

# Ramifications Persist – Thanks In Part To Unscrupulous Brokers

Subsequent to the Housing Crisis, the 2010 *Dodd-Frank Wall Street Reform Act* imposed many new rules. This was a response, in part, to some unscrupulous mortgage lenders and brokers charging excessive fees to consumers. Mortgage lenders and brokers cannot charge origination fees to borrowers that represent more than 3.0% of the loan amount (the “Points & Fees Cap”). As reasonable as this fee cap concept sounds, it is fraught with restrictions that are unfair to the people it was meant to protect. Let’s take an example of a consumer wishing to borrow \$120,000 to buy a home:

\$2,700.00 – Mortgage Broker Fee (2.25%\* of Loan Amount) \_\_\_\_\_  
975.00 – Lender Administration (Standard Average Flat Fee)  
\$3,675.00 – Total Origination Fees

\* Average Florida mortgage broker fees range between 2.0% to 2.75% (based on the interest rate selected, the borrower is eligible to receive a credit at closing to fully cover this fee for most conventional loans).

On the surface, the loan fails the 3.0% Cap (i.e., \$3,675 of fees represents 3.1% of the loan). This renders the loan a “Non-Qualified Mortgage”, in which case Fannie Mae could elect not to purchase the loan from the mortgage lender. The lender might stamp “decline”, given their potential inability to monetize the loan. And, if the lender imposes customary “risk adjustment fees” to compensate for a higher loan-to-value or lower credit score (or if the borrower pays a reasonable fee to “buy-down” the rate), these “Discount Points” must also be added into the calculation – making it impossible for the borrower to obtain a Qualified Mortgage. Fortunately, the

regulators have acknowledged that some “bonafide” fees may be excluded from the cap calculation, allowing most mortgages to qualify after time-consuming compliance checks.

***Here’s the Point: Regulators imposed a “Points & Fees Cap” to ensure that mortgage lender and broker fees are reasonable, but the resulting time-intensive compliance checks can delay closings.***