

## **IC 24-9-2**

### **Chapter 2. Definitions**

#### **IC 24-9-2-1**

##### **Applicability**

Sec. 1. The definitions in this chapter apply throughout this article.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-2**

##### **"Benchmark rate"**

Sec. 2. "Benchmark rate" means the interest rate established under Section 152 of the Federal Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1602 (aa)) and the regulations adopted under that act by the Federal Reserve Board, including 12 CFR 226.32 and the Official Staff Commentary to the regulations as amended.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-3**

##### **"Bona fide discount points"**

Sec. 3. "Bona fide discount points" means loan discount points that:

- (1) are knowingly paid by the borrower;
- (2) are paid for the express purpose of reducing the interest rate applicable to the loan;
- (3) reduce the interest rate from an interest rate that does not exceed the benchmark rate; and
- (4) are recouped within the first four (4) years of the scheduled loan payments;

if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments so that the borrower's dollar amount of savings in interest during the first four (4) years of the loan is equal to or greater than the dollar amount of loan discount points paid by the borrower.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-4**

##### **"Borrower"**

Sec. 4. "Borrower" means a person obligated to repay a home loan, including a coborrower, cosigner, or guarantor.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-5**

##### **"Bridge loan"**

Sec. 5. "Bridge loan" means temporary or short term financing with a maturity of less than eighteen (18) months that requires payments of interest only until the entire unpaid balance is due and

payable.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-6**

##### **"Creditor"**

Sec. 6. (a) "Creditor" means:

(1) a person:

(A) who regularly extends consumer credit that is subject to a finance charge or that is payable by written agreement in more than four (4) installments; and

(B) to whom the debt arising from a home loan transaction is initially payable; or

(2) a person who brokers a home loan, including a person who:

(A) directly or indirectly solicits, processes, places, or negotiates home loans for others;

(B) offers to solicit, process, place, or negotiate home loans for others; or

(C) closes home loans that may be in the person's own name with funds provided by others and that are thereafter assigned to the person providing funding for the loans.

(b) The term does not include:

(1) a servicer;

(2) a state or local housing finance authority;

(3) any other state or local governmental or quasi-governmental entity; or

(4) an attorney providing legal services in association with the closing of a home loan.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-7**

##### **"Deceptive act"**

Sec. 7. (a) "Deceptive act" means:

(1) an act or a practice as part of a mortgage transaction (as defined in IC 24-9-3-7(a)), or of a real estate transaction (as defined in IC 24-9-3-7(b)), in which a person at the time of the transaction knowingly or intentionally:

(A) makes a material misrepresentation; or

(B) conceals material information regarding the terms or conditions of the transaction; or

(2) a violation of IC 24-5.5 concerning mortgage rescue protection fraud as set forth in IC 24-5.5-6-1.

(b) For purposes of this section, "knowingly" means having actual knowledge at the time of the transaction.

*As added by P.L.73-2004, SEC.33. Amended by P.L.226-2011, SEC.16; P.L.231-2013, SEC.7.*

#### **IC 24-9-2-8**

##### **"High cost home loan"**

Sec. 8. (a) "High cost home loan" means a home loan with:

- (1) a trigger rate that exceeds the benchmark rate; or
- (2) total points and fees that exceed:
  - (A) five percent (5%) of the loan principal for a home loan having a loan principal of at least forty thousand dollars (\$40,000); or
  - (B) six percent (6%) of the loan principal for a home loan having a loan principal of less than forty thousand dollars (\$40,000).

(b) Beginning July 1, 2006, the dollar amounts set forth in this section are subject to change at the times and according to the procedure set forth in the provisions of IC 24-4.5-1-106 concerning the adjustment of dollar amounts in IC 24-4.5.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-9**

##### **"Home loan"**

Sec. 9. (a) "Home loan" means a loan, other than an open end credit plan, a reverse mortgage transaction, or a loan described in IC 24-9-1-1, that is secured by a mortgage or deed of trust on real estate in Indiana on which there is located or will be located a structure or structures:

- (1) designed primarily for occupancy of one (1) to four (4) families; and
- (2) that is or will be occupied by a borrower as the borrower's principal dwelling.

(b) The term does not include a land contract.

*As added by P.L.73-2004, SEC.33. Amended by P.L.141-2005, SEC.4; P.L.89-2011, SEC.25.*

#### **IC 24-9-2-9.5**

##### **"Land contract"**

Sec. 9.5. "Land contract" means a contract for the sale of real estate in which the seller of the real estate retains legal title to the real estate until the total contract price is paid by the buyer.

*As added by P.L.89-2011, SEC.26.*

#### **IC 24-9-2-10**

##### **"Points and fees"**

Sec. 10. (a) Except as provided in subsection (b), "points and fees" means the total of the following:

- (1) Points and fees (as defined in 12 CFR 226.32(b)(1) on January 1, 2004).
- (2) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in the broker's own name.

As used in subdivision (2), "compensation" does not include a payment included in subdivision (1).

- (b) The term does not include the following:
- (1) Bona fide discount points.
  - (2) An amount not to exceed one and one-half (1 1/2) points in indirect broker compensation, if the terms of the loan do not include:
    - (A) a prepayment penalty, in the case of a home loan described in IC 24-9-3-6(b); or
    - (B) a prepayment penalty that exceeds two percent (2%) of the home loan principal, in the case of a home loan other than a home loan described in IC 24-9-3-6(b).
  - (3) Reasonable fees paid to an affiliate of the creditor.
  - (4) Interest prepaid by the borrower for the month in which the home loan is closed.

*As added by P.L.73-2004, SEC.33. Amended by P.L.52-2009, SEC.5.*

#### **IC 24-9-2-11**

##### **"Political subdivision"**

Sec. 11. "Political subdivision" means a municipality, school district, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or any other type of local governmental corporate entity.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-12**

##### **"Rate"**

Sec. 12. "Rate" means the interest rate charged on a home loan, based on an annual simple interest yield.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-13**

##### **"Total loan amount"**

Sec. 13. "Total loan amount" means the principal of the home loan minus the points and fees that are included in the principal amount of the loan.

*As added by P.L.73-2004, SEC.33.*

#### **IC 24-9-2-14**

##### **"Trigger rate"**

Sec. 14. "Trigger rate" means:

- (1) for fixed rate home loans in which the interest rate will not vary during the term of the loan, the rate as of the date of closing;
- (2) for home loans in which the interest varies according to an index, the sum of the index rate as of the date of closing plus the maximum margin permitted at any time under the loan agreement; or

(3) for all other home loans in which the rate may vary at any time during the term of the loan, the maximum rate that may be charged during the term of the home loan.

*As added by P.L.73-2004, SEC.33.*