

Article XVI, Section 50 (a)(6) of the Texas Constitution allows first or second mortgages secured by a homestead property for the purpose of taking out equity. A mortgage originated under this Section is referred to as a “Texas Equity Loan,” or “Texas 50 (a)(6) Loan.” FLCB only allows Texas 50 (a)(6) first mortgages.

Limitation on Fees and Charges

The borrower may not directly or indirectly pay more than 2% of the original base loan amount in fees and charges regardless of whether the fees and charges are paid in cash or financed or a combination thereof. The lender/broker may pay fees to the extent the actual fees exceed the 2% limitation. All fees and charges payable in connection with the loan except those identified below are included in the 2% limitation.

Included Fees and Charges

Fees and charges included in the 2% limitation include, but are not limited to, the following:

- Section A – Origination Charges
- Section E – Recording Fees
- Section H - Other

Excluded Fees and Charges

Only the following fees and charges may be excluded from the 2% limitation:

- Per Diem Interest
- Bona Fide Discount Points
- Appraisal Fee (only the portion to the appraiser)
- Survey fee
- Lender’s title policy premium
- Lender’s title policy endorsements
- Title examination report fee
- Property insurance premiums such as hazard and flood insurance
- Property Taxes
- Escrow funds collected to pay taxes, hazard insurance premiums, maintenance fees, HOA assessments
- HOA Maintenance Fees
- Optional charges which are not required by the lender, i.e. option warranty fee, payment options fees, identity theft products, etc
- Optional Credit Life Insurance
- Charges absorbed by the lender or third party and not charged to the borrower
- Fees contracted for at closing, but that are triggered by a subsequent event (failure to perform under the loan) i.e. late fees, NSF fees, forced-placed insurance costs, etc

In short, all of the fees collected on the Closing Disclosure (CD) in sections A., E. and H., are included in the 2% fee limitation. Lender/broker credits given to offset or cure any fees charged in excess of the limitation should be itemized in the Paid by Others column of the CD.