

## FNMA 5% LIMIT ON FEES

### **FNMA VII, 104.11: Maximum Allowable Points and Fees 01/01/07)** Highlighted language copied from FNMA guide

We will not purchase or securitize a mortgage if the total points and fees charged to the borrower are greater than five percent of the mortgage amount, except when this limitation will result in an unprofitable origination for the lender (for example, because of the small size of the mortgage). Points and fees include origination fees, underwriting fees, broker fees, finder's fees, and charges that the lender imposes as a condition of making the loan—whether they are paid to the lender or a third party. Points and fees that do not have to be counted against this limitation include *bona fide* discount points, as well as fees paid for actual services rendered in connection with the origination of the mortgage, such as attorneys' fees, notary's fees, and fees paid for property appraisals, credit reports, surveys, title examinations and extracts, flood and tax certifications, and home inspections; the cost of mortgage insurance or credit-risk price adjustments; the costs of title, hazard, and flood insurance policies; state and local transfer taxes or fees; escrow deposits for the future payment of taxes and insurance premiums; and other miscellaneous fees and charges that, in total, do not exceed one-quarter percent of the loan amount.

#### **FEES TO EXCLUDE**

Points and fees that do not have to be counted against this limitation include *bona fide* discount points (see "bona fide listed below"), as well as fees paid for actual services rendered in connection with the origination of the mortgage, such as attorneys' fees, notary's fees, and fees paid for property appraisals, credit reports, surveys, title examinations and extracts, flood and tax certifications, and home inspections; the cost of mortgage insurance or credit-risk price adjustments; the costs of title, hazard, and flood insurance policies; state and local transfer taxes or fees; escrow deposits for the future payment of taxes and insurance premiums; and other miscellaneous fees and charges that, in total, do not exceed one-quarter percent of the loan amount.

Attorney Fee

Appraisal Fee

Credit Report

Title charges

Flood Cert

Tax Cert

Home Inspections

Escrows

Title Co. escrow fee

Mortgage Insurance

Fees for which there is an actual service performed and the actual fee charged (such as those above)

Survey

**FEES TO INCLUDE**

Points and fees include origination fees, underwriting fees, broker fees, finder’s fees, and charges that the lender imposes as a condition of making the loan—whether they are paid to the lender or a third party (whether paid by borrower or seller)

- Origination Fee
- Processing Fee
- Underwriting Fee
- Broker & Finder Fees
- Escrow Waiver Fe
- Warehouse Fee
- Other miscellaneous lender fees

**DISCOUNT POINTS PAID TO THE LENDER:** FNMA has clarified their position on this fee in Announcement 09-24 (see excerpt below) effective July 10, 2009

**Clarification of Points and Fees Limitation**

***Selling Guide, B2-1.4-01, General Mortgage Terms and Conditions***

In accordance with existing policy, Fannie Mae will not purchase or securitize mortgage loans, regardless of the loan amount, if the total points and fees charged to the borrower exceed the greater of 5 percent of the mortgage amount or \$1,000 (points and fees limitation). Fannie Mae is making several clarifications related to the application of the points and fee limitation.

<b>Category</b>	<b>Clarification</b>
<b>Points and Fees Limitation</b>	Certain types of points and fees are counted against the 5 percent/\$1000 limitation (see list in the above-referenced <i>Selling Guide</i> topic). Fannie Mae is clarifying that those points or fees are counted against the limitation <i>regardless of the party paying the fee.</i>
<b>Bona Fide Discount Points</b>	Bona fide discount points are specifically excluded from the points and fees limitation. Discount points will be determined to be bona fide if they: <ul style="list-style-type: none"><li>• are knowingly paid by the borrower (which can be demonstrated by the discount points being fully disclosed to the borrower); and</li><li>• are funded through any source for the purpose of reducing the interest rate on the loan; and</li><li>• result in a meaningful reduction of the interest rate, provided that, prior to discount, the rate was consistent with current market rates based on the credit characteristics of the</li></ul>

	<p>mortgage. A meaningful reduction is defined as a minimum of 25 basis points reduction in the interest rate for each discount point paid, provided all other terms of the mortgage remain the same.</p> <p>Generally, if lenders pass on loan-level price adjustments (LLPAs) to the borrower as one or more discount points, such discount points are <i>not</i> considered bona fide and must be counted in the points and fees limitation, as such discount points are neither funded for the purpose of reducing the interest rate on the loan nor result in a meaningful reduction of the interest rate on the loan.</p> <ul style="list-style-type: none"> <li>• LLPAs can be recouped by the lender as bona fide discount points if the lender documents: the interest rate was reasonably increased to recoup the LLPA; and</li> <li>• the borrower was offered the opportunity to pay discount points to lower the interest rate; and</li> <li>• the discount points otherwise meet the criteria related to bona fide discount points described above.</li> </ul> <p>Examples of documentation include, but are not limited to, rate sheets or other information that documents the relationship between the interest rate prior to application of discount points, the amount of the discount points paid, and the interest rate actually paid by the borrower.</p>
<b>Credit-Risk Price Adjustments</b>	<p>Credit-risk price adjustments, such as LLPAs, are specifically excluded from the points and fees limitation. However, lenders that pass on LLPAs to borrowers as discrete fees or charges should consult their legal counsel or regulatory compliance expert regarding the appropriate treatment of those fees for federal and state high-cost loan tests.</p>
<b>Other Miscellaneous Fees and Charges</b>	<p>Other miscellaneous fees and charges that, in total, do not exceed .25 percent of the loan amount may be excluded from the points and fees limitation. Miscellaneous fees and charges do not include any fees and charges specifically named in the points and fees limitation policy, whether included or excluded.</p>