

PREDATORY INSTALLMENT LENDING IN 2017

STATES BATTLE TO RESTRAIN HIGH-COST LOANS

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APPENDICES

APPENDIX A

FULL APR TABLES FOR SIX-MONTH \$500 LOAN

TABLE A-1

**States that Do Not Cap Interest Rates
 for Six-Month \$500 Installment Loan: 2017**

STATE	LOANS FOR WHICH THERE IS NO CAP	DOES STATUTE PROHIBIT UNCONSCIONABILITY?
Delaware	All loans	No
Idaho	All loans	Yes
Missouri	All loans	No
New Mexico ¹	All loans	Yes (state deceptive practices statute)
Ohio ²	All loans	No ³
Utah	All loans	Yes
Wisconsin	All loans	Yes

¹ New Mexico has imposed a 175% cap, calculated pursuant to the federal Truth in Lending Act, as of Jan. 1, 2018. N.M. Stat. Ann. §§ 58-7-7(D), 58-15-17(J).

² For a six-month \$500 loan, Ohio's Small Loan Act would limit the full APR to 39%, and its Second Mortgage Loan Act and Consumer Installment Loan Act would limit it to 43%. However, these caps are ineffective in Ohio because the state allows credit services organizations to charge an additional—uncapped—fee for arranging a loan.

³ Ohio's Consumer Sales Practices Act Ohio Rev. Code § 1345.03 (West), includes a prohibition of unconscionability and applies to lenders making loans under the state's payday loan act, but most other non-mortgage lenders are exempt. Ohio Rev. Code Ann. § 1345.01(A) (West) (exempting financial institutions and dealers in intangibles as defined by Ohio Rev. Code § 5725.01).

TABLE A-2

**States that Allow Full APRs of More Than 36%
on Six-Month \$500 Installment Loan: 2017**

STATE	FULL APR ALLOWED	STATE	FULL APR ALLOWED
Alabama	94%	Michigan	43%
Arizona	54%	Minnesota ³	51%
California	45%	Mississippi	305%
Colorado ¹	90% (Consumer Credit Code)	Nebraska	48%
Florida	48%	Nevada	40%
Georgia	61%	Oklahoma	108%
Illinois ²	99% (Consumer Installment Loan Law) ³	South Carolina	72%
Indiana	71%	Tennessee	94%
Kansas	43%	Texas ⁴	93%
Kentucky	47%	Washington	39%
Louisiana	85%	West Virginia	38%
Massachusetts	37%		

¹ In addition, Colorado's payday installment loan statute, Colo. Rev. Stat. §§ 5-3.1-101 to 5-3.1-123, allows APRs up to 180% for payday loans up to \$500, as discussed in Section I(K)(1) of our 2015 report.

² In addition, the Illinois payday installment loan statute, 815 Ill. Comp. Stat. § 122/2-5, allows APRs up to 435% for payday loans with terms up to 180 days, as discussed in Section I(K)(1) of our 2015 report.

³ Minnesota's short-term loan law, Minn. Stat. § 47.601, may allow APRs as high as 89% on a six-month loan, but the loan would require a contorted payment schedule.

⁴ Texas also allows a credit services organization to arrange a loan with a term of up to 180 days, and to charge an additional fee that adds considerably to the APR.

TABLE A-3
**States that Cap Full APR for Six-Month \$500 Loan
at 36% or Less: 2017**

STATE	FULL APR ALLOWED	STATE	FULL APR ALLOWED
Alaska	36%	New York	25%
Arkansas	17%	North Carolina	16%
Connecticut	36%	North Dakota	28%
District of Columbia	27%	Oregon ²	36%
Hawaii	25%	Pennsylvania	27%
Iowa	36%	Rhode Island ³	35%
Maine	30%	South Dakota	36%
Maryland	33%	Vermont	24%
Montana	36%	Virginia	36%
New Hampshire ¹	36%	Wyoming	36%
New Jersey	30%		

¹ Under N.H. Rev. Stat. Ann § 399-A:16(I), for purposes of calculating the statutory 36% APR cap, one application fee up to \$100 per year and one annual participation fee of up to \$100 are to be excluded. However, § 399-A:15(XI) bars these fees for closed-end credit, so it appears that this provision is relevant only for purposes of calculating the statutory 36% APR cap for open-end credit.

² Oregon also allows lenders to charge “other reasonable and bona fide fees, expenses or damages, subject to oversight and regulation by the Department of Consumer and Business Services.” Or. Rev. Stat. § 725.340(1)(b).

³ Rhode Island also allows “other customary and reasonable costs incident to the closing, supervision, and collection of loans in this state.” R.I. Gen. Laws § 6-26-2.

APPENDIX B

FULL APR TABLES FOR TWO-YEAR \$2000 LOAN

TABLE B-1
**States that Do Not Cap Interest Rates for
 Two-Year \$2000 Installment Loan: 2017**

STATE	LOANS FOR WHICH THERE IS NO CAP	DOES STATUTE PROHIBIT UNCONSCIONABILITY?
Alabama	Loans of \$2000 or more	Yes
Delaware	All loans	No
Idaho	All loans	Yes
Missouri	All loans	No
New Mexico ¹	All loans	Yes (state deceptive practices statute)
North Dakota	Loans of more than \$1000	No
Ohio ²	All loans	No ³
South Carolina	Loans of more than \$600	Yes
Utah	All loans	Yes
Wisconsin	All loans	Yes

¹ New Mexico has imposed a 175% cap, calculated pursuant to the federal Truth in Lending Act, as of Jan. 1, 2018. N.M. Stat. Ann. §§ 58-7-7(D), 58-15-17(J).

² For a two-year \$2000 loan, Ohio's Small Loan Act would limit the full APR to 28%, its Second Mortgage Loan Act would limit it to 31%, and its Consumer Installment Loan Act would limit it to 35%. However, these caps are ineffective in Ohio because the state allows credit services organizations to charge an additional—uncapped—fee for arranging a loan.

³ Ohio's Consumer Sales Practices Act, Ohio Rev. Code § 1345.03 (West), includes a prohibition of unconscionability and applies to lenders making loans under the state's payday loan act, but most other non-mortgage lenders are exempt. Ohio Rev. Code Ann. § 1345.01(A) (West) (exempting financial institutions and dealers in intangibles as defined by Ohio Rev. Code § 5725.01).

TABLE B-2

**Full APRs Allowed for Two-Year \$2000 Loan
in States that Cap Finance Charges: 2017**

STATE	FULL APR ALLOWED	STATE	FULL APR ALLOWED
Alaska	31%	Mississippi	59%
Arizona	41%	Montana	36%
Arkansas	17%	Nebraska	30%
California	25%	Nevada	40%
Colorado	31%	New Hampshire ¹	36%
Connecticut	36%	New Jersey	30%
District of Columbia	25%	New York	25%
Florida	31%	North Carolina	31%
Georgia	32%	Oklahoma	27%
Hawaii	31%	Oregon ²	36%
Indiana	39%	Pennsylvania	24%
Iowa	31%	Rhode Island ³	29%
Illinois	80%	South Dakota	36%
Kansas	32%	Tennessee	41%
Kentucky	35%	Texas	35%
Louisiana	38%	Vermont	21%
Maine	30%	Virginia	36%
Maryland	30%	Washington	29%
Massachusetts	24%	West Virginia	33%
Michigan	30%	Wyoming	31%
Minnesota	31%		

¹ Under N.H. Rev. Stat. Ann § 399-A:16(I), for purposes of calculating the statutory 36% APR cap, one application fee up to \$100 per year and one annual participation fee of up to \$100 are to be excluded. However, § 399-A:15(XI) bars these fees for closed-end credit, so it appears that this provision is relevant only for purposes of calculating the statutory 36% APR cap for open-end credit.

² Oregon also allows lenders to charge “other reasonable and bona fide fees, expenses or damages, subject to oversight and regulation by the Department of Consumer and Business Services.” Or. Rev. Stat. § 725.340(1)(b).

³ Rhode Island also allows “other customary and reasonable costs incident to the closing, supervision, and collection of loans in this state.” R.I. Gen. Laws § 6-26-2.

APPENDIX C

TABLES SHOWING CHARGES FOR CASH ADVANCES

TABLE C-1

States that Do Not Place Numerical Cap on Interest Rates for Open-End Credit: 2017

STATE	DOES STATUTE PROHIBIT UNCONSCIONABILITY?
Alabama (for loans of \$2000 or more)	Yes
Delaware	No
Idaho	Yes
Illinois	No
Iowa	Yes
Kansas	Yes
Maine	Yes
Missouri	No
New Mexico ¹	Yes (state deceptive practices statute)
Ohio ²	No
Rhode Island	No
South Carolina (for loans of more than \$600)	Yes
Utah	Yes
Virginia	No
Wisconsin	Yes

For an explanation of unconscionability, see Section II(A)(6) of our 2015 report and National Consumer Law Center, Consumer Credit Regulation § 10.2.6 (2d ed. 2015), updated at <http://library.nclc.org/CCR>.

¹ New Mexico has imposed a 175% cap, calculated pursuant to the federal Truth in Lending Act, as of Jan. 1, 2018. N.M. Stat. Ann. §§ 58-7-7(D), 58-15-17(J).

² Ohio's rate caps are ineffective because they can be circumvented through credit services organizations. See Section I(K)(3) of our 2015 report.

TABLE C-2
**States that Cap Interest Rates but Not All Fees
for Open-End Credit: 2017**

STATE	INTEREST RATE ALLOWED	FEE PERMITTED BY STATUTE FOR WHICH NO NUMERICAL CAP IS STATED	DOES STATUTE PROHIBIT UNREASONABLE OR UNCONSCIONABLE FEES?
California	split rate ranging from 30% on first \$225 to 12% on amount over \$1650	Participation fee	Yes
Colorado	21%	Annual fee	Yes
Hawaii	24%	Participation fees imposed on an annual, periodic, or other basis	No
Indiana	36%	Annual fee	Yes
Massachusetts	18%	Annual fee	Yes (deceptive practices statute)
Michigan Regulatory Loan Act ¹	25%	Annual fee	Yes
Mississippi	21%	Any fees other than interest ²	No
Oklahoma	27% on first \$2910	Annual or membership fees, transaction fees, cash advance fees	Yes
South Carolina (for loans of \$600 or less)	18%	Annual fee	Yes
Washington	25%	Annual fee	No
West Virginia	31% plus loan processing fee of 2% of amount financed	Annual fee	Yes
Wyoming	36% on first \$1000, 21% on remainder	Annual fee for credit card	Yes

All of the states shown in this table allow the lender to charge at least one fee for which the statute does not set a numerical cap. California, Colorado, Indiana, and West Virginia also allow some fees in amounts set by the statute. Those fees are not shown on this table, but are included in the calculation of the rates shown on Maps 3 and 4.

For an explanation of unconscionability, see Section II(A)(6) of our 2015 report and National Consumer Law Center, Consumer Credit Regulation § 10.2.6 (2d ed. 2015), *updated at* www.nclc.org/library.

¹ A second law, Mich. Comp. Laws §§ 493.101 to 493.114, allows an interest rate of 18% plus an annual fee. The law does not place a cap on the annual fee or require that it be reasonable.

² Mississippi's lending law, Miss. Code § 75-17-19(6), is ambiguous about what charges and fees can be imposed. It appears that a non-bank lender cannot impose an annual fee, because annual fees are specifically addressed by § 75-19-17(2). Fees that would undermine the limit in § 75-17-19(1) on the periodic rate might also be at least implicitly prohibited.

TABLE C-3
**States that Set Numerical Caps on Rates and Fees
for Open-End Credit: 2017**

STATE	INTEREST RATE CAP	CAP ON LOAN FEES	FULL APR FOR \$500 6-MONTH CASH ADVANCE	FULL APR FOR \$2000 2-YEAR CASH ADVANCE
Alabama (cap applies only to loans of less than \$2000)	21% on first \$750, 18% on remainder	Surcharge of 6% of amount financed	39%	no cap
Alaska	36% on first \$850, 24% on remainder	No fees allowed	36%	31%
Arizona	36% on first \$3000	5% of principal, capped at \$150	54%	41%
Connecticut	36%	\$50 annual fee	36%	36%
Florida	30% on first \$3000	\$25 investigation fee; \$25 annual fee on each anniversary date	48%	34%
Louisiana (revolving loan account)	18%	\$50 origination fee plus \$20 document fee	85%	39%
Maryland	24%	Interest plus fees cannot exceed 33%	33%	33%
Minnesota	33% on first \$1125, 19% on remainder	\$50 annual fee, \$30 cash advance fee	89%	36%
Nebraska	24% on first \$1000, 21% on remainder	7% of first \$2000 and 5% of remainder, or \$500, whichever is less	48%	30%
Nevada	40%	\$20 annual fee	54%	42%
New Hampshire	36%	one \$100 application fee and one \$100 participation fee per year	170%	53%
New Jersey	30%	\$50 annual fee	65%	35%
New York	25%	Must fall within 25% cap	25%	25%
North Carolina ¹	18%	No fees allowed	18%	18%
Oregon ²	36% (or a discount window rate plus 30 points)	No fees allowed	36%	36%
Pennsylvania	24%	\$50 annual fee	59%	29%
South Dakota	36%	Must fall within 36% cap	36%	36%
Tennessee	279%	None	279%	279%

STATE	INTEREST RATE CAP	CAP ON LOAN FEES	FULL APR FOR \$500 6-MONTH CASH ADVANCE	FULL APR FOR \$2000 2-YEAR CASH ADVANCE
Texas	21%	\$50 annual fee; plus cash advance fee of \$2 or 2% of advance, whichever is greater	62%	28%

The fee-inclusive or “full” APRs in this table take into account all fees that are required as a condition of the extension of credit, including origination fees, periodic fees, and cash advance fees, but not post-transaction charges such as late fees and returned check fees. Arkansas, the District of Columbia, Georgia, Kentucky, Montana, North Dakota, and Vermont are not included in this or Tables C-2 or C-3 because they do not have any specific statutory provisions for open-end credit by non-banks. In those states, open-end credit may fall under the closed-end cap or the state may not permit open-end lending by non-bank lenders.

¹ North Carolina authorizes a \$24 annual fee for purchase money credit, and late fees for any open-end credit, but is silent as to any authorization for origination fees for cash advances. N.C. Gen. Stat. § 24-11(a), (d1).

² Oregon also allows lenders to charge “other reasonable and bona fide fees, expenses or damages, subject to oversight and regulation by the Department of Consumer and Business Services.” Or. Rev. Stat. § 725.340(1)(b).

APPENDIX D

METHODOLOGY

A key component of this report is a comparison of the maximum APR permitted for installment loans under different state laws. The purpose of an APR is to express the full cost of a loan on an annual basis, so that the costs of loans of different amounts, different lengths, and different mixtures of interest and fees can be compared to each other.² The APR is especially important for revealing the full cost of a loan that charges fees in addition to a periodic interest rate. For example, Arizona allows 36% interest on a \$500 six-month loan, but also allows an origination fee of 5% of the principal. Taking both the interest and this origination fee into account, the APR is 54%. If only the interest were allowed, the APR would be 36%.

Throughout this report, we discuss the “full APR.” The federal Truth in Lending Act (TILA),³ as implemented by Regulation Z, sets forth rules for calculating and disclosing an APR in consumer credit transactions. However, because of loopholes in Regulation Z, an APR calculated by its rules does not include all the charges that creditors impose as a condition of the extension of credit. These loopholes are especially significant for open-end loans but can also plague closed-end loans. As a result, the APR calculated under TILA rules often understates the real cost of a loan.

Instead of using the TILA APR calculation rules for this and our 2015 report, we have calculated “full APRs.” Our full APRs include not only the interest that the state law allows the lender to charge, but also all fees specified in the statute that are a condition of the extension of credit. We include these fees whether or not they are included in the APR as defined by TILA and whether they are charged at the outset of the loan or built into the loan to be charged later.⁴

Thus, in calculating the “full APR,” we include all fees that the borrower is bound to pay in order to obtain and use the extension of credit. These fees include, for example, application fees, investigation fees, document preparation fees, transaction fees, “points,” annual fees, and monthly fees. We do not, however, include charges such as late charges or dishonored check charges that are imposed only if some future, avoidable event occurs.⁵ Nor do we include any fees that can be charged only for mortgage loans, since

¹ See 15 U.S.C. § 1601(a) (“It is the purpose of [the Truth in Lending Act, which requires disclosure of the APR] to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him”); National Consumer Law Center, Truth in Lending § 1.1.1 (9th ed. 2015), updated at www.nclc.org/library (purpose of TILA to provide uniformity and enable comparison of disclosures of cost of credit).

³The Truth in Lending Act, 15 U.S.C. §§ 1601–1666j, enacted in 1968, requires disclosure of the APR and other key credit terms, and standardizes the language and calculations for these disclosures.

⁴The Department of Defense has adopted a similar fee-inclusive approach in implementing the Military Lending Act’s 36% cap on certain extensions of credit to servicemembers. See 32 C.F.R. § 232.3(h).

⁵We also do not include fees imposed by state offices for recording security interests, since the report focuses on unsecured loans.

the report focuses solely on non-real estate lending. We also do not include credit insurance premiums in the “full APR” calculations. As discussed in our 2015 report, however, charges for credit insurance premiums and other ancillary products often drive up the cost of credit significantly.

For this and our 2015 report, we have calculated the maximum “full APRs” allowed under each state’s installment loan laws for two hypothetical loans: a \$500, six-month loan and a \$2000 two-year loan. If a state has several statutes, or its statute allows several different rates, we have used the highest rate allowed. For open-end credit, we have calculated the “full APR” for:

- (1) a \$500 cash advance, taken at the time of account opening, with payments sufficient to repay the advance in six months, with no additional cash advances, and
- (2) a \$2000 cash advance, taken at account opening and repaid over a two-year period with no additional advances.

For open-end credit statutes that allow an annual fee, we charged the first annual fee at account opening, and the second one (for the two-year loan) on the anniversary date, at which point we adjusted the payment amount to take the additional charge into account.

In many states, the allowed rates produce a higher “full APR” for the \$500 loan than for the \$2000 loan. This occurs for two reasons. First, some states impose lower rate caps on larger loans. Second, in states where lenders are permitted to charge a fixed fee on top of the interest rate, that fee will have a greater impact on a smaller loan than a larger one. For example, an additional \$50 charged on a \$500 loan will have more of an impact on the APR than the same \$50 fee will have on a \$2000 loan.

Many state lending laws have ambiguities that affect the calculation of the full APR. For example, a lending law may allow a lender to charge an origination fee without specifying whether it can also charge interest on that fee. In the absence of clear statutory language or regulatory guidance, in our calculations we treated origination fees as amounts that can be added to the principal and on which interest can be charged. For other ambiguities, we have used our best judgment to find an interpretation that seems consistent with the statutory language and the intent of the statute. Policymakers should consider issuing regulations or other guidance to close loopholes created by these ambiguities that high-cost lenders could exploit.

A thorough discussion of credit math calculations under state lending laws may be found in National Consumer Law Center, *Consumer Credit Regulation* Ch. 5 (2d ed. 2015), updated at <http://library.nclc.org/CCR>.