



# Independent Bankers Association of Texas

## Compliance Helpline 800.749.4228

### Compliance Overview

## Texas Specific: Consumer Credit Late Charges & Fees

The Texas Credit Title is a complex set of laws regulating usury, fees and charges, and other matters. This section provides helpful, quick information including a chart of permissible late charges and fees as well as interpretations from the Consumer Credit Commissioner. Please remember that just because a fee is permissible and is NOT interest does not mean that it is NOT a finance charge. In fact, except for late charges, all of the fees listed below would be finance charges for Regulation Z purposes on non-real estate transactions.

In addition, IBAT obtained clarification of changes from 1999 that are still of critical importance to Texas lenders. Click on the following link for the full text of an informative letter from the Consumer Credit Commissioner: [Late Charges & Fees Interpretive Letter](#).

**Last review date: 11/2019**

### Late Charges & Fees Chart

Type of Loan	Permitted Fees Which Are Not Interest	Permitted Fees Which Are Interest	Late Charges
Commercial; including real estate	commitment fee, application fee, third-party fees, "loan fees," documentation fees, returned check fee	origination fee (points)	YES <sup>[1]</sup>
Real Estate: Residential First Lien	commitment fee, application fee, third-party fees, "loan fees"	origination fee (points) – no usury ceiling on first lien notes	YES <sup>[2]</sup>



Type of Loan	Permitted Fees Which Are Not Interest	Permitted Fees Which Are Interest	Late Charges
Real Estate: Residential Second Lien – Precomputed & Scheduled Installment Method	third-party fees, returned check fee administrative fee		YES <sup>[1]</sup>
Real Estate: Residential Second Lien – Simple Interest – Over 10%	third-party fees, returned check fee administrative fee	origination fee (points) <sup>[3]</sup> ,	YES <sup>[1]</sup>
Real Estate: Residential Second Lien – 10% or less	commitment fee, application fee, third-party fees, “loan fees”	origination fee (points)	YES <sup>[4]</sup>
Consumer: Single-pay (term) over 10%	certain third-party fees		NO
Consumer: Installment – rate of 10% or less (simple interest only)	“loan fees,” documentation fees, third-party fees		YES <sup>[4]</sup>
Consumer: Rate of 10% or less (term)	“loan fees,” documentation fees, third-party fees		NO
Consumer: Installment – rate over 10%	certain recording fees and collection expenses, returned check fee, reasonable third-party fees; admin fee		YES <sup>[1]</sup>



Type of Loan	Permitted Fees Which Are Not Interest	Permitted Fees Which Are Interest	Late Charges
Consumer: Open-end credit under Chapter 346	annual fee, overline fee, cash advance fee, returned check fee		YES capped at \$15
Manufactured Housing Purchase Money (retail)	transfer fee, acquisition charges (on prepayment), fees or taxes paid to agency		YES <sup>[5]</sup> capped at \$20
Motor Vehicle Dealer Paper	documentation fees, fees and taxes to agency, inspection fee, policy or agent fee		YES <sup>[5]</sup>

[1] 5% after 10 days

[2] federal preemption

[3] Interpretive letters 81-9, 82-14, 82-15, 82-28

[4] Greater of \$7.50 or 5% after 10 days

[5] 5% after 15 days

## Administrative Fees

This fee may be up to \$100 per Finance Commission rule, 7 TAC 83.53. For secondary mortgage loans the fee may not exceed \$25 for a loan of more than \$1,000 or \$20 for a loan of \$1,000 or less. Financial institutions need **not** remit any portion of each administrative fee collected. Click [here](#) for an explanatory letter from the Comptroller of Public Accounts.

## Loan Fees

These are authorized for state banks at § 34.203 Tex. Fin. Code on all loans except consumer ones over 10%. The state regulation is found at 7 TAC 12.32. In addition, § 303.017 Tex. Fin. Code permits “loan fees” on consumer loans with a rate of 10% or less which are not secured by real estate. Under both statutes, this includes reasonable expenses and fees incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a loan not secured by real property, whether or not those expenses or fees are paid to third parties.

IBAT’s Legal Ease Archive on fees in general, click [here](#).



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