

A LARGER AND LONGER DEBT TRAP?

ANALYSIS OF STATES' APR CAPS FOR A
\$10,000 FIVE-YEAR INSTALLMENT LOAN



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ABOUT THE AUTHORS

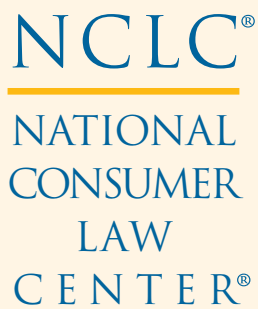
Carolyn Carter is the deputy director at National Consumer Law Center (NCLC) and has specialized in consumer law issues for more than 30 years. Previously, she worked for the Legal Aid Society of Cleveland, first as a staff attorney and later as law reform director. From 1986 to 1999 she was co-director of a legal services program in Pennsylvania. She is admitted to the Pennsylvania bar. From 2005 to 2007 she was a member of the Federal Reserve Board's Consumer Advisory Council. She is a graduate of Brown University and Yale Law School. She is a co-author or contributing author of a number of NCLC legal treatises, including *Consumer Credit Regulation* and *Truth in Lending*.

Lauren Saunders is associate director of NCLC, manages the organization's Washington, DC office, and directs its federal legislative and regulatory work. Lauren regularly speaks and writes on payday loans, prepaid cards, payment systems, and consumer protection regulations. She is an author of NCLC's treatise *Consumer Banking and Payments Law*, among other publications. She graduated magna cum laude from Harvard Law School and was an executive editor of the *Harvard Law Review*. She holds a Masters in Public Policy from Harvard's Kennedy School of Government and a B.A., Phi Beta Kappa, from Stanford University.

Margot Saunders is senior counsel to NCLC. Margot has testified before Congress on dozens of occasions regarding a wide range of consumer law matters, including predatory lending, payments law, electronic commerce, and other financial credit issues. She is a co-author of NCLC's *Consumer Banking and Payments Law* and a contributor to numerous other legal manuals. Margot regularly serves as an expert witness in consumer credit cases, providing opinions on predatory lending, electronic benefits, servicing, and credit math issues. She is a graduate of Brandeis University and the University of North Carolina School of Law.

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Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services; and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state governments and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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EXECUTIVE SUMMARY

Everything that is wrong with a high-cost loan is only made worse when the loan is larger and longer. Even when the interest rate is lower than for a short-term payday loan, a larger, longer high-cost loan can be a deeper, longer debt trap.

This report examines the annual percentage rate (APR), including both interest and fees, allowed in each state for a \$10,000 five-year loan. Does the state cap the APR for such a loan at a reasonable rate? Or does state law allow these loans to operate as even larger and longer debt traps than short-term payday loans?

This report finds that, for a \$10,000 five-year loan, 39 states have APR limits in place, at a median rate of 25%, protecting 236 million people. However, some of those caps are excessively high. And twelve states place no numerical cap on the APR, leaving 90 million people unprotected.

- Twenty jurisdictions—Alaska, Arkansas, Colorado, Connecticut, the District of Columbia, Florida, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New York, Oklahoma, Rhode Island, Vermont, and Wyoming—limit the maximum APR for a \$10,000 five-year loan to 25% or less. Arkansas, Maine, and Vermont are particularly protective of consumers, with APR limits of 17%, 18%, and 18%, respectively.
- Eleven states (Arizona, Louisiana, Michigan, Mississippi, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, Washington, and West Virginia) have an APR limit between 26% and 30%. Most of these states—seven of them—are at the low end of this range, capping APRs at 26% or 27%.
- One state, Iowa, permits a 32% APR, and five states (Illinois, Montana, New Hampshire, Oregon, and South Dakota) allow 36%.
- Only two states have APR limits above 36%: Nevada allows APRs as high as 40%, and Georgia allows a 60% APR.
- Twelve states impose no numerical rate cap. Alabama, California, Idaho, New Mexico, South Carolina, Utah, and Wisconsin impose no limit other than a prohibition of rates that shock the conscience. The lending laws in Delaware, Missouri, North Dakota, Ohio, and Virginia impose no limit at all for a \$10,000 five-year loan.

Among the 39 jurisdictions that impose interest rate and fee caps for a \$10,000 five-year loan, over half have an APR limit of 25% or less, and nearly 70% (27 jurisdictions) cap APRs at 27% or less. This finding reflects a consensus that, while an APR cap of 36% may be appropriate for smaller, shorter-term loans, the cap should decrease to well below 36% for larger loans.

The report concludes with recommendations for states to improve consumer protections related to high-cost installment loans, an appendix comparing state APR caps for a \$10,000 five-year loan and a \$2,000 two year loan (see Appendix A), and a state-by-state summary of the laws in each state and the District of Columbia that apply to a \$10,000 five-year non-bank loan (see Appendix B).

Recommendations

Limit APRs. An APR cap is the single most effective step states can implement to deter abusive lending—protecting consumers from excessive costs and giving lenders an incentive to ensure ability to repay. An APR cap of about 25% is at the high end of what is reasonable for larger, longer-term loans such as a \$10,000 five-year loan, and represents the median among the 39 states that cap the APR for such a loan. States with caps of 25% or less should preserve their caps, states that have higher caps should reduce them, and states that do not have a numerical cap should impose one.

Ban or strictly limit junk fees for credit insurance and other add-on products. States should place strict limits on add-on products and should require their cost to be included in the APR cap.

Ensure that the consumer can afford to repay the loan. States should impose a duty on lenders to meaningfully evaluate whether the consumer can afford to repay the loan while covering other expenses without reborrowing.

Require loan terms that are neither too short nor too long. States should adopt rules regarding the length of loans that mandate a middle ground between overly long loan terms that make it difficult to pay off loans because the cost of the interest eats up so much of each payment, and loan terms that are so short that the borrower cannot afford the monthly payments and is forced to refinance the loan.

Insist on equal amortizing payments. States should prohibit payment schedules that involve balloon payments, interest-only payments, or other unusual payment schedules that keep the balance high despite the borrower's payments.

Stop loan flipping. States should prohibit origination fees that can be earned with each refinancing, disadvantageous rebate formulas, and other incentives that predatory lenders build into loans to make loan flipping profitable.

Prevent draconian treatment of borrowers who default. States should not countenance draconian penalties for borrowers who default. States should limit post-default interest to a reasonable, low rate, and protect a borrower's home, car, household goods, wages, and a basic amount of cash from seizure by creditors.

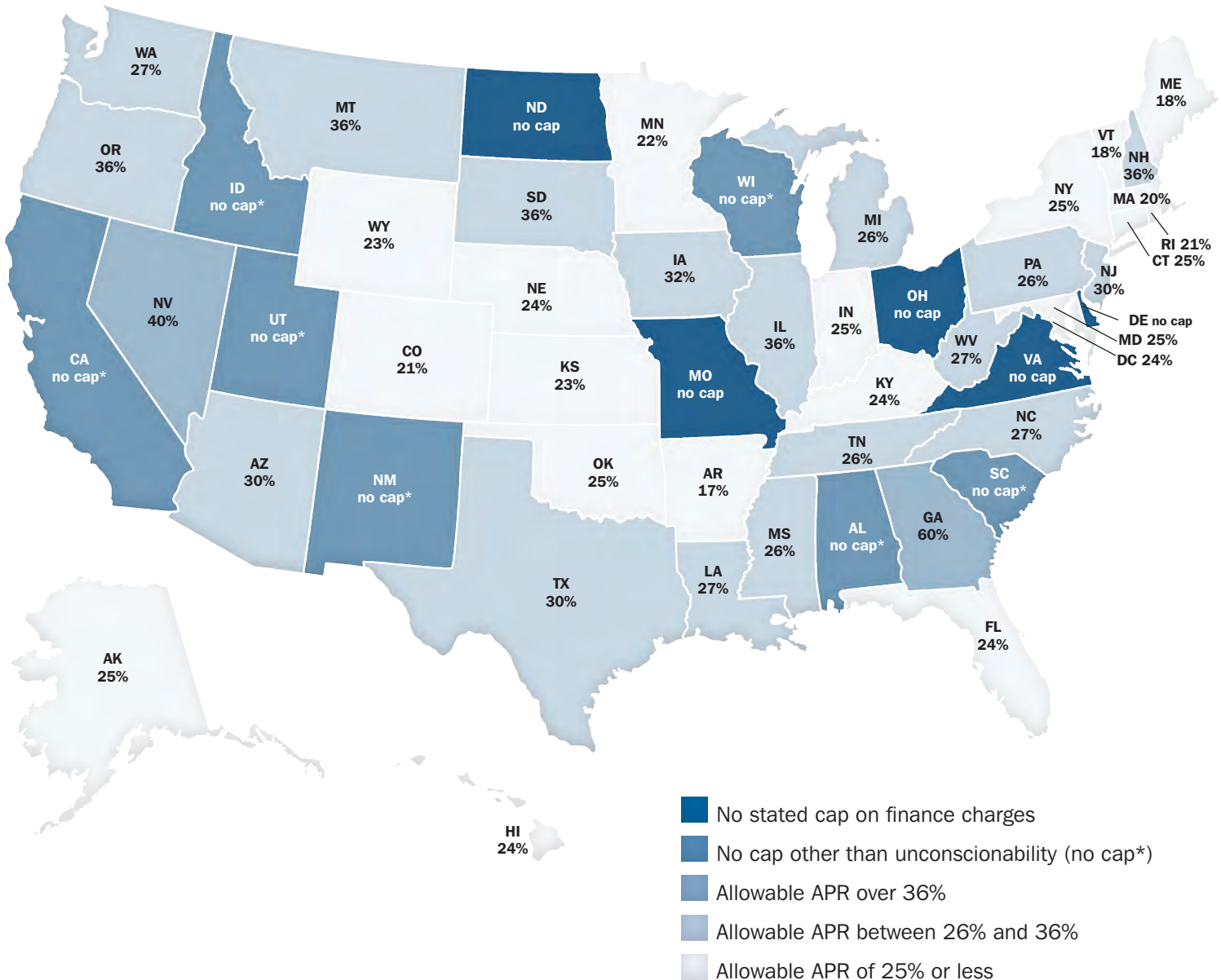
Address open-end credit and prohibit evasions. To prevent evasions, states should make sure that APR limits and other strong protections apply not just to closed-end credit, but also to open-end credit such as lines of credit and nonbank credit cards. States should also prohibit evasions more generally, including tactics such as disguising finance charges as late fees in order to evade APR caps.

The role at the federal level. Given the lack of APR caps at the federal level, state APR limits are the primary protection against predatory lending by nonbank lenders. Congress and federal regulators should not allow high-cost lenders to evade state protections through a national bank charter for nonbank lenders, arrangements such as

rent-a-bank partnerships, or any other steps to preempt state APR limits. Congress should adopt an APR cap that will apply nationwide, to banks and all other types of lenders, so that consumers in all states are protected.

APRs Allowed for \$10,000 Five-Year Loan by State

Showing the maximum APRs allowed for non-bank lenders



Notes: Ohio's statutory caps are ineffective for a five-year \$10,000 loan because they can be evaded by use of a credit services organization. Delaware's lending laws do not have a statutory prohibition of unconscionability, but at least one court has applied the common law doctrine of unconscionability to a high-cost loan. See Appendix B for other details regarding the APRs shown on this map, and other notes and caveats.

INTRODUCTION

\$5,000, 116% Loan in California Balloons to \$40,000, With Payments Barely Reducing the Debt

In XXXX 2014, I took out a {\$5000} personal loan with Cash Call, Inc. The terms of the loan are egregious and predatory. My annual percentage rate is 116 %. The cost of my loan, according to my contract is {\$35,000} and the total cost, if payments (84) are paid according to schedule, will be {\$40,000}. . . . Currently [after two years of payments], less that {\$3.00} per month is applied toward each payment.

Source: CFPB complaint database, Complaint # 1880951 from California consumer, 4/15/2016.

Everything that is wrong with a high-cost loan is only made worse when the loan is larger and longer. Even when the interest rate is lower than for a short-term payday loan, a larger, longer high-cost loan can be a deeper, longer debt trap.¹

This report examines the annual percentage rate (APR), including both interest and fees, allowed in each state for a \$10,000 five-year loan. The goal of this report is to answer the question: Does the state cap the full APR for such a loan at a reasonable rate? Or does state law allow these loans to operate as even larger and longer debt traps than short-term payday loans?

This report finds that, for a \$10,000 five-year loan, 39 states have APR limits in place, protecting 236 million people.² However, some of those caps are excessively high. And twelve

states place no numerical cap on the APR, leaving 90 million people unprotected.

Among states that impose interest rate and fee caps for a \$10,000 five-year loan, we find that the median state limit is a 25% APR, reflecting a consensus that, while a 36% rate cap may be appropriate for smaller, shorter-term loans, the maximum allowable rate should decrease to well below 36% as loans get larger. However, five states allow APRs up to 36%—a reasonable cap for smaller, shorter loans but too high for a \$10,000 five-year loan. Nevada allows APRs as high as 40%, and Georgia allows 60%. Twelve states impose no rate cap at all.

HIGH-COST LENDERS' ENTRY INTO THE MARKET FOR LARGER, LONGER-TERM LOANS

For several years, payday lenders have been moving into installment lending,³ both as a way to evade state payday loan restrictions and in anticipation of a Consumer Financial Protection Bureau (CFPB) rule that would restrict short-term payday loans. To facilitate the expansion of long-term payday loans, these predatory lenders continue to pressure states to raise allowable interest and fees on installment loans.⁴ It is not uncommon for these lenders to charge APRs up to 100% or more—such as the 116% APR charged for the California loan described above—and some of them make loans for as much as

\$10,000. For example, the high-cost lender LoanMe advertises that it makes installment loans in this range with APRs ranging from 97.86% to 184.36%:⁵

LoanMe Personal Loans
(844) 415-2775

Apply Today | Loan Products | How It Works | Our Company | Login | En Español

Loan Products

Apply Today | Request Callback

Please select your state
Delaware

LoanMe provides an array of products to accommodate customers with a range of credit scores. Our lowest rates and higher loan amounts are reserved for customers with excellent credit. While our high quality customer service is dedicated to finding the right loan, not all applicants will qualify.

Personal Loans

\$10,600

Loan Fee	Rate	MAX APR	Term	Payment Amount
\$500.00	95.00	99.75%	84 Months	\$840.56

\$5,400

Loan Fee	Rate	MAX APR	Term	Payment Amount
\$275.00	110.00	115.93%	84 Months	\$495.31

\$3,100

Loan Fee	Rate	MAX APR	Term	Payment Amount
\$75.00	135.00	138.45%	47 Months	\$351.09

\$2,600

Loan Fee	Rate	MAX APR	Term	Payment Amount
\$75.00	179.00	184.36%	47 Months	\$388.40

① LoanMe™ reserves the right to change the rates and loan products shown without notice.

Additionally, in the past few years a wide variety of online lenders, some operating under the rubric of marketplace lenders, have entered the consumer installment loan market and are competing with credit cards for the mid-size loan market.⁶ Loans by marketplace lenders tend to be in the \$5,000 to \$40,000 range, though some make loans below this range. Some marketplace lenders offer loans at APRs in the single or low double digits, but others charge APRs of 30% to 36% or more—a reasonable rate for a small loan but a high rate for a large loan. They may use bank partnerships in an attempt to avoid state rate limits, although a number of courts have held that arrangements like this are shams and that the lenders must comply with state limits.⁷

Many states—even those that permit short-term high cost payday loans—limit the interest rates on installment loans. But the permissible interest rates often vary by the size of the loan, and it is important to identify loan size and term in order to understand what state laws permit. In addition, some states have rate caps that apply only to loans below a certain amount. For example, California and Virginia cap rates only for loans under \$2,500—and lenders in those states make consumer installment loans of \$2,500 or more at APRs exceeding 100%. High-cost lenders may insist that consumers take out larger loans than they need so that they can avoid these rate caps.⁸

Given the growth of this market and the entry of high-cost lenders, it is important to understand how states treat larger loans, and what states must do to protect consumers.

Background and Methodology

A 2017 NCLC report⁹ analyzed the maximum annual percentage rates (APRs) allowed under each state's installment loan laws for two sample loans: a \$500 six-month loan and a \$2000 two-year loan. The report was a follow-up to a 2015 NCLC report that analyzed the same loans under the laws then in place, and that also included a detailed analysis of rate caps and other good and bad features of these laws.¹⁰

To expand the picture of state limits on APRs, this report analyzes the APRs allowed for a larger, longer-term loan: a \$10,000 five-year loan. It analyzes state laws covering non-bank lenders—entities other than depository institutions such as banks and credit unions—that make consumer installment loans of this size and length. Some of these laws also apply to loans to businesses, but others are limited to consumer loans. While this report does not analyze the maximum APRs for all possible loan amounts and loan terms, in combination with NCLC's 2017 report on smaller loans, it should give advocates and policymakers a good sense of the range of APRs allowed in each state.

Our APR calculations include all the costs that the borrower may be required to pay to obtain and use the extension of credit, including application fees, investigation fees, document preparation fees, transaction fees, “points,” annual fees, and monthly fees. We term this the “full APR.” We do not include any fees that can be charged only for mortgage loans or loans with other security interests, since the report focuses solely on unsecured, non-real estate lending. We also do not include charges for add-on products, such as credit insurance, which are covered by a complex set of insurance and lending laws. Nor have we included fees such as late charges or dishonored check charges that are imposed only if some future, unanticipated event occurs. (However, fees for add-on products can greatly swell the cost of a loan, and late fees can be disguised finance charges, so they are important topics for policymakers to address whether or not they are included in the calculation of the APR.)

Where state laws are ambiguous, we have searched for judicial decisions or guidance from the state consumer credit regulator. In the absence of definitive interpretations, we have used our best judgment in determining the requirements of these laws. Errors should be brought to the attention of the authors.

Why Interest Rates Matter for Larger, Longer-Term Loans

High interest rates are always problematic, but they can be especially dangerous with a larger, longer-term loan. When rates are high on a long-term loan, almost all of each month's payment for a long period of time will go towards interest rather than reducing the amount owed. The consumer may pay for months or years yet make barely a dent in the debt—well beyond reasonable expectations that they are making progress repaying their loan.¹¹ The consumer is likely to end up repaying many times the amount borrowed.

High interest rates can dramatically increase the amount owed on a larger loan that is repaid over a longer period of time. For example, a \$10,000 five-year loan at 12% carries a \$224.44 monthly payment. But raising the interest rate to 36% causes the monthly payment to increase by more than 50 percent, to \$361.32, adding more than \$8,000 to the cost of the loan. If the loan carries an interest rate of 60% (allowed in Georgia), the monthly payment more than doubles, to \$528.27—and the borrower will have to pay back \$31,696, more than three times the amount borrowed. If the interest rate is 100%—which is common for some installment lenders¹²—the consumer's monthly payment will be an astronomical \$840.24. The consequence of charging high rates on a loan is that a much smaller amount of each payment is applied to the principal of the loan until close to the end of the loan term.¹³

Consumer Borrows \$5,000, Owes \$40,994.28

John MacDonald borrowed \$5,000 from Western Sky Financial in 2012. It was payable over seven years. Because of the astronomical interest rate charged by the lender—116.73%—Mr. MacDonald would end up paying \$40,994.28 in the unlikely event that he was able to pay the loan in full. As of April 2016, Mr. MacDonald had paid over \$15,000 on this \$5,000 loan, but only \$38.50 was applied to reduce the underlying debt—all the rest went to interest and fees.

Source: *MacDonald v. Cashcall, Inc.*, 2017 WL 1536427 (D.N.J. Apr. 28, 2017), *aff'd*, 883 F.3d 220 (3d Cir. 2018) (affirming ruling that arbitration clause is invalid).

TABLE 1

How the APR Affects the Monthly Payment Amount and the Total to Be Repaid on a \$10,000 Five-Year Loan

APR	MONTHLY PAYMENT	TOTAL REPAYMENT AMOUNT
12%	\$224.44	\$13,466.64
18%	\$253.93	\$15,236.06
24%	\$287.67	\$17,261.21
30%	\$323.53	\$19,411.80
36%	\$361.32	\$21,679.20
60%	\$528.27	\$31,656.20
100%	\$840.24	\$50,414.40

KEY FINDINGS

Most States Cap the APR for a \$10,000 Five-Year Loan at Well Under 36%

The great majority of jurisdictions—39 (including the District of Columbia)—cap the interest rate and fees for a \$10,000 five-year loan. The median cap is 25%, nearly 70% are 27% or less, and all but two of these states cap the APR at 36% or less.

For a \$10,000 5-year loan, 39 states (including the District of Columbia)—cap the APR, and all but two of them cap it at 36% or less. In most of these states, the cap is well below 36%.

Twenty States Limit the APR to 25% or Less

In 20 jurisdictions (Alaska, Arkansas, Colorado, Connecticut, the District of Columbia, Florida, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New York, Oklahoma, Rhode Island, Vermont, and Wyoming), the maximum APR for a \$10,000 five-year loan is 25% or less.

Arkansas, Maine, and Vermont are particularly protective of consumers. Arkansas caps the APR for all loans at 17%, Maine sets an 18% cap for all loans above \$6000, and Vermont sets an 18% cap for a \$10,000 loan.

Seventeen States Limit the APR Between 26% and 36%

Seventeen states limit the APR for a \$10,000 five-year loan to between 26% and 36%. In 11 of these states (Arizona, Louisiana, Michigan, Mississippi, New Jersey, North Carolina, Pennsylvania, Tennessee, Texas, Washington, and West Virginia) it is between 26% and 30%. One of these states, Iowa, permits a 32% APR, and five states (Illinois, Montana, New Hampshire, Oregon, and South Dakota) allow the APR for this loan to be 36%.

Nevada and Georgia Have APR Caps Above 36%

Two states—Nevada and Georgia—cap the APR for a \$10,000 five-year loan, but at an overly high rate. Nevada allows an APR of 40% and Georgia allows 60%.

A Few Aberrant States Do Not Impose Numerical Rate Caps

In addition to Nevada and Georgia, 12 other aberrant states are outliers, with state laws that allow predatory lending to flourish. These twelve states have no numerical cap at all, although seven of these 12 states have something of a non-numerical cap, in that they prohibit rates or other loan terms that shock the conscience.

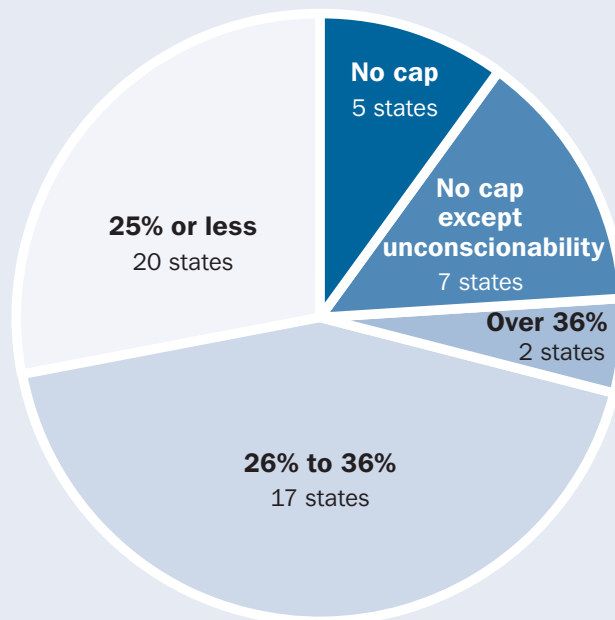
States With No Numerical Cap on the APR

Twelve states—Alabama, California, Delaware, Idaho, Missouri, New Mexico, North Dakota, Ohio, South Carolina, Utah, Virginia, and Wisconsin—place no numerical cap at all on the APR for a \$10,000 five-year loan. It is these states' residents who are likely to fall prey to longer-term installment loans with APRs of 100% or more.¹⁴

Ohio is currently one of the states categorized as having no cap on the APR, but this is due to a loophole that allows high-cost lenders to evade the state's voter-approved 28%

CHART 1
State Maximum APRs Allowed for \$10,000 Five-Year Loan
Showing Broad Consensus for 36% or Less

Showing the maximum APRs allowed for non-bank lenders



- No stated cap on finance charges (5 states: DE, MO, ND, OH, VA)
- No numerical cap, but prohibits unconscionability (7 states: AL, CA, ID, NM, SC, UT, WI)
- Allowable APR over 36% (2 states: GA, NV)
- Allowable APR between 26% and 36% (17 states: AZ, IL, IA, LA, MI, MS, MT, NH, NJ, NC, OR, PA, SD, TN, TX, WA, WV)
- Allowable APR of 25% or less (20 states: AK, AR, CO, CT, DC, FL, HI, IN, KS, KY, MD, ME, MA, MN, NE, NY, OK, RI, VT, WY)

Notes: Ohio's statutory caps are ineffective for a five-year \$10,000 loan because they can be evaded by use of a credit services organization. Delaware's lending laws do not have a statutory prohibition of unconscionability, but at least one court has applied the common law doctrine of unconscionability to a high-cost loan. See Appendix B for other details regarding the APRs shown on this map, and other notes and caveats.

interest rate limit if a loan is made through a separate company called a credit services organization that offers to arrange loans for consumers.

Some of the states that do not cap the APR for a \$10,000 loan do have rate limits for smaller loans. For example, California and Virginia cap the APR for some loans of less than \$2,500 but not for loans above that amount.¹⁶ New Mexico limits the APR only for loans of \$5,000 or less. However, even for those loans the cap is extremely high—175%. North Dakota caps the APR only for loans of \$1000 or less.

Prohibitions against unconscionable loan terms

Of the 12 states that do not place a numerical cap on the APR for a loan of this size, 7 states—Alabama, California, Idaho, New Mexico, South Carolina, Utah, and Wisconsin—prohibit unconscionable loans, which may limit interest and other finance charges that are so high that they shock the conscience.¹⁷ The California Supreme Court recently affirmed that the California Finance Code’s restriction on unconscionability can be applied to a loan for which there is no numerical APR cap.¹⁸ The New Mexico Supreme Court, as well, has held that interest rates can be so high as to violate the state deceptive practices statute’s prohibition of unconscionability.¹⁹

While an unconscionability standard is better than no limit at all, a numerical cap is far more protective, and also benefits lenders by drawing a precise line that they can rely on. These prohibitions against unconscionability are discussed in more detail in NCLC’s 2015 report on installment loans²⁰ and in our legal treatise *Consumer Credit Regulation*.²¹

The States Show a Broad Consensus That an APR Cap Well Below 36% Is Appropriate for Larger, Longer Loans

A 36% rate cap for small loans has a long and well-recognized history in the United States, going back more than 100 years. Congress and three federal agencies have endorsed a 36% rate cap, and it represents a general consensus as an appropriate upper limit for rates and fees charged for small loans.

The APRs for larger loans should be lower than 36%, because lenders experience efficiencies of scale when making larger loans. Most of the costs of approving and closing a \$10,000 loan are the same as for a smaller loan.

However, for larger loans, a lower rate cap is appropriate. Just as no one would view a 36% interest rate as reasonable for a \$300,000 mortgage, many states have interest rate structures that reduce interest rates below 36% as loans get larger. It only makes sense that the APRs for larger loans should be lower than 36%, because lenders experience efficiencies of scale when making larger loans. Most of the costs of approving and closing a \$10,000 loan are the same as for a smaller loan.

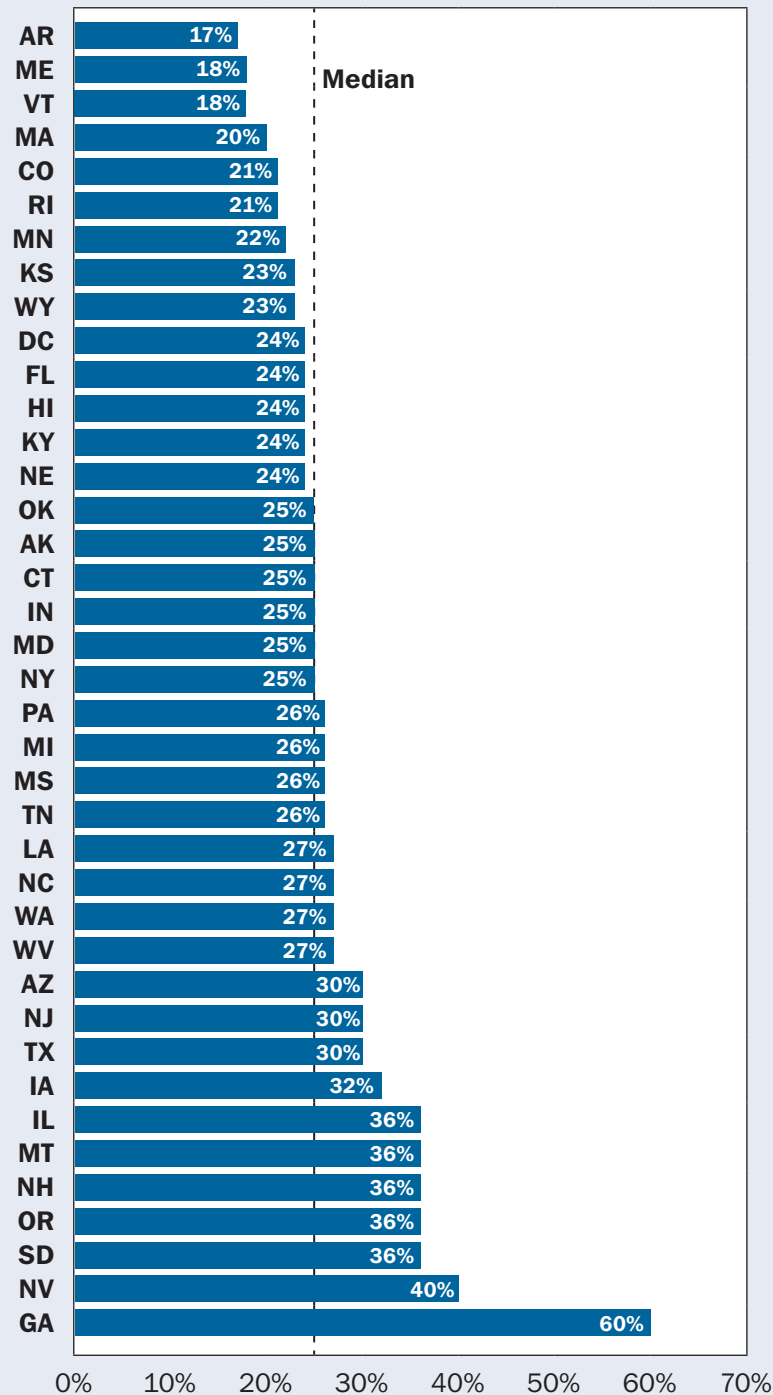
Accordingly, an examination of existing APR caps shows a broad consensus among the states for a lower APR limit as loans get larger. Of the 39 states that place a numerical cap on the APR for a \$10,000 5-year loan, the median cap is 25%. Twenty states limit the APR to 25% or less, and seven additional states—Louisiana,

Michigan, Mississippi, North Carolina, Tennessee, Washington, and West Virginia—cap it roughly in the same range, at 26% or 27%. This means that nearly 70% of the states that have rate limits impose an APR cap of 27% or less for a \$10,000, 5-year loan.

By contrast, for a \$2,000 2-year loan, of the 42 states that place a numerical cap on the APR, the median cap is 31%. (See Appendix A for details).

CHART 2

**Maximum APRs in States with Caps for a \$10,000 Five-Year Loan
Showing Median APR Cap of 25%**



“I don’t understand how they can charge such a large interest rate”

I took a loan with Avant online. The amount was {\$20000.00} and the payment was {\$840.00} a month. The interest over 35 %. At the time I thought I could handle it but I have come to a point that I can not. . . . I have paid on it for 18months and paid over {\$16000.00}. Only I am shown as having paid {\$5000.00} to principal. The interest will be way over {\$28000.00}. . . . I don’t understand how they can charge such a large interest rate. How could I ever pay it off and what will they do to me?

Source: CFPB complaint database, complaint # 2428397 (Apr. 10, 2017).

In most states that cap the APR for installment loans, the cap is not a single APR that applies to all loans of all sizes and lengths. Many states accomplish the goal of setting lower rates for larger loans by allowing the lender to charge a blended rate such as 30% on the first \$4,000, 24% on the next \$4,000, and 18% on the remainder.²² These are called tiered rates or split rates. With tiered rates, the APR will generally go down as the amount borrowed becomes larger. As shown by Chart 3, with the example given, the APR will be 30% if the loan is for \$4,000 or less, but it will be a lower, blended rate for loans for larger amounts.

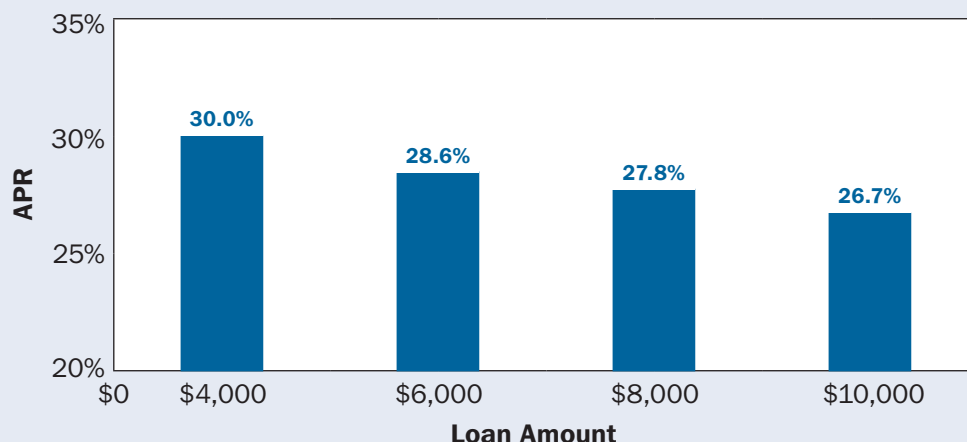
A similar result is produced if a state allows a mixture of flat fees and interest: the APR will go down as either the loan amount or the length of the loan grows. For example, if a state allows a lender to charge 25% interest plus a \$50 fee, the maximum APR for a \$500 six-month loan is 60%, but it is 43%

for a \$1,000 loan of the same length. For a \$10,000 five-year loan, the addition of a \$50 fee in addition to 25% interest would raise the APR by just one-quarter of a percentage point over 25%. Many state lending laws adjust the amount of any allowable fees based on loan size, and also set fee amounts so that fees are lower as a proportion of larger loans.

CHART 3

APRs Produced by Tiered Rates for 5-Year Loan of Varying Amounts

Under state law that allows 30% on first \$4000, 24% on next \$4000, and 18% on remainder.



Allowing lenders to charge a mixture of flat fees and interest has many disadvantages. Flat fees provide an incentive for loan flipping if they can be charged anew each time a loan is refinanced. And, with smaller loans, flat fees that may be reasonable for larger loans can loom so large as to push the APR into triple digits. The tiered rate approach customizes the APR cap to the amount and length of the loan without these drawbacks.

Rate caps are effective only if they include both the interest rate and fees such as origination charges. Otherwise the lender can compensate for a low interest rate simply by imposing a series of high fees. The most watertight rate caps are those such as South Dakota's and the Military Lending Act's. Both include charges for ancillary products such as credit insurance in the cap.²³

RECOMMENDATIONS

States Should Defend and Improve Their APR Limits

State limits on the rates and fees that lenders can charge are the primary protection against predatory lending. With high-cost lenders increasingly pushing larger, longer-term loans, APR limits are all the more important.

An APR cap of about 25% is at the high end of what is reasonable for larger, longer-term loans such as a \$10,000 five-year loan, and represents the median among the 39 states that cap the APR for such a loan. The states that allow APRs higher than this—and especially Nevada, which allows 40%, Georgia, which allows 60%, and the 12 states that place no cap at all on the APR for this loan—would be wise to reexamine their lending laws and make them more protective of consumers. Even the states that currently have reasonable limits should review their laws for loopholes and other abuses, and advocates and policymakers should be prepared to defend their protections when high-cost lenders conduct lobbying campaigns to weaken them.

Consumer Comment on Mariner Finance High-Cost Loans

Some of these practices used to be illegal. Who, in their right mind thought it would be a good thing to change regulations? . . . If the Feds won't stop this, the states should.

Source: Reader comment regarding *Washington Post* article about 33% installment loans plus multiple fees made by Mariner Finance, available at: <https://wapo.st/2NmxDZp>

Other Protections Are Also Necessary

An APR cap is the single most effective step states can implement to deter abusive lending. However, as discussed in detail in NCLC's 2015 report, other measures are also necessary to protect consumers from high-cost and predatory lending.

Ban or strictly limit junk fees for credit insurance and other add-on products. High-cost lenders often try to slip in add-ons, such as various types of insurance or debt cancellation products, as a way to increase the costs of a loan and the lender's corresponding revenue.²⁴ These costs, for products that are often of little value,²⁵ may

slide under the borrower's radar, because they do not have to be reflected in the APR that federal law requires lenders to disclose if the products are voluntary. But many lenders lead borrowers to believe that insurance and other add-ons are required and use those fees to pad rates in states that have rate limits.²⁶ States should either require the cost of add-on products to be included in the APR cap, or place strict limits on them.²⁷

Ensure that the consumer can afford to repay the loan. The longer the loan, the more likely the borrower will have trouble repaying the loan in full. Consumers may be able to rob Peter to pay Paul to cover high payments for a few months but income volatility, unexpected expenses, and the cumulative burden of payments month after month often make it difficult to sustain payments to the end of the loan term. When interest rates are

high on a longer-term loan, the lender has weak incentives to underwrite properly, as the lender will recover the entire principal and a profit even if the borrower defaults long before the end of the term.²⁸ For example, with a \$10,000 five-year loan at 60% (allowed in Georgia), after just 19 payments the borrower will have repaid the full \$10,000, but will still have 41 more payments to make, totaling another \$21,659. After 26 months, the borrower will have repaid the full \$10,000 plus interest at a reasonable rate of 12%—yet will still have another 34 payments to make, totaling another \$17,961.

Reliance on automatic electronic repayment or other coercive repayment mechanisms exacerbates this problem by allowing lenders to “extract payment from the consumer even if the payment exceeds the consumer's ability to repay and leaves her in financial distress. . . .”²⁹ States should impose a duty on lenders to meaningfully evaluate whether the consumer can afford to repay the loan in full while covering other expenses without reborrowing. The analysis should not just look at the affordability of the loan payments against each month's income, but must include the long-term impact of the full loan repayment on the financial health of the household.

Require loan terms that are neither too short nor too long. The loan term should not be too long—with an overly long loan term, the interest can build up enormously and payments barely reduce the principal. Nor should the loan term be too short if that means that the payments are too large to be within the borrower's means.

Insist on equal amortizing payments. States should prohibit payment schedules that involve balloon payments, interest-only payments, or other unusual payment schedules that keep the balance high despite the borrower's payments.

Stop loan flipping. Loans should be structured to discourage loan flipping and repeat borrowing.³⁰ States should prohibit origination fees that can be earned anew upon each refinancing, disadvantageous rebate formulas, and other incentives that predatory lenders build into loans to make loan flipping profitable.

Prevent draconian treatment of borrowers who default. Lenders that make high-cost loans or have weak underwriting standards will have high default rates, inflicting

States should impose a duty on lenders to meaningfully evaluate whether the consumer can afford to repay the loan in full while covering other expenses without reborrowing.

serious harm on consumers. Even with responsible lending, some consumers will run into trouble. Policymakers should pay attention to the treatment of consumers who default. States should not allow the consequences of a default on a loan to make it impossible for the consumer ever to recover or to turn a small problem into an enormous one. For example, courts interpreting Missouri law have held that a high-cost lender can keep charging triple-digit interest rates indefinitely—turning a \$100 debt into a \$5,000 one in one case.³¹ Additionally, states should protect a borrower’s home, car, household goods, wages, and a basic amount of cash from seizure by creditors.³²

Address open-end credit and prohibit evasions. This report deals only with closed-end credit: extensions of credit such as installment loans where the amount borrowed and the repayment period are fixed from the start. APR limits and other protections for closed-end credit will have little effect if lenders can evade them by structuring an extension of credit as an open-end line of credit similar to a credit card. As states examine their installment loan protections, they should make sure that the same protections apply to open-end credit, especially limiting fees that evade interest rate limits.³³ States should also prohibit evasions more generally, including tactics such as disguising finance charges as late fees in order to evade APR caps.

The role at the federal level. Given the lack of APR caps at the federal level (other than a 36% cap for loans to service members on active duty), state APR limits are the primary protection against predatory lending by nonbank lenders. Congress and federal regulators should not allow high-cost lenders to evade state protections through a national bank charter for nonbank lenders, arrangements such as rent-a-bank partnerships, or any other steps to preempt state APR limits. Congress should adopt an APR cap that will apply nationwide, to banks and other lenders, so that consumers in all states are protected.

ENDNOTES

1. See Tom Feltner, Diane Standaert, Ellen Harnick, Center for Responsible Lending, *Sinking Feeling: Colorado Borrowers Describe their Experiences with Payday Loans* (July 2018), available at <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-sinking-feeling-jul2018.pdf>.
2. U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_1YR_B01003&prodType=table. The exact figures are: 235,621,587 in states with caps, of which 222,194,169 are in states with caps of 36% or less, and 90,097,591 in states without caps.
3. National Consumer Law Center, *Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default* at p. 4-5, 18 (July 2016), available at <https://www.nclc.org/issues/misaligned-incentives.html>.
4. National Consumer Law Center, *Predatory Installment Lending in 2017: States Battle to Restrain High-Cost Loans* (Aug. 2017), available at <https://www.nclc.org/issues/predatory-installment-lending-2017.html>.
5. See <https://www.loanme.com/personal/rates>. The website gives as an example a seven-year \$10,600 loan offered to Delaware borrowers with an APR of 99.75%. For this loan the consumer is required to repay a total of \$70,607.04 at \$840.56 a month; checked October 15, 2018.
6. See New York State Dept. of Financial Services, *Online Lending Report* at p. 1 n.2, 13 (July 11, 2018), available at https://www.dfs.ny.gov/report/pub/online_lending_survey_rpt_07112018.pdf (defining marketplace lending and documenting its growth).
7. See National Consumer Law Center, *Consumer Credit Regulation* §§ 9.6.1, 9.6.3 (2d ed. 2015), updated at www.nclc.org/library.
8. For example, one high-cost lender, CashCall, paid a \$1 million settlement in response to charges that it falsely advertised smaller loans and pushed consumers into taking out larger loans even though the customers didn't need or want to borrow that much money. Calif. Dept. of Bus. Oversight, Press Release, "CashCall Pays Nearly \$1 Million of Restitution to California Borrowers Under DBO Settlement" (July 10, 2015), http://www.dbo.ca.gov/Press/press_releases/2015/CashCall%20Restitution%20Announcement%2011-18-15.asp.
9. National Consumer Law Center, *Predatory Lending in 2017: States Battle to Restrain High-Cost Loans* (August 2017), available at <https://www.nclc.org/issues/predatory-installment-lending-2017.html>.
10. National Consumer Law Center, *Installment Loans: Will States Protect Borrowers from a New Wave of Predatory Lending?* (July 2015), available at <https://www.nclc.org/issues/installment-loans.html>.
11. National Consumer Law Center, *Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default* at pp. 6-12 (July 2016), available at <https://www.nclc.org/issues/misaligned-incentives.html>. With every loan that bears interest and requires payments of the same amount each payment period, more of the early payments than the later payments will go toward interest. But when the interest is high, this situation can persist so long that the borrower may make payments for an extended period of time without making any appreciable progress in repaying the loan.
12. *Id.* at p. 4.
13. When loans are repaid, the interest due on the outstanding loan principal is paid first from each of the borrower's payments, and the remainder of the payment is applied to the principal. The higher the interest rate, the longer it takes before more than a small amount of

the payment is applied to the principal. For example, with a five-year loan for \$10,000 made at 17%, the maximum in Arkansas, a year of equal monthly payments will reduce the principal by \$1,387. But in California, where the same loan could carry an APR of 100%, only \$133 will be repaid after a year of payments.

14. National Consumer Law Center, *Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default* at p. 18 (July 2016), available at <https://www.nclc.org/issues/misaligned-incentives.html> (documenting high-cost installment loans offered by various lenders in Alabama, California, and Missouri).
15. See Center for Responsible Lending, *Policy Brief: What Happened with Payday Loans in Ohio?* (Aug. 21, 2018), available at crl-ohio-bill-analysis-aug2018.pdf.
16. In California, there is no cap for loans of \$2,500 or more. In Virginia, there is no cap for loans of more than \$2,500. See the appendix to this report and National Consumer Law Center, *Consumer Credit Regulation Appx. D* (2d ed. 2015), updated at www.nclc.org/library.
17. See Appendix B to this report and National Consumer Law Center, *Consumer Credit Regulation Appx. D* (2d ed. 2015), updated at www.nclc.org/library, for citations and details.
18. *De La Torre v. CashCall, Inc.*, 236 Cal. Rptr. 3d 353 (Cal. 2018).
19. *State ex rel. King v. B & B Investment Group, Inc.*, 329 P.3d 658 (N.M. 2014) (finding installment lender's interest rates, which were as high as 1500%, substantively unconscionable).
20. See National Consumer Law Center, *Installment Loans: Will States Protect Borrowers from a New Wave of Predatory Lending?* at pp. 12-13 (July 2015), available at <https://www.nclc.org/issues/installment-loans.html>.
21. National Consumer Law Center, *Consumer Credit Regulation* §§ 2.4.8, 10.2.6 (2d ed. 2015), www.nclc.org/library.
22. North Carolina's lending laws allow these tiered rates. They also allow a small origination fee, which for the sake of simplicity is not included in the tiered rate calculation chart.
23. See National Consumer Law Center, *Installment Loans: Will States Protect Borrowers from a New Wave of Predatory Lending?* at p. 51 (July 2015), available at <https://www.nclc.org/issues/installment-loans.html>.
24. Paul Kiel "The 182 Percent Loan: How Installment Lenders Put Borrowers in a World of Hurt," *ProPublica*, (May 13, 2013), <https://www.propublica.org/article/installment-loans-world-finance>.
25. National Consumer Law Center, *Consumer Credit Regulation* § 6.2.3 (2d ed. 2015), updated at www.nclc.org/library.
26. Peter Whoriskey, "A way of monetizing poor people: How private equity firms make money offering loans to cash-strapped Americans," *Washington Post* (July 1, 2018), available at https://www.washingtonpost.com/business/economy/a-way-of-monetizing-poor-people-how-private-equity-firms-make-money-offering-loans-to-cash-strapped-americans/2018/07/01/5f7e2670-5dee-11e8-9ee3-49d6d4814c4c_story.html?utm_term=.11f5258e279e; Paul Kiel, "The 182 Percent Loan: How Installment Lenders Put Borrowers in a World of Hurt," *ProPublica* (May 13, 2013), <https://www.propublica.org/article/installment-loans-world-finance>.
27. National Consumer Law Center, *Installment Loans: Will States Protect Borrowers from a New Wave of Predatory Lending?* at p. 13-17 (July 2015), available at <https://www.nclc.org/issues/installment-loans.html>.
28. National Consumer Law Center, *Misaligned Incentives: Why High-Rate Installment Lenders Want Borrowers Who Will Default* (July 2016), available at <https://www.nclc.org/issues/installment-loans.html>.
29. Consumer Financial Protection Bureau, *Proposed Rule to Address Payday, Vehicle Title, and*

Certain High-Cost Installment Loans, 81 Fed. Reg. 47864 at 47997. (July 22, 2016).

30. National Consumer Law Center, Installment Loans: Will States Protect Borrowers from a New Wave of Predatory Lending? at p. 19-25 (July 2015), available at <https://www.nclc.org/issues/installment-loans.html>.
31. Master Fin. Co. v. Pollard, 283 P.3d 817 (Kan. Ct. App. 2012) (concluding that trial court is bound to give Missouri default judgment on a \$100 payday loan full faith and credit, even though it bore postjudgment interest at agreed contract rate of 199.91% and had grown to almost \$5000 due to interest, but agreeing that case was “outrageous” and that facts “cry out for equitable relief”). *See also* Ponca Fin. Co. v. Esser, 132 S.W.3d 930 (Mo. Ct. App. 2004) (requiring trial court to allow creditor postjudgment interest at contract rate of 135.96%).
32. National Consumer Law Center, No Fresh Start: How States Let Debt Collectors Push Families into Poverty (Oct. 2013), available at <https://www.nclc.org/issues/no-fresh-start.html>.

APPENDIX A

Comparison Between State APR Caps for \$10,000 Five-Year Loan and \$2,000 Two-Year Loan

Higher APR is noted in red.

STATE	APR CAP FOR \$10000 5-YEAR LOAN	APR CAP FOR \$2000 2-YEAR LOAN	STATE	APR CAP FOR \$10000 5-YEAR LOAN	APR CAP FOR \$2000 2-YEAR LOAN
AK	25%	31%	MT	36%	36%
AL	No cap*	No cap*	NC	27%	31%
AR	17%	17%	ND	No cap	No cap
AZ	30%	41%	NE	24%	30%
CA	No cap*	25%	NH	36%	36%
CO	21%	31%	NJ	30%	30%
CT	25%	36%	NM	No cap*	175%
DC	24%	25%	NV	40%	40%
DE	No cap	No cap	NY	25%	25%
FL	24%	31%	OH	No cap	35%
GA	60%	32%	OK	25%	27%
HI	24%	31%	OR	36%	36%
ID	No cap*	No cap*	PA	26%	24%
IL	36%	80%	RI	21%	29%
IN	25%	39%	SC	No cap*	No cap*
IA	32%	36%	SD	36%	36%
KS	23%	32%	TN	26%	41%
KY	24%	39%	TX	30%	35%
LA	27%	38%	UT	No cap*	No cap*
MA	20%	24%	VA	No cap	36%
ME	18%	30%	VT	18%	21%
MD	25%	30%	WA	27%	29%
MI	26%	30%	WI	No cap*	No cap*
MN	22%	31%	WV	27%	33%
MO	No cap	No cap	WY	23%	31%
MS	26%	59%			

*No cap except unconscionability

APPENDIX B

STATE-BY-STATE ANALYSES

This appendix summarizes the laws in each state and the District of Columbia that might apply to an unsecured \$10,000 five-year loan, the interest and loan fees allowed, and the resulting APRs. For explanation of the terms used in this appendix and the calculation methods, see National Consumer Law Center, Consumer Credit Regulation Ch. 5 (2d ed. 2015), *updated at* www.nclc.org/library. These summaries deal only with the provisions of these statutes that apply to unsecured loans by non-bank lenders. They reflect amendments to the statutes effective up through October 2018. All APRs calculated for this report have been rounded to the nearest whole number. Any errors should be brought to the attention of the authors.

ALABAMA

The Alabama Small Loan Act applies only to loans of less than \$1500. Ala. Code §§ 5-18-4(a), 5-18-18. The Alabama Consumer Credit Act applies to loans of any amount. It caps interest and fees only for loans of \$2000 or less. The state has no interest rate or fee cap for a \$10,000 consumer installment loan, other than a prohibition of unconscionable loan terms. §§ 5-19-3(e), 5-19-16, 8-8-5.

ALASKA

The Alaska Small Loans Act applies to loans of up to \$25,000. Alaska Stat. §§ 06.20.010(a), 06.20.230(a). It allows 36% on the balance up to \$850, and 24% on the remainder over \$850 but not exceeding \$10,000, and any rate on remainder over \$10,000. § 06.20.230. Taking these blended rates into account, the APR for a \$10,000 5-year loan is 25%.

The Alaska Installment Loans Act applies to loans of up to \$10,000. § 45.45.080(b). It allows \$6 per \$100 per year, and appears to allow this to be a discount interest calculation. § 45.45.080(b). But it adds that the resulting simple interest rate cannot exceed 11.8%, so the Small Loans Act allows a higher APR.

ARIZONA

The Arizona Consumer Lenders Act applies to loans of less than \$10,000. Ariz. Rev. Stat. Ann. §§ 6-601(7), 6-602(B). It allows 36% on the first \$3000 and 24% on the remainder. § 6-632(A). It also allows a fee of 5% of the principal, capped at \$150. § 6-635(A)(4). § 6-632 states that the lender can collect finance charges on this fee. With these elements, a \$10,000 loan can have an APR of 30%.

A second statute, § 44-1205, allows the contract rate but applies only to loans of \$5,000 or less. In addition, it does not apply to loans subject to the Arizona Consumer Lenders Act. § 44-1205(A).

In 2018, Arizona enacted Ariz. Rev. Stat. Ann. §§ 41-5601 to 41-5612, establishing a “Regulatory Sandbox Program” under which businesses can apply to the attorney general for permission to test “innovative” loan products and other financial services without complying with licensure requirements. The statute requires any consumer loans made under this program to comply with §§ 6-114, 6-632, 6-635(a)-(c), and 6-637, which include the interest rate cap, the restrictions on fees, and a number of other consumer protections. § 41-5605(B)(3).

ARKANSAS

Amendment 89, § 3 of the Arkansas Constitution limits the interest rate on loans to 17%.

CALIFORNIA

The California Finance Lenders Law limits the interest and fees that can be charged for loans of less than \$2,500, but does not limit the interest or fees for loans above that amount. Cal. Fin. Code §§ 22203, 22303. However, the statute does prohibit unconscionable loan terms. §§ 1670.5, 22302.

COLORADO

The Colorado Consumer Credit Code applies to loans of up to \$75,000 (and to any loan secured by land). Colo. Rev. Stat. § 5-1-301(15). For a supervised loan, defined by § 5-1-301(47) as one with a rate of more than 12%, 36% is allowed on the first \$1,000, 21% on the amount between \$1,000 and \$3,000, and 15% on the remainder. Applying these split rates produces an APR of 20% for a \$10,000 5-year loan. In the alternative, the statute allows the lender to charge 21%. § 5-2-201(2). The statute also allows an alternate rate based on an acquisition charge of 10% of amount financed plus a monthly installment account charge, but this is allowed only for loans of \$1000 or less, so is irrelevant here. § 5-2-214. Colorado’s payday loan law, Colo. Rev. Stat. §§ 5-3.1-101 to 5-3.1-123, allows 45% interest plus a number of fees that add up to a maximum APR of about 175%, but does not apply to a loan of more than \$500.

CONNECTICUT

After recent amendments, Conn. Gen. Stat. § 36a-558(d) now provides that a small loan between \$5,000 and \$15,000 cannot carry an APR (defined by § 36a-555(2) to incorporate the TILA definition) greater than 25%. (It also provides that the APR cannot exceed 36% as defined by the Military Lending Act if the loan is under \$5,000.)

DELAWARE

Delaware’s Licensed Lenders Law, Del. Code Ann. tit. 5, §§ 2229, 2237, allows any interest rate agreed to by the parties. No provision in the statute limits the size of the loans to which it applies.

DISTRICT OF COLUMBIA

D.C. Code § 28-3301 allows an interest rate of 24% and appears to apply to a loan of any size. In addition, it is possible to read § 28-3301(e)(2) as allowing one point. A second licensing statute applies to loans of up to \$25,000, but exempts a variety of lenders. §§ 26-910, 26-912(a)(5). Without or without points, the maximum allowable APR for a \$10,000 loan, rounded to the nearest whole number, is 24%.

FLORIDA

The Florida Consumer Finance Act allows 30% on the first \$3000 of principal, 24% on the next \$1000, and 18% on the amount over \$4,000, plus a \$25 credit investigation fee. Fla. Stat. § 516.031(1), (3). This law applies to loans of \$25,000 or less. §§ 516.01(2), 516.031(1). Applying these split rates produces an APR of 24% for a \$10,000 5-year loan. In 2018, Florida amended § 560.404 to allow payday installment loans (“deferred presentment installment transactions”) at a 208% APR, but since the loan amount is limited to \$1000 this amendment does not affect the loans studied in this report.

GEORGIA

The Georgia Industrial Loan Act, which allows 10% per annum as a discount interest calculation plus a number of fees, applies only to loans of \$3000 or less. Ga. Code Ann. § 7-3-8. For loans not governed by the Industrial Loan Act, § 7-4-2(a)(1)(A) allows any rate set by contract, but subject to § 7-4-18, which caps this at 5% per month (60% per year). The fees allowed by §§ 7-3-14 and 7-3-15 do not apply to a loan greater than \$3000. §§ 7-3-14, 7-3-15.

HAWAII

For a precomputed loan with a term greater than 48 months, Hawaii’s Financial Service Loan Companies law allows a lender to charge a 24% APR, calculated according to the Truth in Lending Act. The statute also allows a discount interest calculation, using rates of 14% and 10½%, but only for loans of 48 months or less. Haw. Rev. Stat. § 412:9-302.

IDAHO

The Idaho Credit Code allows any rate agreed to by the parties, with no limit other than unconscionability. Idaho Code §§ 28-45-106, 28-42-201(1).

ILLINOIS

The Illinois Consumer Installment Loan Act, 205 Ill. Comp. Stat. Ann. § 670/15(a), provides that the APR cannot exceed 36%. § 670/15d(5) allows a \$25 document preparation fee “in addition to the charges authorized by this Act.” The statute does not include a definition of APR, but since the document preparation fee would be treated as part of the finance charge to compute the APR under Truth in Lending rules, a reasonable interpretation would be to require it to be included as part of the 36% interest. For a \$10,000

five-year loan the APR, rounded to the nearest whole number, is 36% regardless of how this \$25 fee is treated.

The Illinois payday installment loan law, 815 Ill. Comp. Stat. Ann. § 122/2-5, which allows much higher APRs, applies only to loans of 180 days or less (with a minimum of 112 days).

INDIANA

Indiana's Consumer Credit Code applies to loans of all sizes. For a supervised loan, defined by Ind. Code § 24-4.5-3-501 as one with a rate of more than 25%, the statute allows either 1) 36% actuarial on the first \$2,000 of principal, 21% on the next \$2,000, and 15% on the remainder; or 2) 25%. § 24-4.5-3-508(2). These amounts are to be adjusted for inflation, but 750 Ind. Admin. Code 1-1-1 shows no change as of July 1, 2018. The statute was amended in 2018 but in ways that do not affect the analysis of the APR allowed for a \$10,000 five-year loan. Applying the split rates to this loan produces an APR of 23%, less than the alternate 25% rate.

IOWA

Iowa's Regulated Loan Act applies to loans of up to \$50,000, which is adjusted for inflation. Iowa Code § 537.1301. It allows 36% on the first \$150, 24% on the remainder up to \$300, 18% on the remainder up to \$700, and 12% on the amount above \$700. But the regulator has adopted a rule for loans of \$10,000 or less, allowing 36% on the first \$3,000, 24% on the remainder up to \$8,400, and 18% on the remainder up to \$10,000. Iowa Admin. Code r. 187-15.13 (as amended effective July 1, 2017). The statute does not allow any fees on top of these interest rates. These split rates produce an APR of 29% on a \$10,000 loan.

A second Iowa statute, the Industrial Loan Law, Iowa Code §§ 536A.1 to 536A.32, applies to loans of up to \$50,000, which is adjusted for inflation. § 536A.3 (incorporating § 537.1301(15)). The statute allows 10% per hundred per year, which may be calculated as discount or add-on interest. § 536A.23(1)(a)(1). In addition, the lender may charge \$1 per \$50 of the note, up to \$120. § 536A.23(1)(b). These calculations produce an APR of 32%.

A third Iowa statute, the Iowa Consumer Credit Code, also applies to loans of up to \$50,000, which is adjusted for inflation. § 537.1301 (incorporating a threshold in the Truth in Lending Act). It allows an interest rate of 21% actuarial. § 537.2401(1). An application fee of the lesser of 10% of the amount financed or \$30 is allowed, but only if the lender is a bank, savings and loan association, credit union, or savings bank. § 537.2501(1)(j).

KANSAS

The Kansas Consumer Credit Code applies to loans of \$25,000 or less or loans secured by land. Kan. Stat. Ann. § 16a-1-301(17). It allows interest of 36% on the first \$860, and 21% on the remainder. § 16a-2-401(2). In addition, it allows a loan fee of the lesser of 2% of the amount financed or \$100. § 16a-2-401(6)(b). Taking the split interest rates and the loan fee into account, the maximum APR for a \$10,000 loan is 23%.

KENTUCKY

The Kentucky Consumer Loan Companies statute applies to loans of \$15,000 or less. Ky. Rev. Stat. Ann. §§ 286.4-420, 286.4-530(1). It allows interest of 36% if the loan is for \$3,000 or less, and 24% if the loan is for more than \$3,000. § 286.4-530(1). It also allows a credit investigation charge of \$1.50 for each \$50 or fraction of the principal on the first \$2,000. § 286.4-533(4). Putting all these elements together produces an APR of 24% on a \$10,000 5-year loan.

In addition, the Kentucky Industrial Loan Act, Ky. Rev. Stat. Ann. §§ 286.7-410 to -990, allows \$7 per \$100 add-on or discount interest for a loan of \$7500 or less. This would not apply to a \$10,000 loan, but § 286.7-460(4) also allows the rates allowed by § 286.3-215, which is \$8 per hundred add-on or discount, as long as the principal does not exceed \$10,000. However, the discount interest method cannot be used for a loan in which the consumer receives \$10,000, because then the principal would have to be stated as more than \$10,000. Regardless of which method of calculating the maximum amount of interest is used, the statute also allows the lender to charge \$1 for each \$50 or fraction thereof on the first \$800. § 286.3-215(2). Putting all this together, the maximum APR for a \$10,000 loan under this Act is 22%.

LOUISIANA

Louisiana's Consumer Credit Law allows 36% per year on the first \$1400 of the principal, 27% on the remainder up to \$4,000, 24% on amount exceeding \$4000 but not exceeding \$7,000, and 21% on the remainder. La. Rev. Stat. Ann. § 9:3519(A). In addition, § 9:3530 allows a \$50 nonrefundable origination fee, which is "not considered a loan finance charge," and a documentary charge of \$20. § 9:3530(A), (C). Treating both of these fees as part of the principal for purposes of determining the maximum amount of interest that can be charged, the APR for a \$10,000 loan is 27%.

MAINE

Under Maine's Consumer Credit Code, the interest rate is limited to 18% if the amount financed exceeds \$8000, and no fees are allowed. (For smaller loans, the statute allows 30% on the first \$2000, 24% on the next \$2000, and 18% on the remainder). Me. Rev. Stat. Ann. tit. 9-A, § 2-401(2). The statute applies to loans of up to \$50,000, which is adjusted for inflation. § 1-301(14).

MARYLAND

The Maryland Credit Grantor Closed-End Credit Provisions allow 24% simple interest. Md. Code Ann., Com. Law §§ 12-1003(a), 12-1005. This law also allows some additional charges but with many exceptions and provisos that make them inapplicable to unsecured consumer loans. Maryland's general usury law, Md. Code Ann., Com. Law § 12-103, allows 24% for unsecured loans or those secured by collateral other than real estate.

A second Maryland statute, the Maryland Consumer Loan Law—Credit Provisions, allows a variety of interest rate caps. Md. Code Ann., Com. Law § 12-306. Under

amendments effective on October 1, 2018, the statute allows 2.75% per month on the first \$1,000 and 2% on the rest, for loans of up to \$25,000. Applying these split rates to a \$10,000 five-year loan produces an APR of 25%.

MASSACHUSETTS

For loans of \$6,000 or less, a Massachusetts small loan law caps interest at 23% actuarial, plus a \$20 administrative fee. Mass. Gen. Laws ch. 140, §§ 96, 100; 209 Mass. Code Regs. § 26.01(a). The state's criminal usury law, Mass. Gen. Laws ch. 271, § 49(e), caps interest at 20% for lenders that are not subject to "control, regulation or examination" by a state agency, where the interest rate would not be regulated by any other law. Since a non-bank lender making a loan for more than \$6,000 would not be subject to the small loan law, and its interest rate would not be regulated by that law, the criminal usury statute's 20% cap would apply.

MICHIGAN

The Michigan Regulatory Loan Act applies to all loan amounts and allows 25% interest. Mich. Comp. Laws § 493.13 (incorporating § 445.1854). In addition, it allows a loan processing fee of 5% of principal, up to \$250 (now adjusted to \$300 due to inflation) to be added to the principal for a closed-end loan. §§ 493.13(4), 445.1856(1)(a). Taking these two elements together, the maximum APR for a \$10,000 loan is a little bit above 26%. Michigan also has a Credit Reform Act, which also allows a 25% interest rate but allows a slightly lower processing fee, so would result in a lower maximum APR. §§ 445.1854, 445.1856(1)(a).

MINNESOTA

Minn. Stat. § 47.59 (Financial Institution Credit Extension Maximum Rates) applies to all loan amounts. It allows 1) 21.75% on the unpaid balance; or 2) 33% on the first \$1,200 and 19% on the remainder. The statute also allows a \$25 administrative fee, which may be included in the principal balance on which the finance charge is computed. But this fee is allowed only if loan amount is less than \$6,912 (this is the figure adjusted for inflation as of 2018), so cannot be charged for a \$10,000 loan. Applying the split rates to a \$10,000 five-year loan produces a maximum APR of 21.5%, a little less than the alternate rate of 21.75%, which we round up to 22% for purposes of this report. Minnesota's Consumer Short-Term Loans Act, § 47.601, applies only to loans of \$1,000 or less.

MISSISSIPPI

Mississippi's Small Loan Regulatory Law, which applies to loans of any amount, allows a split rate: 36% on the first \$1,000; 33% on the remainder up to \$2,500; 24% on the amount between \$2,500 and \$5,000; and 14% on the amount over \$5,000. These rates can be increased when the federal discount rate is above a certain amount but that is not the case now. Miss. Code Ann. § 75-17-21. It also allows a fee of 4% of the total of payments or \$25, whichever is more, if the loan is for \$10,000 or less; otherwise the fee is \$500. § 75-17-21(3). Putting these elements together, the maximum APR for a \$10,000 loan under this statute is 26%.

Mississippi's Installment Loan Law, § 75-67-39, applies to all loan amounts, but allows a lower APR: 7%.

The Mississippi Consumer Alternate Installment Loan Act, §§ 75-67-175 to -185 applies only to loans of \$4,000 or less, and the Mississippi Credit Availability Act, §§ 75-67-601 to -637, applies only to loans for 12 months or less, so neither applies to a \$10,000 5-year loan.

MISSOURI

Missouri's Small Loan Act applies to loans of any size and allows any rate agreed to by the parties. Mo. Rev. Stat. § 408.100.

MONTANA

Montana's Consumer Loan Act applies to loans of any size. Mont. Code Ann. §§ 32-5-102(2)(a), 32-5-103(1). It caps the interest rate at 36% and does not allow any origination fees. § 32-5-301.

NEBRASKA

Nebraska allows a lender to charge 24% on the principal up to \$1,000, and 21% on the remainder. Neb. Rev. Stat. § 45-1024(1). It also allows a lender to charge an origination fee of 7% of the first \$2,000 of the original principal and 5% of the remainder, or \$500, whichever is less, which can be added to the principal. § 45-1024(5). (The same statutory provision also allows "reasonable expenses incurred in connection with the making, closing, disbursing...of loans," but the regulator has confirmed that these must fall within the \$500/7%/5% cap.) The statute applies to loans of up to \$25,000. § 45-1025(2). Putting the split rates and the fee together produces a maximum APR of 24% for a \$10,000 5-year loan.

NEVADA

The Nevada Installment Loan and Finance Act, Nev. Rev. Stat. §§ 675.010 to 675.490, allows a lender to charge any rate agreed to by the parties, but § 604A.400 prohibits operating as a "high rate loan service," i.e., one that charges more than 40%, without a license, and even with a license limits high-rate loans to 90 days. As a result, for loans longer than 90 days, the APR is capped at 40%.

NEW HAMPSHIRE

New Hampshire allows a lender to charge a 36% APR for closed-end credit, calculated by TILA rules. N.H. Rev. Stat. Ann. § 399-A:16. Under § 399-A:16(I), for purposes of calculating the statutory 36% APR cap, one annual fee of up to \$100 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 APR cap for open-end credit. Accordingly, the cap for a closed-end \$10,000 5-year loan is 36%. The statute applies to loans of \$10,000 or less. § 399-A:1(XX).

NEW JERSEY

N.J. Stat. Ann. § 17:11C-32 allows any rate agreed to by the parties for any consumer loan by a licensed lender. This law applies to loans of \$50,000 or less. § 17:11C-2 But the criminal usury statute, § 2C:21-19, which applies to all loan amounts, makes it a crime to charge more than 30% “notwithstanding any law of this State which permits as a maximum interest rate a rate or rates agreed to by the parties,” so the maximum APR for a \$10,000 five-year loan is 30%.

NEW MEXICO

New Mexico caps interest rates, but only for loans of \$5,000 or less. N.M. Stat. Ann. § 58-15-2(F). There is no cap that would apply to a \$10,000 loan, except that the state deceptive practices statute includes a prohibition of unconscionable terms that has been applied to high-rate consumer installment loans.

NEW YORK

The New York Licensed Lender Law allows any contracted rate for any consumer loan under \$25,000. N.Y. Banking Law § 351. Nonetheless, New York’s criminal usury statute caps the rate at 25%. N.Y. Penal Law § 190.40.

NORTH CAROLINA

The North Carolina Consumer Finance Act applies to loans of \$15,000 or less. N.C. Gen. Stat. §§ 53-166(a), 53-168(a). It allows 30% on the first \$4000 of principal, 24% on the next \$4,000, and 18% on the remainder. § 53-176(a). It also allows a \$25 processing fee for a loan up to \$2,500. For a loan greater than \$2500, it allows a 1% closing fee, up to \$40. § 53-176(b). Taking this split rate and the closing fee into account, the maximum APR allowed for a \$10,000 5-year loan is 27%. For a loan greater than \$10,000, the statute would limit the interest rate to 18%. North Carolina’s general statutory provisions regarding interest, which apply to loans of up to \$300,000, § 24-1.1(f), allow 16% or 6 percentage points above a T-bill rate, which is currently so low that produces a rate less than 16%. § 24-1.1(a), (c).

NORTH DAKOTA

North Dakota’s Money Brokers statute imposes rate caps only on loans of \$1,000 or less. N.D. Cent. Code § 13-04.1-09.2(1). The criminal usury statute imposes a 7% cap, but it does not apply to any lending institution regulated by a state agency. § 47-14-09(2)(e).

OHIO

Ohio has several lending laws that limit interest rates: the Small Loan Act, the General Loan Law, and the Consumer Installment Loan Act. However, for loans of \$5,000 or more that have repayment terms of more than a year, lenders can evade the interest rate caps in these statutes by making the loan through a credit services organization, so Ohio is classified as having no cap. (In 2018, the legislature amended Ohio’s lending laws.)

OKLAHOMA

The Oklahoma Consumer Credit Code applies to loans of up to \$50,000, adjusted for inflation, and to loans secured by land and private student loans. Okla. Stat. tit. 14A, § 3-104. It allows either 25%, or a set of split rates: 27% per year on that part of the unpaid balance of the principal that is \$2,910 or less, 23% on the amount over \$2,910 but no more than \$6,200, and 20% on the remainder, with no fees. § 3-508A. Applying these split rates produces a maximum APR of 25% for a \$10,000 5-year loan. Higher rates are allowed by § 3-508B, but only for loans of \$1530 or less.

OREGON

The Oregon Consumer Finance Act applies to loans of up to \$50,000. Or. Rev. Stat. § 725.045(1). It allows the greater of 36% APR or 30 percentage points in excess of the discount window primary credit rate (which was 2.25% as of July 9, 2018, so would produce a rate less than 36%). § 725.340(1). As a result, the maximum rate is 36%.

PENNSYLVANIA

Pennsylvania's Consumer Discount Company Act allows 1) discount interest of \$9.50 per \$100 per year for a loan up to 48 months; if loan is longer than 48 months, it allows discount interest of \$9.50 per \$100 per year for the first 48 months and \$6 per \$100 per year for the remainder; or 2) 2% per month. 7 Pa. Stat. Ann. §§ 6213(E), 6217.1. It also allows the lender to charge a service charge of \$1.50 for each \$50 "or fraction thereof," up to \$150. The regulator has indicated that the \$1.50 service charge is to be calculated on the total of payments, i.e., the amount financed, the discount interest, and the service charge itself. This statute applies to loans of \$25,000 or less. § 6203. Applying both the interest and the service charge produces a maximum APR of 26% for a \$10,000 five-year loan.

RHODE ISLAND

The Small Loan Lenders Act, which allows 3% per month on the first \$300, 2.5% per month on the remainder up to \$800, and 2% per month on the remainder, applies only to loans of \$5000 or less. R.I. Gen. Laws §§ 19-14.2-1, 19-14.2-8. Since this Act does not apply, a \$10,000 five-year loan is governed by a more general interest rate cap of 21% or the Wall Street Journal prime rate (which was 5% on July 9, 2018) plus 9%. § 6-26-2. As a result, the maximum APR is 21%.

SOUTH CAROLINA

The South Carolina Consumer Protection Code applies to loans of up to \$90,000. S.C. Code Ann. § 37-3-104. The statute allows the lender to choose between two alternate rate caps (18% or an add-on rate) for a loan of \$600 or less. For a loan of more than \$600,

however, this law permits the lender to charge any rate that it files and posts. § 37-3-201(2)(b). The only limit is a prohibition of unconscionability. § 37-5-108. South Carolina also has a Consumer Finance Law, but it applies only to loans of \$7500 or less. § 34-29-20(a).

SOUTH DAKOTA

Due to a voter initiative, a 36% cap was imposed on loans of any amount, effective Nov. 16, 2016. S.D. Codified Laws § 54-4-44. This rate cap encompasses all charges and fees, including charges for ancillary products and services, so is a tighter cap than in most other states.

TENNESSEE

For a loan of more than \$5,000, Tennessee's Industrial Loan and Thrift Companies law allows an interest rate of up to 24%. Tenn. Code Ann. § 45-5-301. In addition, the lender can charge 4% of the total amount of the loan, which can be deducted in advance, plus \$2.50 per month (interest and loan charges are not computed on this latter amount). § 45-5-403(a). Putting this interest rate and these fees together, the maximum APR for a \$10,000 loan is 26%. The statute appears to apply to a loan of any amount. (For loans of \$5,000 or less, the statute provides two alternate, higher caps).

TEXAS

The Texas Finance Code applies to loans regardless of their amount. For a \$10,000 loan, the statute allows a \$100 administrative fee (added after calculation of interest) plus either a) 30% on the first \$3,500, 24% on the next amount up to \$7,350, and 18% on the next amount up to \$17,500; or b) \$18 per \$100 per year as an add-on rate for the first \$2,100 and \$8 per \$100 per year on the remainder. Tex. Fin. Code Ann. § 342.201, as adjusted for inflation pursuant to §§ 341.201 to 341.204. The former calculation produces the higher APR for a \$10,000 five-year loan: a little bit above 30%. A separate set of rules known as Subchapter F allows higher finance charges but is applicable only to loans of \$1400 or less. § 342.251.

UTAH

Utah's Consumer Credit Code applies to loans of up to \$50,000 (adjusted annually for inflation) and to any loan that is secured by the consumer's principal dwelling. Utah Code Ann. § 70C-1-202. The statute allows any interest rate agreed to by the parties, limited only by a prohibition of unconscionable terms. §§ 70C-2-101, 70C-7-106.

VERMONT

Vermont's Licensed Lenders Act applies to any loan other than a commercial loan of \$1 million or more. Vt. Stat. Ann. tit. 9, § 2201(h). It allows 1) 24% on the first \$1,000 and 12% on the excess over \$1,000; or 2) 18% on the whole balance. § 2230(a) (incorporating

tit. 9, § 41a(b)(5)). The first option—the split rate calculation—produces an APR of 14% for a \$10,000 5-year loan, so the maximum rate for this loan is the second option (18%).

VIRGINIA

The Virginia Consumer Finance Companies law applies to loans of any size. It caps the interest rate at 36%, but only for loans of up to \$2500. If the loan is for more than \$2500, the lender can charge any rate agreed to by the parties. Va. Code Ann. § 6.2-1520(A).

WASHINGTON

The Washington Consumer Loan Act applies to loans of any size. It allows 25% simple interest, plus a nonrefundable origination fee of 4% of the first \$20,000 of the principal and 2% of the remainder, which may be included in the principal balance of the loan. Wash Rev. Code § 31.04.105(1), (2). For a \$10,000 5-year loan, this produces an APR of 27%.

WEST VIRGINIA

For a loan that is greater than \$2,000 but no more than \$10,000, or that is secured by real property, West Virginia's Consumer Credit and Protection Act allows an actuarial interest rate of 27% (18% if the loan exceeds \$10,000, and 31% if the loan is for \$2,000 or less). W. Va. Code § 46A-4-107. In the alternative, a lender may charge 1) 1% in excess of the 90-day discount rate; 2) 6% add-on interest; or 3) 6% discount interest, provided that the actuarial interest rate does not exceed 15%. §§ 31a-4-30a (made applicable to non-bank lenders by § 46A-3-117), 46A-3-104(1) (incorporating § 47-6-5a). However, all three of these alternative methods produce lower APRs than 27% for a \$10,000 five-year loan. § 46A-4-107(2).

WISCONSIN

Wisconsin's Licensed Lenders law applies to loans of any size, and the Wisconsin Consumer Act applies to loans of \$25,000 or less. Wis. Stat. §§ 138.09, 421.202. Neither statute places any limit on the interest rate a lender can charge other than a statutory prohibition of unconscionability. §§ 138.09(7)(bp), (k), 422.201(2)(bn).

WYOMING

The Wyoming Consumer Credit Code applies to loans of up to \$75,000, and to any loan secured by land or a dwelling. It allows 36% on the first \$1000 and 21% on the remainder. § 40-14-348. Applying these split rates to this loan produces an APR of 23%.

Boston Headquarters:
7 Winthrop Square
Boston, MA 02110-1245
Phone: 617/542-8010
Fax: 617/542-8028
www.nclc.org

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Washington Office:
1001 Connecticut Ave, NW
Suite 510
Washington, DC, 20036
Phone: 202/452-6252
Fax: 202/463-9462