



The Commonwealth of Massachusetts
Office of the Commissioner of Banks
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March 9, 2001

Kevin F. Kiley, Executive Vice President
Massachusetts Bankers Association, Inc.
78 Tremont Street, Suite 306
Boston, Massachusetts 02108-3906

Dear Mr. Kiley:

This letter is in response to your correspondence dated January 25, 2001 to the Division of Banks (the "Division") relative to the recent amendments to 209 CMR 32.32 governing high cost home loans. Included with your cover letter were several questions on the amended regulations which have been raised by member banks of the Massachusetts Bankers Association. The purpose of your letter was to have the responses put on the Division's web site and available to other lenders. As you may be aware, the Division's web site has a location for frequently asked questions about the amended regulations, including some forwarded with your letter.

The first two matters raised by your member banks seek to have the effective date of the regulations delayed and clarification of the applications covered by the amended regulations. As indicated on the Division's web site, the effective date of the amended regulations was delayed from January 22, 2001 to March 22, 2001. The regulations will apply to high cost mortgage loans for which an application is taken on or after March 22, 2001.

The third matter raised concerns the calculation of APR for determining the applicability of the amended regulations. Please be advised that the web site now contains two examples for the calculation of the APR. Those examples are also set out on the sheet included with this response.

The regulations at 209 CMR 32.32(5) require the creditor to assess the repayment ability of the consumer based on the income of the Metropolitan Statistical Area ("MSA") in which the property is located. For those properties not located in an MSA, the regulations and the web site direct the lender to the income listed under the non-metropolitan median family income for Massachusetts. That table addresses the fourth issue raised with your submission.

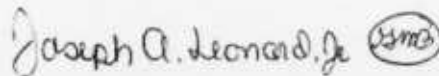
Your letter is correct that the regulations establish a presumption that a point is bona fide if it reduces the interest rate by a minimum of thirty-five basis points or three-eighths of a point.



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Finally, your letter is also correct that in all situations a loan covered by the amended 209 CMR 32.32 would not be a high cost loan under federal law as referenced in 209 CMR 32.32(5)(c). The Division will correct that reference the next time it formally amends any of its regulations.

Sincerely,

Joseph A. Leonard, Jr.

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

JAL/mhc
Enclosure

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How does a creditor determine if an adjustable rate loan is a high cost loan using "interest rate that would be effective once the introductory rate has expired"?

The intent of 209 CMR 32.32(1)(a)1.c. is to calculate the Annual Percentage Rate (APR) on an adjustable rate mortgage (ARM) using the fully indexed rate as opposed to an introductory or "teaser" rate, subject to the terms of the note, for the purposes of determining whether the loan is a high cost home loan. It is important to remember that the threshold for first mortgage loans is 8 points over Treasury securities with a *comparable* maturity. In the case of a 30-year ARM, the comparable Treasury securities would be those with a 30-year maturity, regardless of when the adjustment occurs.

Below are two examples of a 30-year ARM with different terms and adjustment periods. Assuming that each loan application was received on January 15, 2001, the interest rate on 30-year Treasury securities on December 15, 2000 was 5.49%, meaning a loan would have to exceed 13.49% in order to be a high cost home loan (exclusive of the threshold for points and fees).

Example A

Introductory Rate – 9.5%

Current Index = 3 month Treasury securities (6.06% on December 15, 2000)

Rate determined at adjustment by adding 7.5% over the Current Index, rounded to nearest 1/8th

While the rate for the first three months is 9.5%, using the fully indexed rate of 7.5% over the current index yields 13.56% which rounds to 13.5%. Therefore, without considering any other charges that may be calculated in the APR, **this loan would be a high cost home loan.**

Example B

Introductory Rate – 11.5%

Current Index = 3 year Treasury securities (5.35% on December 15, 2000)

Rate determined at adjustment by adding 7.5% over the Current Index, rounded to nearest 1/8th

While the rate for the first three years is 11.5%, using the fully indexed rate of 7.5% over the current index yields 12.85%. Therefore, without considering any other charges that may be calculated in the APR, **this loan would not be a high cost home loan.**