’s Authorized Representative

Date: _____

Borrower(s): _____

Date: _____

Borrower(s): _____

Date: _____

THIS FORM MUST BE PROVIDED NO LATER THAN THREE (3) BUSINESS DAYS OF APPLICATION

* "Creditor" means any person who Regularly Makes Available a Home loan and shall include a loan broker

**PROHIBITED ACTS OF LENDERS AND LOAN BROKERS
IN R.I. GEN. LAWS § 34-25.2-1 ET SEQ.**

PROHIBITED ACTS AND PRACTICES REGARDING HIGH-COST HOME LOANS

1. In connection with a High-Cost Home Loan, no Creditor* **shall directly or indirectly finance any points or fees** which total is greater than **five percent (5%) of the total loan amount or eight hundred dollars (\$800)** whichever is **greater**.
2. **No prepayment fees or penalties** shall be included in the loan documents for a High-Cost Home Loan.
3. No High-Cost Home Loan may contain a **scheduled payment that is more than twice as large as the average of earlier scheduled payments**. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.
4. No High-Cost Home Loan may include **payment terms under which the outstanding principal balance or accrued interest will increase at any time over the course of the loan** because the regularly scheduled periodic payments **do not cover the full amount of interest due**.
5. No High-Cost Home Loan may contain a provision that **increases the interest rate after default**. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.
6. No High-Cost Home Loan may include terms under which **more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds** provided to the borrower.
7. A Creditor **may not make a High-Cost Home Loan** without first **receiving certification from a counselor with a third-party nonprofit organization approved by the United States Department of Housing and Urban Development** that the borrower has received face-to-face counseling on the advisability of the loan transaction.
8. A High-Cost Home Loan shall not be extended to a borrower unless a **reasonable Creditor** would believe at the time the loan is closed that one or more of the borrowers will be able to make the scheduled payments associated with the loan based upon a consideration of his or her current and expected income, current obligations, employment status, and other financial resources, other than the borrower's equity in the collateral that secures the repayment of the loan. There is a rebuttable presumption that the borrower is able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, **said borrower's total monthly debts, including amounts under the loan, do not exceed fifty percent (50%) of said borrower's monthly gross income as verified by tax returns, payroll receipts, and other third-party income verification**.

* "Creditor" means any person who Regularly Makes Available a home loan and shall include a loan broker

9. **A Creditor may not pay a contractor under a home-improvement contract** from the proceeds of a High-Cost Home Loan, unless:
- (a) the Creditor is presented with a **signed and dated completion certificate** showing that the **home improvements have been completed**; and
 - (b) **the instrument is payable to the borrower or jointly to the borrower and the contractor, or, at the election of the borrower, through a third-party escrow agent** in accordance with terms established in a written agreement signed by the borrower, the Creditor, and the contractor prior to the disbursement.
10. A Creditor **may not charge a borrower any fees or other charges to modify, renew, extend, or amend a High-Cost Home Loan or to defer any payment** due under the terms of a High-Cost Home Loan.
11. A Creditor shall not make available a High-Cost Home Loan that provides for a **late payment fee** except as follows:
- (a) The **late payment fee shall not** be in excess of **three percent (3%)** of the amount of the **payment past due**.
 - (b) The **late payment fee** shall only be assessed for a payment past due **for fifteen (15) days or more or ten (10) days or more in cases of bi-weekly mortgage** payment arrangement.
 - (c) The **late payment fee shall not** be imposed **more than once** with respect to a single late payment. If a late payment fee is deducted from a payment made on the loan, and the deduction causes a subsequent default on a subsequent payment, no late payment fee may be imposed for the default.
 - (d) A Creditor shall **treat each payment as posted on the same business day** as it was received.
12. All High-Cost Home Loan documents that create a debt or pledge property as collateral shall contain the following notice on the **first page in a conspicuous manner**: "**Notice: This a High-Cost Home Loan subject to special rules under state law. Purchasers or assignees of this High-Cost Home Loan may be liable for all claims and defenses by the borrower with respect to the Home Loan.**"

Creditor: _____

Creditor's Authorized Representative

Date: _____

Borrower(s): _____

Date: _____

Borrower(s): _____

Date: _____

THIS FORM MUST BE PROVIDED NO LATER THAN THREE (3) BUSINESS DAYS OF APPLICATION

RHODE ISLAND HOME LOAN PROTECTION ACT DISCLOSURE

TANGIBLE NET BENEFIT

This disclosure is being provided to you in order to afford you the protections intended by R.I. Gen. Laws § 34-25.2-1 *et seq.*, *The Rhode Island Home Loan Protection Act*, which protects consumers from certain loan brokering and lending practices. One of these practices is “Flipping a Home Loan.”

WHAT IS FLIPPING A HOME LOAN? Flipping a Home Loan is the making of a Home Loan to a borrower that refinances a Previous Loan that was consummated within the prior sixty (60) months or five (5) years when the new loan does not have a reasonable “tangible net benefit.”

Therefore, since you are refinancing your Home Loan within five (5) years of the prior loan, the Creditor* is required by law to meet certain guidelines. In order for your Creditor to recommend or make this loan, this loan **MUST** meet at least one of the following criteria:

1. **Your new monthly payment must be lower** than the total of all monthly obligations being financed. The Creditor must take into account the costs and fees, as disclosed on the HUD-1 Settlement Statement, as part of the refinancing.
2. There must be a **beneficial change** in the amortization period of the new loan(s).
3. **You receive cash in excess of the costs and fees**, as disclosed on the HUD-1 settlement statement, as part of the refinancing;
4. **Your Previous Note Rate of interest is reduced**, or in the event more than one loan is being refinanced, the weighted average note rate of the Previous Loans is reduced;
5. There is a **change from an adjusted rate loan(s) to a fixed rate loan(s)**; or
6. The refinancing is necessary to respond to a **bona fide personal need** or an order of a court of competent jurisdiction.

BASED UPON THE CREDITOR’S REVIEW OF ALL OF THE CIRCUMSTANCES CONCERNING THIS LOAN AND ANY DEBTS TO BE PAID FROM THE PROCEEDS FROM THIS PROPOSED LOAN(S), THERE IS A (“√” ALL THAT APPLY):

LOWER MONTHLY PAYMENT.

YOUR MONTHLY PAYMENT WILL DECREASE FROM: \$ _____
TO: \$ _____

BENEFICIAL CHANGE IN THE AMORTIZATION PERIOD OF THE NEW LOAN.

THE TERM OF YOUR NEW HOME LOAN WILL CHANGE AS FOLLOWS:

FROM: _____
(insert # of months remaining on Previous Loan)

TO: _____
(insert # of months to maturity on New Home Loan)

RECEIPT OF CASH IN EXCESS OF THE COSTS AND FEES.

FUNDS ARE BEING PROVIDED TO YOU OR ON YOUR BEHALF IN THE AMOUNT OF \$ _____ REPRESENTING FUNDS IN EXCESS OF COSTS AND FEES WHEN THE BORROWER RECEIVES FUNDS BEYOND THE AMOUNT REQUIRED TO PAYOFF OF EXISTING PREVIOUS LOAN(S) PLUS ALL FEES AND COSTS ASSOCIATED WITH THE HOME LOAN.

* "Creditor" means any person who Regularly Makes Available a Home loan and shall include a loan broker

REDUCTION IN CURRENT NOTE RATE OR WEIGHTED AVERAGE NOTE RATE.

THE INTEREST RATE ON YOUR HOME LOAN IS _____%, WHICH IS LOWER THAN THE CURRENT RATE OR WEIGHTED AVERAGE RATE, WHICH EVER IS APPLICABLE, ON YOUR PREVIOUS LOAN(S) OF _____%.

CHANGE FROM AN ADJUSTED RATE LOAN TO A FIXED RATE LOAN.

THE INTEREST RATE ON YOUR HOME LOAN WILL CHANGE FROM THE PREVIOUS LOAN'S ADJUSTABLE RATE OF _____% TO THE HOME LOAN'S FIXED RATE OF _____%.

"BONA FIDE PERSONAL NEED" ON BEHALF OF ONE OR MORE OF THE BORROWER(S). THE "BONA FIDE PERSONAL NEED" IS: _____

After reviewing all relevant information, the Creditor confirms that it has performed the analysis of the applicable tangible net benefit as identified in the checked box(es) above and that the Creditor has explained the analysis to the Borrower. The Borrower(s) acknowledges that the Creditor has explained the identified tangible net benefit(s).

Creditor: _____

Creditor's Authorized Representative

Date: _____

Borrower(s): _____ Date: _____

Borrower(s): _____ Date: _____

THIS FORM MUST BE PROVIDED PRIOR TO OR UPON CONSUMMATION OF THE HOME LOAN.

RHODE ISLAND HOME LOAN PROTECTION ACT DISCLOSURE
HIGH-COST HOME LOAN

This disclosure is being provided to you in order to afford you the protections intended by R.I. Gen. Laws § 34-25.2-1 *et seq.*, *The Rhode Island Home Loan Protection Act*, which protects consumers from certain loan brokering and lending practices. One of these statutory protections, R.I. Gen. Laws § 34-25.2-6, imposes certain requirements and prohibited practices upon “High-Cost Home Loans.”

WHAT IS A “HIGH-COST HOME LOAN?” It is a Home Loan (other than a reverse mortgage transaction) in which the terms of the loan meet or exceed **one or more** of the following rate or Points and Fees thresholds:

THE RATE

1. For a first lien mortgage Home Loan: the interest rate equal to eight (8) percentage points over the yield on comparable United States treasury securities on the fifteenth (15th) day of the month immediately preceding the month in which the loan application was received by the lender; and
2. For a subordinate mortgage lien, an interest rate equal to nine (9) percentage points over the yield on comparable United States treasury securities on the fifteenth (15th) day of the month immediately preceding the month in which the loan application was received by the lender.

POINTS AND FEES

1. For loans in which total amount that is borrowed (as reflected on the face amount of the note) is **\$50,000 or more**: the total Points and Fees payable in connection with the Home Loan less any excluded Points and Fees exceed five percent (5%) of the total loan amount.
2. For loans in which total amount that is borrowed (as reflected on the face amount of the note) is **less than \$50,000**: the total Points and Fees payable in connection with the Home Loan less any Excluded Points and Fees exceed eight percent (8%) of the total loan amount.

My Creditor* has told me that I DO HAVE A HIGH-COST HOME LOAN.

A Creditor may not make a High-Cost Home Loan without first receiving certification from a counselor with a third-party nonprofit organization approved by the United States Department of Housing and Urban Development that the borrower(s) has (have) received face-to-face counseling on the advisability of the loan transaction.

You should Search online for a HUD certified counseling agency near you at:

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?webListAction=search&searchstate=RI>,

or call HUD's interactive voice response system at: (800) 569-4287.

CREDITOR MUST PROVIDE INFORMATION BELOW IF THE NEW HOME LOAN IS AN ADJUSTABLE RATE LOAN:

MY FULLY INDEXED INTEREST RATE IS: _____% .

THE MAXIMUM INTEREST RATE UNDER THE TERMS OF THIS HOME LOAN MAY INCREASE TO: _____%.

THE MAXIMUM AMOUNT OF THE MONTHLY PRINCIPAL AND INTEREST PAYMENT UNDER THE TERMS OF THIS LOAN APPLYING THE MAXIMUM INTEREST RATE MAY BE:\$ _____

* "Creditor" means any person who Regularly Makes Available a home loan and shall include a loan broker

CREDITOR IS REQUIRED BY LAW AND REGULATION TO REFRAIN FROM ENGAGING IN CERTAIN PRACTICES THAT PERTAIN TO ALL HOME LOANS AND ADDITIONAL PRACTICES THAT APPLY TO HIGH-COST HOME LOANS. AT THE TIME YOUR APPLICATION WAS SUBMITTED YOU SHOULD HAVE RECEIVED TWO DISCLOSURES ENTITLED "PROHIBITED ACTS AND PRACTICES REGARDING HOME LOANS AND HIGH-COST HOME LOANS" WHICH INFORM YOU OF THESE PROHIBITIONS AND/OR LIMITATIONS.

The Creditor hereby certifies that it has provided you with TWO Disclosures (IN ADDITION TO THIS DISCLOSURE) to inform you of the Prohibited Acts and Practices Regarding Home Loans and High-Cost Home Loans. You should read, sign and date the disclosures, and keep copies for your records. The Borrower(s) acknowledges that the Creditor has explained the contents of this disclosure.

Creditor: _____

Creditor's Authorized Representative

Date: _____

Borrower(s): _____

Date: _____

Borrower(s): _____

Date: _____

THIS FORM IS TO BE PROVIDED TO THE APPLICANT AT SUCH TIME THAT IT IS DETERMINED BY THE CREDITOR THAT THE NEW LOAN IS A "HIGH-COST HOME LOAN," BUT IN SUFFICIENT TIME AS TO ENABLE THE APPLICANT TO RECEIVE, PRIOR TO CLOSING THE LOAN, FACE-TO-FACE COUNSELING ON THE ADVISABILITY OF THE HIGH-COST HOME LOAN TRANSACTION, WITH A THIRD-PARTY NON PROFIT ORGANIZATION. APPLICANT MUST COMPLETE AND CREDITOR MUST RECEIVE A CERTIFICATE OF FACE-TO-FACE COUNSELING WITH A THIRD-PARTY NON PROFIT ORGANIZATION APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PRIOR TO MAKING ANY HIGH-COST HOME LOAN.

RHODE ISLAND HOME LOAN PROTECTION ACT DISCLOSURE

**CONSUMER CAUTION
AND HOME OWNERSHIP COUNSELING NOTICE AND
CERTIFICATION**

If you obtain this loan, which pursuant to Rhode Island law is a High-Cost Home Loan. Creditor* will have a mortgage on your home. You could lose your home, and the money you have put into it, if you do not meet your obligations under the loan.

You should shop around and compare loan rates and fees. Mortgage loan rates, and closing costs, and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan to value requested, and the type of property that will secure your loan. The loan rate and fees could vary based on which Creditor or mortgage you select. Higher rates and fees may be related to the individual circumstances of a particular consumer’s application.

Rhode Island law requires the Creditor to receive certification from a non-profit third party housing counseling agency approved by the United States Department of Housing and Urban Development that you have received face-to-face counseling regarding this High-Cost Home Loan.

After you receive this face-to-face counseling, you should have an authorized representative of the Counseling Agency sign, date, and confirm the subject matter and date/time that you attended the counseling ON THIS FORM.

I hereby certify that _____
(insert name(s) of Borrower(s)/Applicant(s))
attended on _____
(insert date/time)

face-to-face counseling that both informed and explained the risks associated with this High-Cost Home Loan and any other issues related to this financial transaction.

Borrower: _____ **Date:** _____
Borrower: _____ **Date:** _____
Authorized Counselor: _____ **Date:** _____
Agency: _____ **Date:** _____

THIS FORM IS TO BE PROVIDED TO THE APPLICANT AT SUCH TIME THAT IT IS DETERMINED BY THE CREDITOR THAT THE NEW LOAN IS A “HIGH-COST HOME LOAN,” BUT IN SUFFICIENT TIME AS TO ENABLE THE APPLICANT TO RECEIVE, PRIOR TO CLOSING THE LOAN, FACE-TO-FACE COUNSELING ON THE ADVISABILITY OF THE HIGH-COST HOME LOAN TRANSACTION, WITH A THIRD-PARTY NON PROFIT ORGANIZATION. APPLICANT MUST COMPLETE AND CREDITOR MUST RECEIVE A CERTIFICATE OF FACE-TO-FACE COUNSELING WITH A THIRD-PARTY NON PROFIT ORGANIZATION APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PRIOR TO MAKING ANY HIGH-COST HOME LOAN

* "Creditor" means any person who Regularly Makes Available a home loan and shall include a loan broker

APPENDIX 1 BANKING REGULATION 3

NOTE: This Appendix of the Bank Holding Company Act is as of December 31, 2006; It is the Duty and Responsibility of the Licensee to Maintain Knowledge of All Amendments and Revisions of this Appendix. You May Obtain Such Information online at: <http://www.gpoaccess.gov/uscode/index.html>

12 U.S.C. § 1841 states in pertinent part:

(2) Any company has control over a bank or over any company if--

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.

(3) For the purposes of any proceeding under paragraph (2)(C) of this subsection, there is a presumption that any company which directly or indirectly owns, controls, or has power to vote less than 5 per centum of any class of voting securities of a given bank or company does not have control over that bank or company.

(4) In any administrative or judicial proceeding under this chapter, other than a proceeding under paragraph (2)(C) of this subsection, a company may not be held to have had control over any given bank or company at any given time unless that company, at the time in question, directly or indirectly owned, controlled, or had power to vote 5 per centum or more of any class of voting securities of the bank or company, or had already been found to have control in a proceeding under paragraph (2)(C).

(5) Notwithstanding any other provision of this subsection--

(A) No bank and no company owning or controlling voting shares of a bank is a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraphs (2) and (3) of subsection (g) of this section. For the purpose of the preceding sentence, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto; except that this limitation is applicable in the case of a bank or company acquiring such shares prior to December 31, 1970, only if the bank or company has the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the fiduciary relationship to divest itself of such voting rights and fails to exercise that right to divest within a reasonable period not to exceed one year after December 31, 1970.

(B) No company is a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis.

(C) No company formed for the sole purpose of participating in a proxy solicitation is a bank holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation.

(D) No company is a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition. The Board is authorized upon application by a

company to extend, from time to time for not more than one year at a time, the two-year period referred to herein for disposing of any shares acquired by a company in the regular course of securing or collecting a debt previously contracted in good faith, if, in the Board's judgment, such an extension would not be detrimental to the public interest, but no such extension shall in the aggregate exceed three years.

(E) No company is a bank holding company by virtue of its ownership or control of any State-chartered bank or trust company which--

(i) is wholly owned by 1 or more thrift institutions or savings banks; and

(ii) is restricted to accepting--

(I) deposits from thrift institutions or savings banks;

(II) deposits arising out of the corporate business of the thrift institutions or savings banks that own the bank or trust company; or

(III) deposits of public moneys.

(F) No trust company or mutual savings bank which is an insured bank under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] is a bank holding company by virtue of its direct or indirect ownership or control of one bank located in the same State, if (i) such ownership or control existed on December 31, 1970, authorized by applicable State law, and (ii) the trust company or mutual savings bank does not after that date acquire an interest in any company that, together with any other interest it holds in that company, will exceed 5 per centum of any class of the voting shares of that company, except that this limitation shall not be applicable to investments of the trust company or mutual savings bank, direct and indirect, which are otherwise in accordance with the limitations applicable to national banks under section 24 of this title.

APPENDIX 2 BANKING REGULATION 3

NOTE: This Appendix of the Code of Federal Regulations Regulation Z, 12 CFR 226 (Truth in Lending) is as of December 31, 2006; It is the Duty and Responsibility of the Licensee to Maintain Knowledge of All Amendments and Revisions of this Appendix.

You May Obtain Such Information online at:

<http://www.federalreserve.gov/Regulations/regref.htm>

12 CFR 226.22 states, in pertinent part, that:

(a) Accuracy of annual percentage rate. (1) The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in appendix J to this regulation

(b) Computation tools. (1) The Regulation Z Annual Percentage Rate Tables produced by the Board may be used to determine the annual percentage rate, and any rate determined from those tables in accordance with the accompanying instructions complies with the requirements of this section. Volume I of the tables applies to single advance transactions involving up to 480 monthly payments or 104 weekly payments. It may be used for regular transactions and for transactions with any of the following irregularities: an irregular first period, an irregular first payment, and an irregular final payment. Volume II of the tables applies to transactions involving multiple advances and any type of payment or period irregularity.

(2) Creditors may use any other computation tool in determining the annual percentage rate if the rate so determined equals the rate determined in accordance with appendix J, within the degree of accuracy set forth in paragraph (a) of this section.

(c) Single add-on rate transactions. If a single add-on rate is applied to all transactions with maturities up to 60 months and if all payments are equal in amount and period, a single annual percentage rate may be disclosed for all those transactions, so long as it is the highest annual percentage rate for any such transaction.

(d) Certain transactions involving ranges of balances. For purposes of disclosing the annual percentage rate referred to in Sec. 226.17(g)(4) (Mail or telephone orders--delay in disclosures) and (h) (Series of sales--delay in disclosures), if the same finance charge is imposed on all balances within a specified range of balances, the annual percentage rate computed for the median balance may be disclosed for all the balances. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8 percent of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate that does not result in an understatement of more than 8 percent of the rate determined on the lowest balance.

APPENDIX 3 BANKING REGULATION 3

NOTE: This Appendix of the Code of Federal Regulations Regulation Z, 12 CFR 226 (Truth in Lending) is as of December 31, 2006; It is the Duty and Responsibility of the Licensee to Maintain Knowledge of All Amendments and Revisions of this Appendix. You May Obtain Such Information online at: <http://www.federalreserve.gov/Regulations/regref.htm>.

Sec. 226.32(a)(i) states, in pertinent part:

Requirements for certain closed-end home mortgages.

(a) Coverage. (1) Except as provided in paragraph (a)(2) of this section, the requirements of this section apply to a consumer credit transaction that is secured by the consumer's principal dwelling, and in which either:

(i) The annual percentage rate at consummation will exceed by more than 8 percentage points for first-lien loans, or by more than 10 percentage points for subordinate-lien loans, the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor.

Sec. 226.32(b)(1)(iii) states, in pertinent part:

All items listed in Sec. 226.4(c)(7) (other than amounts held for future payment of taxes) unless the charge is reasonable, the creditor receives no direct or indirect compensation in connection with the charge, and the charge is not paid to an affiliate of the creditor;

Sec. 226.4(c)(7) Real-estate related fees. The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide:

(i) Fees for title examination, abstract of title, title insurance, property survey, and similar purposes.

(ii) Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents.

(iii) Notary and credit report fees.

(iv) Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest infestation or flood hazard determinations.

(v) Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.

APPENDIX 4 BANKING REGULATION 3

NOTE: This Appendix of the Code of Federal Regulations Regulation Z, 12 CFR 226 (Truth in Lending) is as of December 31, 2006; It is the Duty and Responsibility of the Licensee to Maintain Knowledge of All Amendments and Revisions of this Appendix. You May Obtain Such Information online at: <http://www.federalreserve.gov/Regulations/regref.htm>

12 C.F.R. § 226.4 Finance charge.

(a) *Definition.* The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

(1) *Charges by third parties.* The finance charge includes fees and amounts charged by someone other than the creditor, unless otherwise excluded under this section, if the creditor:

(i) requires the use of a third party as a condition of or an incident to the extension of credit, even if the consumer can choose the third party; or

(ii) retains a portion of the third-party charge, to the extent of the portion retained.

(2) *Special rule; closing agent charges.* Fees charged by a third party that conducts the loan closing (such as a settlement agent, attorney, or escrow or title company) are finance charges only if the creditor:

(i) Requires the particular services for which the consumer is charged;

(ii) Requires the imposition of the charge; or

(iii) Retains a portion of the third-party charge, to the extent of the portion retained.

(3) *Special rule; mortgage broker fees.* Fees charged by a mortgage broker (including fees paid by the consumer directly to the broker or to the creditor for delivery to the broker) are finance charges even if the creditor does not require the consumer to use a mortgage broker and even if the creditor does not retain any portion of the charge.

(b) *Example of finance charge.* The finance charge includes the following types of charges, except for charges specifically excluded by paragraphs (c) through (e) of this section:

(1) Interest, time price differential, and any amount payable under an add-on or discount system of additional charges.

(2) Service, transaction, activity, and carrying charges, including any charge imposed on a checking or other transaction account to the extent that the charge exceeds the charge for a similar account without a credit feature.

(3) Points, loan fees, assumption fees, finder's fees, and similar charges.

(4) Appraisal, investigation, and credit report fees.

(5) Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.

(6) Charges imposed on a creditor by another person for purchasing or accepting a consumer's obligation, if the consumer is required to pay the charges in cash, as an addition to the obligation, or as a deduction from the proceeds of the obligation.

(7) Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction.

(8) Premiums or other charges for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, written in connection with a credit transaction.

(9) Discounts for the purpose of inducing payment by a means other than the use of credit.

(10) *Debt cancellation fees.* Charges or premiums paid for debt cancellation coverage written in connection with a credit transaction, whether or not the debt cancellation coverage is insurance under applicable law.

(c) *Charges excluded from the finance charge.* The following charges are not finance charges:

(1) Application fees charged to all applicants for credit, whether or not credit is actually extended.

(2) Charges for actual unanticipated late payment, for exceeding a credit limit, or for delinquency, default, or a similar occurrence.

(3) Charges imposed by a financial institution for paying items that overdraw an account, unless the payment of such items and the imposition of the charge were previously agreed upon in writing.

(4) Fees charged for participation in a credit plan, whether assessed on an annual or other periodic basis.

(5) Seller's points.

(6) Interest forfeited as a result of an interest reduction required by law on a time deposit used as security for an extension of credit.

(7) *Real-estate related fees.* The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:

(i) Fees for title examination, abstract of title, title insurance, property survey, and similar purposes.

(ii) Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents.

(iii) Notary and credit report fees.

(iv) Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest infestation or flood hazard determinations.

(v) Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.

(8) Discounts offered to induce payment for a purchase by cash, check, or other means, as provided in section 167(b) of the Act.

(d) *Insurance and debt cancellation coverage* —(1) *Voluntary credit insurance premiums.* Premiums for credit life, accident, health or loss-of-income insurance may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed in writing.

(ii) The premium for the initial term of insurance coverage is disclosed. If the term of insurance is less than the term of the transaction, the term of insurance also shall be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under §226.17(g), and

certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(iii) The consumer signs or initials an affirmative written request for the insurance after receiving the disclosures specified in this paragraph. Any consumer in the transaction may sign or initial the request.

(2) Premiums for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property,⁵ may be excluded from the finance charge if the following conditions are met:

⁵ This includes single interest insurance if the insurer waives all right of subrogation against the consumer.

(i) The insurance coverage may be obtained from a person of the consumer's choice,⁶ and this fact is disclosed.

⁶ A creditor may reserve the right to refuse to accept, for reasonable cause, an insurer offered by the consumer.

(ii) If the coverage is obtained from or through the creditor, the premium for the initial term of insurance coverage shall be disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall also be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under §226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(3) *Voluntary debt cancellation fees.* (i) Charges or premiums paid for debt cancellation coverage of the type specified in paragraph (d)(3)(ii) of this section may be excluded from the finance charge, whether or not the coverage is insurance, if the following conditions are met:

(A) The debt cancellation agreement or coverage is not required by the creditor, and this fact is disclosed in writing;

(B) The fee or premium for the initial term of coverage is disclosed. If the term of coverage is less than the term of the credit transaction, the term of coverage also shall be disclosed. The fee or premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under §226.17(g), and certain closed-end credit transactions involving a debt cancellation agreement that limits the total amount of indebtedness subject to coverage;

(C) The consumer signs or initials an affirmative written request for coverage after receiving the disclosures specified in this paragraph. Any consumer in the transaction may sign or initial the request.

(ii) Paragraph (d)(3)(i) of this section applies to fees paid for debt cancellation coverage that provides for cancellation of all or part of the debtor's liability for amounts exceeding the value of the collateral securing the obligation, or in the event of the loss of life, health, or income or in case of accident.

(e) *Certain security interest charges.* If itemized and disclosed, the following charges may be excluded from the finance charge:

(1) Taxes and fees prescribed by law that actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest.

(2) The premium for insurance in lieu of perfecting a security interest to the extent that the premium does not exceed the fees described in paragraph (e)(1) of this section that otherwise would be payable.

(3) *Taxes on security instruments.* Any tax levied on security instruments or on documents evidencing indebtedness if the payment of such taxes is a requirement for recording the instrument securing the evidence of indebtedness.

(f) *Prohibited offsets.* Interest, dividends, or other income received or to be received by the consumer on deposits or investments shall not be deducted in computing the finance charge.