

# INSTALLMENT LOANS

## WILL STATES PROTECT BORROWERS FROM A NEW WAVE OF PREDATORY LENDING?

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### APPENDIX D

## SUMMARIES OF STATE OPEN-END CREDIT STATUTES

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### INTRODUCTION

This set of summaries encompasses state statutes that allow lenders other than depository institutions to extend unsecured open-end consumer credit, by credit card or otherwise, for cash advances. It excludes open-end credit statutes that are limited to:

- Credit for the purchase of goods or services.
- Credit that is secured by real property.
- Advances of less than \$500, or that must be repaid over less than six months.
- Vehicle title loans.
- Non-consumer transactions.
- Lending by banks, credit unions, or similar depository institutions.

Some states have special statutes for open-end credit. In other states, provisions regarding open-end credit are embedded in a more broadly-applicable consumer lending statute. Both types of provisions are included in these summaries. Consumer lending statutes that do not specifically provide for open-end credit are not included in these summaries, but are summarized only in the separate set of summaries of state installment loan laws.

Interest rates stated in these summaries are actuarial and per year unless otherwise specified. For the sake of simplicity, interest rates that are calculated by applying a rate to a declining balance are referred to as “actuarial” for the most part in these summaries, without regard to whether they allow unpaid interest to be added to the principal. However, for some statutes that are particularly clear that unpaid interest is not to be added to the principal, these summaries term the interest rate “simple” interest. Where a statute specifies a monthly rather than annual interest rate, in most cases these summaries convert the interest rate to an annual rate.

Since open-end credit is universally structured as interest-bearing rather than precomputed, these summaries assume that rebate formulae for precomputed interest are inapplicable to open-end credit, so summaries of those provisions are not included. Similarly, since add-on and discount interest rates can be calculated only if the number of months in the loan term is known at the outset of the transaction, which is not the case for open-end credit, these summaries assume that statutes that allow only discount or add-on interest are inapplicable to open-end credit. See *National Consumer Law Center, Consumer Credit Regulation* Ch. 5 (2012), updated at [www.nclc.org/library](http://www.nclc.org/library), for an

explanation of add-on and discount interest rate calculations and the difference between precomputed and interest-bearing obligations.

These summaries identify provisions in state open-end credit laws that prohibit unconscionable or unreasonable charges. These summaries do not, however, list other state sources of unconscionability rules. For example, a number of state unfair and deceptive practices statutes prohibit unconscionable consumer transactions. Whether those laws apply to credit terms varies from state to state and is beyond the scope of these summaries. See National Consumer Law Center, *Unfair and Deceptive Acts and Practices* §§ 2.2.1, 4.4 (8th ed. 2012), *updated at* [www.nclc.org/library](http://www.nclc.org/library) for a discussion of these issues. Many states also recognize a common law prohibition of unconscionability.

These summaries list the types of insurance for which the statutes allow creditors to charge consumers. If the statute prohibits creditors from charging consumers for insurance in certain transactions, such as loans under a certain amount, that is noted. However, the summaries do not list other restrictions, such as restrictions on the rates or the reasonableness of the insurance. They list fees that the consumer must pay in order to get or use the extension of credit, including annual or monthly fees, transaction charges, and up-front charges such as investigation charges and credit report fees. They do not include charges that relate solely to open-end credit secured by real estate or charges such as extension or deferment charges, collection costs, charges for dishonored checks, and charges for special processing of payments that are imposed only if future events occur.

Some provisions of state consumer credit statutes apply to extensions of credit that have scheduled payments within certain dollar limits or that have a term of a specific length. Since open-end credit is generally defined as having an indefinite payment period and undetermined payment amounts, these summaries assume that such provisions are inapplicable to open-end credit.

Some state consumer credit statutes provide that the consumer has the right to prepay a loan, but do not explicitly state whether a prepayment penalty can be charged. In some cases, the statute may forbid any charge that is not specifically allowed. These statutes will likely be interpreted to allow prepayment without penalty, since the statute does not specifically allow a prepayment penalty.

Many of the state open-end credit laws address wage assignments. The FTC's Credit Practices Rule, 16 C.F.R. § 444.2(a)(3), prohibits wage assignments unless they are revocable or apply only to wages already earned, with an exception for payroll deduction plans. The federal rule overrides any less protective state laws.

Many state consumer credit statutes require certain lenders to be licensed. These summaries describe the consequences stated by the statute that attach to unlicensed lending that are specified in the statute. In some cases, there may be indirect consequences. For example, some statutes allow a lender to charge more than a certain rate only if licensed, and provide that a loan is void if it includes unauthorized charges. Under these statutes, any charges above that rate in a loan by an unlicensed lender are unauthorized, so the lack of a license means that the loan is void.

These summaries simplify complex statutory provisions, and do not attempt to capture the statutes' nuances or resolve ambiguities. They are based primarily on a close reading of the statutory language, and courts may have interpreted these laws in unexpected ways. We asked regulators in each state to review their state's summaries, and many did, but the conclusions and summaries are ours and do not represent an official interpretation or the views of state regulators. Consumers and lenders should consult an attorney or other authoritative source about the application and interpretation of these laws, and attorneys should review their state statutes, regulations, and judicial decisions thoroughly before advising clients about their requirements. Corrections should be brought to the attention of the authors.

These summaries were prepared in early 2015 and do not reflect amendments that may have occurred since then. These summaries are also included as Appendix E to *National Consumer Law Center, Consumer Credit Regulation* (2012), updated at [www.nclc.org/library](http://www.nclc.org/library), and will be updated there.

## ALABAMA

### *Ala. Code §§ 5-19-1 to 5-19-33 (Consumer Credit Act or “Mini-Code”).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to all creditors, except pawnbrokers and insurance agents or agencies that charge collection fees on unpaid balances for insurance premiums. In addition, provisions other than that § 5-19-1(1) (definition of “finance charge”) and § 5-19-3 (maximum finance charges), do not apply to:

- A transaction involving an interest in real property where creditor is exempt from licensing.
- Non-consumer transactions.
- A credit transaction by a trust institution in its capacity as a fiduciary under any plan or agreement qualified under applicable federal law, or a trust exempt under federal tax law.
- A municipal pension system created under Alabama law.
- A policy loan by a life insurance company.

### *§ 5-19-31.*

*Licensure requirements and implications of licensure:* Unless creditor is bank, savings or building and loan association, savings bank or other thrift institutions, bank holding company, thrift holding company, credit union, or federally constituted agency, may not make consumer loans to Alabama residents or take assignments of consumer credit contracts without license. § 5-19-22(a). Any person licensed under the Small Loan Act may engage in business under that Act, but shall not make loans in excess of \$1,000

unless such person is also licensed under this Act. § 5-19-22(f).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute has certain provisions that apply only to loans of less than \$2,000 and others that apply only to loans of \$2,000 or more.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Banks, savings and loans associations, savings banks, and credit unions can charge agreed rate on open-end credit plan. § 5-19-3(e) (incorporating § 5-20-5). For open-end credit extended by other entities with credit limit less than \$2,000, 1-3/4% per month on first \$750 and 1-1/2% on excess, § 8-8-14(b), but may charge minimum finance charge of \$0.50 per month. § 5-19-3(c). In addition, creditor may charge surcharge of 6% of amount financed. § 8-8-14(a). For open-end credit with credit limit of \$2,000 or more, any creditor can charge agreed rate unless unconscionable. § 5-19-3(e) (incorporating § 8-8-5).

*What loan fees are allowed?* Statute does not identify any fees that are allowed.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life, disability, and involuntary unemployment insurance; property insurance on collateral and liability insurance, but only if original amount financed is \$300 or more and the value of the property is \$300 or more; non-filing insurance. § 5-19-19.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Provisions apply only to closed-end credit.

*Any restrictions on prepayment penalties?* Provision applies only to closed-end credit.

What security interests (or postdated checks or ACH authorizations) are allowed or prohibited? Statute is silent.

Does statute prohibit unconscionable loan charges? Yes. § 5-19-16. See also § 8-8-5(a) (allowing agreed rate transactions but subjecting them to this unconscionability rule).

Must lender underwrite or evaluate borrower's ability to repay? Statute is silent.

If state has a criminal usury law, is lending under this statute exempt from it? Not applicable.

Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports: Statute is silent.

Other significant features: Prohibits loan-splitting. § 5-19-17.

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## ALASKA

### *Alaska Stat. §§ 06.20.010 to 06.20.920 (Small Loans Act).*

What types of lenders it applies to (e.g., banks vs. non-banks): All lenders except:

- Exception from license requirement only: banks, savings banks, trust companies, building and loan associations, and credit unions. § 06.20.010(b)
- Complete exemption: Individual loans by pawnbrokers where separate and individual loans do not exceed \$750 or loan shops where separate and individual loans do not exceed \$500. § 06.20.330.

Licensure requirements and implications of licensure:

A license is required for the business of making loans up to \$25,000 at an interest rate greater than otherwise permitted by law for non-licensees. §§ 06.20.010(a), 06.20.300. Non-licensee is limited to rate that can be charged without a license, § 06.20.300, and loan is unenforceable if more interest has been charged than permitted by the Act. § 06.20.310.

Size and length of loans to which the statute applies, and any restrictions in the statute on these features: Licensee may make open-end loans not exceeding an aggregate total of \$25,000. § 06.20.285(a).

Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property): Statute is silent.

What rate of interest is allowed?

- 3% a month on balance of \$850 or less;
- 2% a month on balance exceeding \$850 but not exceeding \$10,000; and
- Any rate agreed by contract on unpaid principal balance exceeding \$10,000 but not exceeding \$25,000.

§ 06.20.230(b). For amounts greater than \$25,000, licensee may not charge more interest than allowed for non-licensees. § 06.20.280.

What loan fees are allowed?

- Recording and titling fees, including non-filing insurance premiums that do not exceed these fees.
- For loans over \$10,000, reasonable costs and fees paid by a licensee for appraisals, surveys, title insurance or reports, and credit reports. § 06.20.260(a).

What types of insurance are allowed, and any limits the lending statute places on charges? General: Statute allows charges for credit insurance, insurance on pledged property, and non-filing insurance. § 06.020.260. Open-end loans: consumer credit, credit loss of income, and property insurance. §§ 06.20.260, 06.20.287.

Does statute prohibit all other fees besides those specifically allowed? Yes. § 06.20.260.

Does statute restrict balloon payments or require substantially equal installments? Yes, payments must be in substantially equal amounts and must be due at least once a month, with the first payment beginning not later than 45 days from the date the loan is made. There are exceptions for seasonal or extraordinary income. § 06.20.250(d), (e).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prepayment penalties are prohibited because not authorized by § 06.20.260. Lender must permit payment to be made in advance in any amount at any time. § 06.20.270(3).

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* “A licensee may secure the payment of an open-end loan in the same manner as other loans under this chapter may be secured.” § 06.20.285(c).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report containing information as the department may reasonably require. § 06.20.190.

*Other significant features:* Prohibits loan splitting. § 06.20.240. Anti-evasion provisions. §§ 06.20.290, 06.20.300.

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## ARIZONA

### *Ariz. Rev. Stat. Ann. §§ 6-601 to 6-638 (Consumer Lenders Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Primarily non-bank lenders making at least 3 consumer loans per calendar year to state residents. Specific exclusions:

- Banks, savings banks, trust companies, savings and loan associations, profit sharing and pension trusts, credit unions, insurance companies or receiverships if the consumer lender loan transactions are regulated by the other law or are under the jurisdiction of a court.

- Licensed pawnbrokers.
- Lenders making fewer than two such loans per calendar year to state residents (*see* § 6-601(16)(b)).
- Mortgage brokers.
- Loans that are lawfully made to nonresidents of the state in any other state under a similar law.

### § 6-602.

*Licensure requirements and implications of licensure:* License required to engage in business of consumer lender unless exempt. § 6-603(A). Loan made by unlicensed lender is void. § 6-613(B).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Credit limit of \$10,000 or less. §§ 6-601(9), (12), 6-602(B).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Revolving loans and home equity revolving loans:

- Credit limit of \$3,000: 36%.
- Credit limit over \$3,000: either 36% on first \$3,000 and 24% on remainder or the equivalent blended rate.

### § 6-632(B)

*What loan fees are allowed?*

- Recording fees, or cost of non-filing insurance up to that amount. § 6-635(A)(3).
- Loan origination fee of 5% of agreed credit limit, capped at \$150. § 6-635(A)(4).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property insurance on collateral, life insurance, credit disability insurance, credit unemployment insurance. §§ 6-636, 6-638.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 6-635(C).

*Does statute restrict balloon payments or irregular payment schedules?* Prohibits balloon payments, call options and other contract provisions that permit lender to accelerate payment of an open-end loan for any reason other than consumer's default are prohibited, except during first 15 years. If lender exercises call option after 15 years and loan is not in default, it must amortize the amount due over at least 60 monthly installments. § 6-637(D).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Lender must allow prepayment. § 6-637(F).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute is silent, but references in various sections appear to contemplate security interests in personal and real property. *See, e.g.,* §§ 6-635(A)(3) and 6-636(E) (referring to property insurance and security interests).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report in form prescribed by superintendent, including lender's standard APRs for several types of loans, including a consumer revolving loan with an agreed on credit limit of \$3,000 and a home equity revolving loan with an agreed on credit limit of \$15,000, and the number of consumer revolving loans under \$1,000. Superintendent must compile quarterly report of the standard APRs. §§ 6-609, 6-635(D).

*Other significant features:* Not applicable.

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## CALIFORNIA

*Cal. Fin. Code §§ 22000 to 22780 (West) (Finance Lenders Law).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* "Finance lender" includes any person engaged in the business of making consumer loans or making commercial loans, including a personal property broker. § 22009. "Finance lender" includes any person engaged in the business of making consumer loans as defined in § 22203 or making commercial loans of \$5,000 or more § 22009. Consumer loans also include commercial loans of less than \$5,000 as defined by § 22204. The above statute does not apply to:

- Banks, trust companies, savings and loan associations, insurance premium finance agencies, credit unions, small business investment companies, or community advantage lenders doing business under state or federal law.
- California business and industrial development corporations when acting under federal law or other state authority.
- Licensed pawnbrokers (when acting under the authority of that license).
- Licensed payday lenders.
- Check cashers holding valid permit or license.
- College or university making loan for program or course of study leading to a degree or certificate.
- Broker-dealer acting pursuant to a certificate under state law.
- Person who makes 5 or fewer loans in a 12-month period or who makes commercial loans of more than \$5,000 or under open-end credit program, if the loans are incidental to the person's business.
- A public corporation, public entity other than the state, or any of their agencies § 22050.
- Certain credit cards issued by an organization to its members for a fee designed to cover the administrative costs of the plan. § 22052.

- Loan made or arranged by state-licensed real estate broker and secured by a lien on real property, even if loan is then sold to a finance lender, or made to a licensed real estate broker who is making such a loan. § 22057.
- Loan made or arranged by a licensed residential mortgage lender or servicer when acting under the authority of that license. § 22060.

*Licensure requirements and implications of licensure:* Must have license to engage in business of making consumer loans. §§ 22100(a), 22009 (definition of finance lender). Willful violation of any provision of Act renders loan void. § 22750.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* None, but some provisions vary based on size of loan. Loans of \$5,000 or more are exempt from some of the Act's provisions. Loans of \$10,000 or more are exempt from all of the provisions relevant to these summaries. § 22250. The Finance Lenders Laws has a structured regulatory threshold of loan amounts of \$2,500, \$5,000, and \$10,000 or more in which certain interest rates, fees and other charges are exempt as summarized in §22467. Refer to § 22467 to determine the bona fide principal amount specified in the regulatory ceiling provisions for open-end loans.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Except for open-end loans with a bona fide principal of \$5,000 or more, § 22452 incorporates by reference the finance charge allowed for closed-end credit:

- For loans of \$2,500 or less: 2.5% per month on amount up to \$225; 2% per month on amount over \$225 and up to \$900; 1.5% per month on amount over \$900 and up to \$1,650; and 1% per month on remainder. § 22303.
- Alternative rate for loans of \$2,500 or less: the greater of 1.6% per month on the unpaid principal balance or 5/6 of 1% per month plus a percentage per month equal to 1/12 of the annual rate

prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made, as established by the Federal Reserve Bank of San Francisco. § 22304.

*What loan fees are allowed?* For open-end loans up to \$5,000, § 22454 allows licensee to charge the same fees, costs, and expenses as are permitted for closed-end loans: if loan is \$2,500 or less, an administrative fee of 5% or \$50, whichever is less; if loan is more than \$2,500, a \$75 administrative fee. No administrative fee for refinancing unless at least one year since receipt of a previous administrative fee. Only one administrative fee may be received until loan has been repaid in full. § 22305 (but inapplicable to loans of \$5,000 or more). May also charge a participation fee pursuant to § 22462. May also charge recording fees, and any premium for non-filing insurance. § 22336.

*What types of insurance are allowed, and any limits the lending statute places on charges?* For open-end credit with bona fide principal amount of less than \$5,000, § 22454 allows licensee to use § 22313(a)–(d), which allows licensee to provide insurance on tangible personal or real property that secures the loan (Note that all real estate loans must to be \$5,000 or more.) In addition, the sale of credit insurance (credit life, credit disability, and credit unemployment insurance) is regulated for loans with a bona fide principal amount of less than \$10,000 under § 22455.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 22306. See also § 22326. The statute prohibits all other fees besides those specifically allowed by statute such as late fees, NSF fee, and lien fee when provided for in the loan agreements for loans less than \$5,000. For loans of \$5,000 or more, the fees must be provided for in the loan agreement and limited to actual cost.

*Does statute restrict balloon payments or irregular payment schedules?* Statute requires minimum monthly payment for loans under \$5,000, which must either be a specified percentage of the balance or an amount sufficient to pay all charges plus some principal. § 22453. Requirement of substantially equal

installments does not apply to open-end loans. § 22307; Cal. Code Regs. tit. 10, § 1453.

*Any restrictions on refinancing?* For loans up to \$5,000: No administrative fee for refinancing unless at least one year since receipt of a previous administrative fee. § 22305

*Any restrictions on prepayment penalties?* The borrower has the privilege of paying the account in full at any time. § 22450(d). Any prepayment penalty intended to be collected must be provided for in the loan agreement.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute prohibits collateral sales agreements other than a pledge, assignment, or mortgage of real or personal property. § 22312. Security interest in real property, other than judgment lien, is prohibited if loan is for less than \$5,000. § 22330. Loans may be unsecured, secured by personal property, secured by real property, and/or by business equipment. Postdated checks may be accepted by a lender. ACH authorizations are permitted only if requested by the borrower and cannot be a requirement of the loan by the lender.

*Does statute prohibit unconscionable loan charges?* Yes. § 22302; Civil Code § 1670.5.

*Must lender underwrite or evaluate borrower's ability to repay?* Ability to pay provisions, § 22370(f)(4), apply only to Pilot Program for Increased Access to Responsible Small Dollar Loans. For all loans under the Finance Lenders Law, lenders are required to evaluate the borrower ability to repay pursuant to § 22714 and Cal. Code Regs. tit. 10, § 1452.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable. Note also that § 22002 exempts credit transactions governed by this Act from state constitution's interest rate cap.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report with relevant information in form prescribed by commissioner. Reports

shall be made available to the public for inspection except, upon lender's request, the balance sheet contained in the annual report of a sole proprietor or any other non-publicly traded persons. Licensee must also make other special reports as required. § 22159. Lender participating in the Pilot Program for Increased Access to Responsible Small Dollar Loans must file annual report separate from any other annual report licensee may have to file. § 22367.

*Other significant features:* Loan-splitting prohibited (but this section does not apply to loans of \$5,000 or more). § 22327. Anti-evasion provisions. §§ 22326, 22335. Prohibition against lending more than borrower wants. §§ 22251, 22467.

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## COLORADO

### *Colo. Rev. Stat. §§ 5-1-101 to 5-13-103 (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* All creditors extending consumer credit except loans to government, non-installment sales of insurance, certain transactions under public utility or common carrier tariffs, certain transactions with pawnbrokers, certain transactions involving securities and commodities accounts, and certain state-guaranteed loans. § 5-1-202. Some provisions apply just to "supervised lenders," defined as depository institutions and licensed lenders, or to "supervised loans," defined as those at more than 12%. § 5-1-301(46).

*Licensure requirements and implications of licensure:* Must be a supervised financial organization (defined as taking deposits) or have a license in order to engage in the business of making supervised loans (ones at more than 12%) or to collect on them. §§ 5-2-301, 5-1-301(47). If lender makes supervised loan without a required license, consumer is not required to pay the finance charge. § 5-5-201.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* "Consumer loan" means a loan made or arranged by a



person regularly engaged in the business of making loans in which either the principal does not exceed \$75,000 or the debt is secured by land. § 5-1-301(15).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent. Note that this summary does not include the special provisions for loans of \$1,000 or less authorized by § 5-2-214 that are payable in substantially equal installments over 90 days to 12 months, since they do not appear adapted to open-end credit.

*What rate of interest is allowed?*

- For a consumer loan other than a supervised loan, 12%.
- For a supervised loan pursuant to a revolving credit account, 21%.

### § 5-2-201(1), (3).

*What loan fees are allowed?*

- Official fees and taxes.
- Charges for insurance.
- Annual fee for credit card or similar arrangement.
- Reasonable charges for other benefits conferred on the consumer if they meet certain requirements and are authorized by the administrator.
- \$2.00 or 2.5% of each cash advance on a credit card.

### § 5-2-202(1).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Creditor may agree to provide and charge for insurance. § 5-4-104. Statute specifically mentions property insurance, liability insurance covering liability arising out of ownership or use of property related to the credit transaction, and credit life, accident, and health insurance. §§ 5-2-202(3), 5-4-301, 5-4-303. Creditor may not charge for property insurance unless the amount financed is \$1,000 or more and the value of the property is \$1,000 or more, and other conditions are met. § 5-4-301.

*Does statute prohibit all other fees besides those specifically allowed?* Consumer is not required to pay any

charge in excess of amount allowed by the Code. § 5-5-201(2).

*Does statute restrict balloon payments or irregular payment schedules?* All loans made pursuant to § 5-2-214 (alternative charges for loans not exceeding \$1,000) shall be scheduled to be payable in substantially equal installments at equal periodic intervals. § 5-2-214(2).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Consumer may prepay in full at any time without penalty. § 5-2-210.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* For a consumer loan where the amount financed is \$3,000 or less, security interest in land is prohibited and void. Wage assignment is prohibited and unenforceable. § 5-3-206.

*Does statute prohibit unconscionable loan charges?* Yes. § 5-5-109.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report in form prescribed by administrator. Information contained in annual reports may be published only in composite form. § 5-2-304(2).

*Other significant features:* Prohibits loan-splitting. § 5-3-205.

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## CONNECTICUT

### Conn. Gen. Stat. §§ 36a-555 to 36a-573 (Small Loan Law).

*What types of lenders it applies to (e.g., banks vs. non-banks):* All except banks, credit unions, savings and

loan association wholly owned subsidiary service corporations, persons who make loans for agricultural, commercial, industrial, or governmental use or extend credit through an open-end credit plan for the retail purchase of consumer goods or services, mortgage lenders, or mortgage correspondent lenders when making residential mortgage loans, and licensed pawnbrokers. § 36a-555.

*Licensure requirements and implications of licensure:* Must be licensed in order to make, broker, or arrange a loan of \$15,000 or less and charge interest greater than 12%. § 36a-555.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute applies to loans of \$15,000 or less. § 36a-565(a).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 19.8%. § 36a-565(c).

*What loan fees are allowed?* \$50 annual fee. § 36a-565(c).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life and credit accident and health insurance. § 36a-565(g).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 36a-565(c).

*Does statute restrict balloon payments or irregular payment schedules?* Borrower has privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement. § 36a-565(a).

*Any restrictions on refinancing?* Provision does not apply to open-end loans.

*Any restrictions on prepayment penalties?* Borrower has privilege of paying the account in full at any time. § 36a-565(a). Prepayment penalties are probably prohibited because they are not specifically allowed and § 36a-565(c) prohibits all fees not specifically permitted.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* For open end loans, statute prohibits wage assignments and security interests in household goods, chattels, tangible or intangible personal property, motor vehicles or real property. § 36a-565(h).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent. Criminal usury statute, § 37-4, prohibits interest over 12% only if not otherwise provided by law.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Lender must annually furnish a sworn statement to Commissioner of the condition of the business. § 36a-569.

*Other significant features:* Not applicable.

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## DELAWARE

*Del. Code Ann. tit. 5, §§ 2214-2226 (Revolving Credit).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Persons in the business of lending money, except banks, federal credit unions, insurance companies, and others that are lending money under the authority of another law. §§ 2201, 2202, 2215.

*Licensure requirements and implications of licensure:* Licensed required if person makes more than 5 loans within any 12-month period. § 2202.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Agreed rate. § 2216.

*What loan fees are allowed?* Daily, weekly, monthly, annual, or other periodic charge in agreed amount:

- Transaction charge or charges in agreed amount.
- A minimum charge for each daily, weekly, monthly, annual or other scheduled billing period whenever there is a balance.
- Reasonable fees for services rendered or expenses incurred, such as commitment fees, official fees and taxes, premiums for insurance protecting the licensee against the borrower's default or other credit loss, costs for title examination, inspection, recording and other formal acts necessary or appropriate to the security of the loan, filing fees, attorney fees and travel expenses.
- Other charges that commissioner includes in a schedule of costs, fees, services, points, premiums and other reasonable expenses.

#### § 2218(a).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life, health, accident, health and accident or other credit or other permissible insurance, plus property or liability insurance if debt is secured by real or personal property. § 2221.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 2218(a)(6).

*Does statute restrict balloon payments or irregular payment schedules?* Periodic billing cycles may be established in such manner and shall have such duration as may be specified in agreement. § 2216.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Unless debt is secured by a real estate mortgage, borrower may pay outstanding unpaid indebtedness in full at any time,

and without penalty except for a charge imposed to terminate a plan. § 2218(b).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Licensee may take such security as collateral "as may be acceptable to the licensee." § 2215.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## FLORIDA

### *Fla. Stat. §§ 516.001 to 516.36 (Consumer Finance Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Any lender except banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies. A pawnbroker may not be licensed to transact business under the chapter. § 516.02(4).

*Licensure requirements and implications of licensure:* Must have license to engage in business of making "consumer finance loans," defined as those of \$25,000 or less for which lender charges interest greater than 18%. §§ 516.01(2), 516.02.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Licensee may offer line of credit not exceeding \$25,000. § 516.01(3).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):*

Licensee may offer line of credit, but not a credit card. § 516.01(3).

*What rate of interest is allowed?*

- 30% on first \$3,000.
- 24% on next \$1,000.
- 18% on amount over \$4,000.

### § 516.031(1).

*What loan fees are allowed?*

- \$25 credit investigation fee. § 516.031(3)(a)(1).
- \$25 annual fee on each anniversary date of a line-of-credit account.
- Brokerage fee on a loan or line of credit of more than \$10,000.
- Documentary excise tax and recording fees or non-filing insurance not exceeding those fees.

### § 516.031(3)(a).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit property, credit life, and disability insurance. § 516.35.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 516.031(a).

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* If all or part of the consideration for a new loan contract is the unpaid principal balance of a prior loan with the licensee, the principal amount payable under the new loan contract may include not more than 60 days of unpaid interest accrued on the prior loan. § 516.031(5).

*Any rebate requirements or restrictions on prepayment penalties?* Statute requires lender to permit repayment at any time, with interest up to date of payment. § 516.15(3). Prepayment penalties are likely prohibited because not authorized by § 516.031.

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* Security interest in land is prohibited for loan of less than

\$1,000. § 516.031(1). Wage assignments are invalid. § 516.17.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* Criminal usury statute, § 687.071, prohibits charging more than 45% interest "(u)nless otherwise specifically allowed by law."

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* No loan splitting allowed. §§ 516.031(4), 516.21. Anti-evasion provisions, specifically addressing sham purchases and sale of wages. §§ 516.02(2), 516.26.

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## HAWAII

*Haw. Rev. Stat. §§ 412:9-100 to 412:9-501 ("Article 9") (Financial Service Loan Companies).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Depository and non-depository financial services loan companies.

*Licensure requirements and implications of licensure:* Must have license as financial services loan company to make loans at rates in excess of those permitted by other law. § 412:9-101.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* For open-end "consumer loans," special provisions address interest calculation, credit life and disability insurance calculation, security interests, and allowable open-end consumer loan charges. § 412:9-305. "Consumer loan" is defined to include only those made to a natural person primarily for personal, family, or household purposes, in which the principal amount is \$25,000 or less or which are secured by real

property, or by personal property used or expected to be used as the borrower's principal dwelling. § 412:9-100.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 24% a year simple interest, plus any other charges that are excluded or excludable from the determination of finance charge under TILA. § 412:9-302(b)(2). (For open-end credit, all charges are excluded from TILA's finance charge except for interest.) For an open-end account that is also a "credit card agreement," lender may charge 18% simple interest, including all fees. § 412:9-302(d) (referencing § 412-4, which references § 478-11.5).

*What loan fees are allowed?*

- Fee on annual, periodic, or other basis, for participation in an open-end loan account. § 412:9-305(b).
- Over-the-limit fee. § 412:9-305(b).
- Fees, charges, and expenses reasonably related to the consumer loan that are actually paid to third parties, affiliates, or subsidiaries for services actually rendered and without kickbacks. § 412:9-304(6).
- Nonrefundable discount, points, loan fees, and origination charges are permitted on simple interest loans, but must be included as interest to determine compliance with the 24% cap. § 412:9-304(4).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit-related insurance products, including credit life insurance, credit disability insurance, accident, and health or sickness insurance, involuntary unemployment insurance, personal property insurance, and mortgage protection insurance. § 412:9-200(6). May also sell accidental death and dismemberment insurance, and auto club memberships and home and automobile security plans, whether or not connected with a loan. § 412:9-201. Special provisions apply to open-end consumer loans with credit life insurance or credit disability insurance provided, including calculation of the insurance charge. § 412:9-305(a)(3).

*Does statute prohibit all other fees besides those specifically allowed?* Yes, for consumer loans. § 412:9-304.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prepayment penalties prohibited on an open-end consumer loan. § 412:9-304(2)(B).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* For open-end consumer loans: A financial services loan company may retain any security interest in real or personal property securing the loan until it is terminated. § 412:9-305(a)(4).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent, but § 412:9-300 requires lender to make loans that are consistent with "prudent lending practices, in compliance with all applicable federal and state laws."

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable. (Section 412:9-303 exempts loans made under article 9 from Hawaii's general usury statute, §§ 478-5, 478-6, which is a non-criminal statute.)

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## IDAHO

### *Idaho Code Ann. §§ 28-41-101 to 28-49-107 (Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies broadly to all creditors, including small loan companies, licensed lenders, finance companies, sales finance companies, industrial banks and loan companies, and commercial banks. § 28-41-107. Does not apply to extensions of credit to government agencies, sale of insurance, transactions under public utility or common carrier tariffs in some circumstances, or the rates and charges of licensed pawnbrokers. § 28-41-202.

*Licensure requirements and implications of licensure:* License required for business of making “regulated consumer loans,” § 28-46-301(1), defined as those payable in at least four installments or for which a finance charge is imposed, or taking assignments of and collecting on such loans. § 28-41-301(23), (28), (35), (39), (44). Banks and other depository institutions are exempt from licensing requirement. § 28-46-301(2).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* No provisions applicable to open-end loans.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Agreed rate. § 28-42-201(1).

*What loan fees are allowed?* In addition to finance charge permitted, creditor may contract for and receive any other charge, except to the extent expressly prohibited or limited by the Act. § 28-42-201(1).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Generally allows creditor to provide and charge for insurance. § 28-44-104. This authority is not explicitly limited to credit insurance, although the statute specifically mentions

credit life insurance, property insurance, and liability insurance, 28-44-202(1), 28-44-301(3), 28-44-303. Property insurance is not allowed unless amount financed is \$500 or more and the value of the property is \$500 or more and other conditions are met. § 28-44-303.

*Does statute prohibit all other fees besides those specifically allowed?* No. In addition to finance charge permitted, creditor may contract for and receive any other charge, except to the extent expressly prohibited or limited by the Act. § 28-42-201(1).

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end loans.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute allows prepayment penalty in specified amount but only for certain real property-secured transactions other than same-lender refinance; otherwise, may prepay in full at any time without penalty. § 28-42-306.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignment is prohibited and unenforceable, but debtor may revocably authorize deductions from earnings in some circumstances. § 28-43-304. Security interest in land is prohibited and void unless principal exceeds \$1,000. § 28-43-309.

*Does statute prohibit unconscionable loan charges?* Yes. § 28-44-106.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report in form prescribed by administrator. § 28-46-304.

*Other significant features:* Not applicable.

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## ILLINOIS

### [815 Ill. Comp. Stat. § 205/4.2 \(Revolving Credit; Billing Statements; Disclosures\).](#)

*What types of lenders it applies to (e.g., banks vs. non-banks):* Banks, savings and loan associations, credit unions, lenders licensed under Consumer Finance Act, Consumer Installment Loan Act or Sales Finance Agency Act, and any other lender. § 205/4.2.

*Licensure requirements and implications of licensure:* License is required for non-depository lender to charge more than 18%. § 205/4.2.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Applies to revolving credit, defined by § 205/4.1 as an arrangement, including one that uses a credit card, for open-end loans or advances.

*What rate of interest is allowed?* Banks, savings and loan associations, credit unions, and lenders that are licensed under Consumer Finance Act, Consumer Installment Loan Act or Sales Finance Agency Act may charge interest in any amount or at any rate agreed upon by the parties. Any other lender may charge 1 1/2% per month. § 205/4.2.

*What loan fees are allowed?* 25 cents for each loan or cash advance under the revolving credit plan, or an annual fee up to \$20. § 205/4.2.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life and credit accident and health insurance. § 205/4.2(d).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 205/4.2(e). *See also* § 205/5 (creditor may not receive more than is expressly authorized by this or another state law).

*Does statute restrict balloon payments or irregular payment schedules?* No, and statute contemplates

payment schedules that are other than monthly. § 205/4.2 (reference to “not monthly”).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute allows a revolving credit arrangement which grants the debtor a line of credit in excess of \$5,000 to include a security interest in real property, but is otherwise silent about security interests. § 205/4.1.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## INDIANA

### [Ind. Code §§ 24-4.5-1-101 to 24-4.5-6-204 \(Uniform Consumer Credit Code\).](#)

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies broadly to all creditors, except:

- Extensions of credit to government or governmental agencies.
- Most sales of insurance by insurers.
- Certain transactions under public utility, municipal utility, or common carrier tariffs.
- Rates and charges of licensed pawnbrokers.
- Non-consumer loans.
- Installment agreements for purchase of home fuels in which a finance charge is not imposed.

- Federally related student loans.
- Certain transactions in securities or commodities accounts.

**§§ 24-4.5-1-108, 24-4.5-1-202.**

*Licensure requirements and implications of licensure:* License required to engage regularly in Indiana in the making of non-mortgage consumer loans, taking assignments of these loans in Indiana, or undertaking direct collection of payments from or enforcement of rights against debtors arising from these loans in Indiana, but licensing requirement does not apply to lending by depository institutions, their subsidiaries, or credit union service organizations, or to collection by licensed collection agency. § 24-4.5-3-502. Loan made without a required license is void. § 24-4.5-5-202(2).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Relevant statutory provisions apply to any “consumer loan,” defined to exclude those exceeding \$53,500 (adjusted for inflation) unless the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor. § 24-4.5-1-301.5(9).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For consumer loans other than supervised loans: 25%, and lender who does not charge annual fee may charge 50 cents for each month in which there is an unpaid balance. § 24-4.5-3-201(1), (4). For supervised loans (those over 25%):

- 36% on balance up to \$2,000 (adjusted for inflation), 21% on balance above \$2,000 but no more than \$4,000 (adjusted for inflation), and 15% on remainder; or
- 25% on entire balance.

**§ 24-4.5-3-508(1), (2).**

*What loan fees are allowed?* For consumer loans other than supervised loans made under revolving loan account, \$50 origination fee. § 24-4.5-3-201(8)(b). For all loans:

- Official fees and taxes.
- Annual participation fees, but they must be reasonable in amount, bear a reasonable relationship to the lender’s costs to maintain and monitor the loan account, and not be assessed for the purpose of circumvention or evasion of the statute.
- Charges for other benefits, including insurance, if department determines they benefit the debtor and are reasonable in relation to benefits.
- Transaction fee of 2% of the amount of the transaction or \$10, whichever is less.
- Origination fee of \$50.
- Over-the-limit fee of \$25 if account is more than \$100 over the limit.

**§§ 24-4.5-3-201, 24-4.5-3-202, 24-4.5-3-508(8).**

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property or liability insurance; credit insurance providing life, accident, unemployment or other loss of income, or health coverage. § 24-4.5-3-202(2). However, property insurance is allowed only if amount financed is \$1,110 or more (adjusted for inflation from \$300 pursuant to 750 Ind. Admin. Code § 1-1-1), the value of the property is \$1,100 or more (adjusted for inflation), and other conditions are met. § 24-4.5-4-301.

*Does statute prohibit all other fees besides those specifically allowed?* Debtor is not required to pay a charge in excess of that allowed by the Code. § 24-4.5-5-202(3).

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end loans.

*Any restrictions on refinancing?* Statute is silent.



*Any restrictions on prepayment penalties?* Except where loan is primarily secured by land, debtor may prepay in full at any time without penalty. § 24-4.5-3-209.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignments prohibited and unenforceable, but employee may authorize deductions from earnings if revocable. § 24-4.5-3-403. For supervised loan where principal is \$4,000 or less (adjusted for inflation), security interest in land is prohibited and void. § 24-4.5-3-510.

*Does statute prohibit unconscionable loan charges?* Yes. § 24-4.5-6-111.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Indiana's criminal usury law does not exempt UCCC, but it criminalizes charging more than 45% interest only if lender has a reputation for using violence or other criminal means to collect the debt. § 24-4.5-5-107. *See also* § 35-45-7 (criminalizing lending at more than two times 36% interest).

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report as required by the department. § 24-4.5-3-505(5).

*Other significant features:* Loan-splitting prohibited. § 24-4.5-3-509.

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## IOWA

### *Iowa Code §§ 537.1101 to 537.8101 (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to entities extending credit, but excludes:

- Extensions of credit to government or governmental agencies.
- Sale of insurance.

- Transactions under public utility or common carrier tariffs in some circumstances.
- Transactions in securities or commodities accounts.
- Pawnbrokers, as to most provisions.

### § 537.1202.

*Licensure requirements and implications of licensure:* License required to make supervised loans (defined by § 537.1301(45) as those that exceed the usual rate cap) unless person is a "supervised financial organization" (i.e., a depository institution), is licensed under the Regulated Loan Act or Industrial Loan Law, or enters into fewer than 10 supervised loans per year in the state and has neither an office physically located in the state nor engages in face-to-face solicitation in the state. License also required to collect on supervised loans, with three-month grace period. § 537.2301(2), (3). Consumer has a claim for damages if creditor makes supervised loan without required license. § 537.5201(1)(a)(1).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Provisions do not apply to open-end credit.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* "Consumer loan" does not include a debt secured by a first lien on real property. § 537.1301(15)(b)(2).

*What rate of interest is allowed?* No cap unless secured by vehicle title. § 537.2402.

*What loan fees are allowed?*

- Official fees and taxes.
- Actual amounts for registration, certificate of title or license fees.
- Annual fee (with no stated cap) and \$15 over-the-limit fee for credit card that entitles cardholder to purchase or lease goods or services from at least 100 persons not related to card issuer.
- Reasonable annual fee for line of credit tied to deposit account that may be accessed by check.

- For consumer loan that does not exceed \$3,000 with term of no more than 12 months, depository institution may charge additional application fee of 10% or \$30, whichever is less.

### § 537.2501.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property or liability insurance and credit life, accident, health, and unemployment insurance. § 537.2501(2).

*Does statute prohibit all other fees besides those specifically allowed?* Consumer is not obligated to pay a charge in excess of that allowed by the Code. § 537.5201(2).

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end credit.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Consumer may prepay in full at any time, § 537.2509, but statute is silent about prepayment penalties for open-end credit.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* For supervised loan with finance charge exceeding 15% and amount financed of \$2,000 or less, security interest in real property used as a residence for the consumer or the consumer's dependents is prohibited and void. § 537.2307. For supervised loan, non-purchase money security interest in the clothing, dining table and set of chairs, refrigerator, heating stove, cooking stove, radio, beds and bedding, couch, two living room chairs, cooking utensils, or kitchenware used by the consumer, the consumer's dependents, or the family with whom the consumer resides is prohibited and void. § 537.3301. Wage assignment is prohibited and unenforceable, but borrower may revocably authorize payroll deductions. § 537.3305.

*Does statute prohibit unconscionable loan charges?* Yes. § 537.6111.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent, but probability of repayment is a listed factor in determining unconscionability.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report in form prescribed by licensing authority relating to all supervised loans made by licensee. § 537.2304(2). Administrator must make annual report to state legislature on the operation of the agencies charged with administering this law, and on the problems of persons of small means obtaining credit. § 537.6104(5).

*Other significant features:* Loan-splitting prohibited. § 537.3304.

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## KANSAS

### *Kan. Stat. Ann. §§ 16a-2-101 to 16a-9-102 (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Act applies to "consumer credit transactions," broadly defined. § 16a-1-301(5). Excludes extensions of credit to government or governmental agencies, certain transactions under public utility or common carrier tariffs, licensed pawnbrokers (except for disclosure requirements), and transactions covered by the insurance premium finance act. § 16a-1-202.

*Licensure requirements and implications of licensure:* Must be licensed engage in the business of making supervised loans (ones in which APR exceeds 12%) or taking assignments of them and collecting on them (with 3-month grace period), unless lender is a supervised financial organization (defined by § 16a-1-301(44) as a depository institution). § 16a-2-301(1). Supervised loan made without required license is void. § 16a-5-201(22).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Parts 3

and 4, which include the relevant provisions, apply to “consumer loans,” defined by § 16a-1-301(17) to exclude loans, other than those secured by land, where the amount financed exceeds \$25,000, and, *inter alia*, certain first mortgage loans. § 16a-2-102.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Agreed rate unless the open-end credit is secured by a first or second mortgage or a manufactured home, in which case an 18% cap applies in some circumstances. § 16a-2-401(1), (3). For any period in which a finance charge is due on a consumer loan pursuant to open end credit, the parties may agree on a minimum amount. § 16a-2-401(10).

*What loan fees are allowed?*

- Official fees and taxes.
- Charges for insurance.
- Charges for other benefits if valuable to consumer, reasonable in price, and identified by administrator’s rules.
- \$5 convenience fee for special processing of payment.
- Prepaid finance charge of 2% of amount financed or \$100, whichever is less (but a higher amount if consumer loan is first or second mortgage or is secured by manufactured home). § 16a-2-401.
- Annual or monthly fees, over-the-limit fees, and cash advance fees in amount agreed to by consumer.

### § 16a-2-501.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute generally authorizes creditor to provide and charge for insurance, including vendor’s single interest insurance if insurance has no right of subrogation against consumer, property insurance, liability insurance, and credit life, accident and health, and loss of income insurance, but not other insurance protecting creditor

against consumer’s default or other credit loss. §§ 16a-4-104(1), 16a-2-501(2).

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end credit.

*Any restrictions on refinancing?* Restrictions on prepaid finance charges when same lender refinances. § 16a-2-401(9).

*Any restrictions on prepayment penalties?* Consumer may prepay in full at any time without penalty. § 16a-2-509.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Security interest in land is prohibited and void for consumer loan where finance charge exceeds 12% and amount financed is \$3,000 or less. § 16a-2-307. Wage assignment is prohibited and unenforceable, but consumer may revocably authorize payroll deductions. § 16a-3-305.

*Does statute prohibit unconscionable loan charges?* Yes. § 16a-5-108.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report in form prescribed by administrator. § 16a-2-304(5).

*Other significant features:* Loan-splitting prohibited. § 16a-3-304.

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## LOUISIANA

### *La. Rev. Stat. Ann. §§ 9:3510 to 9:3568 (West) (Consumer Credit Law).*

*What types of lenders it applies to (e.g., banks vs. non-banks):*

Relevant provisions apply to consumer loans, broadly defined by § 9:3516(14). Law does not apply to:

- Extensions of credit to organizations, including government or governmental agencies.
- Most insurance sales.
- Certain transactions under public utility or common carrier tariffs.
- Motor vehicle credit transactions subject to the Motor Vehicle Sales Finance Act.
- Credit unions.
- Pawnbrokers.
- Extensions of credit for business, commercial, or agricultural purposes.
- Certain federally related mortgage loans.

*Licensure requirements and implications of licensure:* May not contract more than 4 transactions over any calendar year without obtaining license. Creditor with in-state office must also obtain license in order to take assignments of and undertake direct collection of payments from or consumer loans and collect them (with 3-month grace period). § 9:3557. The following are exempt from the licensing requirement:

- Banks, savings and loan associations, and similar institutions.
- A subsidiary of a state-chartered bank, savings and loan association, or similar institution if the parent owns 80% or more of it.
- A trust administered by a bank or a bank trust department.
- Governmental entities.
- Insurance companies making life insurance loans to policyholders.
- A qualified pension plan when extending credit to a plan participant.

- A bona fide pledgee of a consumer credit transaction to secure a bona fide loan thereon.
- A seller or other creditor refinancing a retail installment transaction subject to the Motor Vehicle Sales Finance Act.
- A creditor having no office within the state that offers credit to Louisiana consumers through the mails and other means of interstate commerce.
- Persons whose lending activities pertain to certain federally related mortgage loans, unless otherwise provided by rule.

### § 9:3560.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For “revolving loan account” made with “lender credit card,” 1 1/2% per month. For other revolving loan account: 36% per year on amount not exceeding \$1,400; 27% per year on amount over \$1,400 but not exceeding \$4,000; 24% per year on amount over \$4,000 but not exceeding \$7,000; and 21% per year on amount over \$7,000. § 9:3519(A). Or, in lieu of all other finance charges, lender may contract for and receive a minimum loan finance charge of not more than \$15 when the amount advanced does not exceed \$200 or \$25 when the amount advanced exceeds \$200. § 9:3519.

*What loan fees are allowed?*

For lender credit card, 4% fee for each cash advance. § 9:3524(D).

For revolving loan account, \$50 origination fee.

Non-real estate related notary fees up to \$15.

\$20 documentation fee.

Reasonable over-the-limit fees in connection with revolving loan or lender credit card.

Dishonored check charge of \$25 or 5%, whichever is greater.

Fee for services performed by a public license tag agent, and electronic lien and title fees. § 9:3530.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Any credit insurance authorized by the state insurance code; property insurance. § 9:3542, 9:3543.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 9:3554.1(B).

*Does statute restrict balloon payments or irregular payment schedules?* Statute refers to monthly and “more frequent than monthly” schedules. § 9:3524.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Consumer may prepay in full at any time. 9:3531(A). Statute allows specified prepayment penalty for loan secured by real estate but is silent as to any authority to impose prepayment penalty on other loans. § 9:3532.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute is silent.

*Does statute prohibit unconscionable loan charges?* Yes. § 9:3516(36).

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Loan-splitting prohibited. § 9:3535.

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## MAINE

*Me. Rev. Stat. Ann. tit. 9-A, §§ 2-101 to 6-113 (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to “consumer loans,” broadly defined by § 1-301(14). Does not apply to sale of insurance, provision of public utility services, rates and charges for credit unions and pawnbrokers that are set by other law, transactions in securities or commodities accounts, certain educational loans, certain transactions that are secured by first mortgages or that finance or refinance the acquisition or initial construction of real estate, and other transactions identified by rule. § 1-201. Relevant provisions apply to supervised financial organizations (defined by § 1-301 as banks and other depository institutions, nondepository trust companies, uninsured banks, merchant banks) and lenders licensed to make supervised loans. § 2-301.

*Licensure requirements and implications of licensure:* Must be supervised financial organization or have license to make supervised loans (defined by § 1-301(40) as those at more than 12.25% or that are secured by real estate), or take assignments of them and collect on them. § 2-301. If lender is unlicensed, debtor is not obligated to pay any application fee, prepaid finance charge or closing cost, nor the loan finance charge owed for the first 12 months of the loan, and may recover any part that has been paid. § 5-201.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Definition of “consumer loan” excludes those for more than \$50,000 unless the loan is secured by manufactured housing or an interest in land. § 1-301(14).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For open-end credit other than a “lender credit card” 18%. For “lender credit card” (defined by § 1-301(16) and (22) as a card,

coupon book or other single credit device, issued by a supervised lender, that may be used from time to time to obtain credit, but excluding any device to the extent it accesses an asset account), agreed rate. § 2-402. (“Supervised lender” is defined by § 1-301(39) to include lenders who are licensed to make supervised loans under § 2-301.)

*What loan fees are allowed?*

- Official fees and taxes.
- Annual charge for the privilege of using a retail credit card or lender credit card.
- Charges authorized by rule adopted by the administrator if benefits are of value to consumer and reasonable in relation to benefits or of a type that is not for credit.
- For supervised lender, except in case of open-end credit plan secured by consumer’s principal dwelling or second or vacation home.
  - Daily, weekly, monthly, annual or other periodic charge in such amount as agreement may provide;
  - Transaction charge or charges in such amount as agreement may provide;
  - Minimum charge for each daily, weekly, monthly, annual, or other scheduled billing period during which there is an unpaid indebtedness;
  - Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by creditor or its agents in connection with the plan, or other reasonable fees incident to the application for and the opening, administration, and termination of the plan, including commitment, application and processing fees, official fees and taxes, and filing fees.

## §§ 2-501, 2-507.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Creditor may charge for insurance, including vendor’s single interest insurance with respect to which insurer has no right of subrogation against consumer, property insurance, liability insurance, and consumer credit insurance providing life, accident or health coverage or

involuntary unemployment coverage, but not other insurance protecting creditor against consumer’s default or other credit loss. §§ 2-501, 4-104. Charging for credit accident and health is prohibited unless there is a minimum payment of \$30 per month or a loan duration of at least 18 months. § 4-104(3).

*Does statute prohibit all other fees besides those specifically allowed?* Debtor is not required to pay a charge in excess of that allowed by the Code. § 5-201(3).

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end credit.

*Any restrictions on refinancing?* For most consumer credit transactions, rate upon refinancing is limited to 1% more per year than original rate. § 2-504.

*Any restrictions on prepayment penalties?* Unless loan is secured by land, may prepay in full or in part at any time without penalty, “except for minimum charges as permitted by law.” § 2-509.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignment is prohibited and void, but consumer may revocably authorize deductions from earnings. Security interest in land is prohibited and void for a supervised loan that has an APR greater than 18%. Security interest in consumer’s principal residence is prohibited for supervised loan in which amount financed or credit limit is \$2,800 or less, unless lender already holds first mortgage. §§ 3-305, 2-307

*Does statute prohibit unconscionable loan charges?* Yes. § 5-108.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Administrator may require licensed supervised lender to file annual and quarterly reports, and

additional reports if deemed necessary. Information contained in reports may be published only in composite form. § 2-304(2).

*Other significant features:* Loan-splitting prohibited. § 3-304.

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## MARYLAND

### *Md. Code Ann., Com. Law §§ 12-901 to 12-925 (West) (Credit Grantor Revolving Credit Provisions).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to any “credit grantor,” defined to include, *inter alia*, any legal or commercial entity that is incorporated, chartered, or licensed pursuant to state or federal law, the lending operations of which are subject to supervision, examination, and regulation by a state or federal agency; any money transmitter licensed in Maryland; or any retailer. § 12-901(f)(1).

*Licensure requirements and implications of licensure:* Must comply with licensure requirements of Md. Code, Fin. Inst. §§ 11-301, 11-302, which requires licensure for installment lenders, with exceptions for banks, savings and loan associations, credit unions, and certain of their subsidiaries; licensees under the Consumer Loan Law (Fin. Inst. §§ 11-201 to 11-223); and certain sellers, mortgage lenders, and educational loans. § 12-915(a).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Provisions regarding “consumer borrowers” apply to consumer loans regardless of amount if loan is for personal, family, or household purposes. § 12-901(d).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 24%. § 12-903(a)(1).

*What loan fees are allowed?* For unsecured open end credit plan:

- Annual charge and transaction charges in any amounts the agreement provides.
- Minimum charge for each billing period during which there is an unpaid indebtedness.
- Fees incurred by the credit grantor and not retained by the credit grantor for attorney services in connection with loan preparation, closing, or disbursement.
- Special provisions for fees for open end credit plans secured by a bank account and for credit unions.

### *§ 12-905.*

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life, credit accident and health, credit disability, involuntary unemployment insurance, and similar coverage; property insurance, title insurance, and credit loss insurance if loan is secured. § 12-909(a).

*Does statute prohibit all other fees besides those specifically allowed?* Yes, with respect to an unsecured open end credit plan. § 12-905(1).

*Does statute restrict balloon payments or irregular payment schedules?* Yes, but the adjustment of payment amounts, due to fluctuations in unpaid balance or rate of interest, is defined not to result in a balloon payment. § 12-903(a)(2).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Any security as collateral as may be acceptable to the credit grantor. § 12-902(a)(2). Wage assignments are prohibited and unenforceable as to revolving credit plans for consumer borrowers for consumer purposes. § 12-923(a), (b)(2).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower’s ability to repay?* For mortgages only. § 12-925.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## MASSACHUSETTS

*Mass. Gen. Laws ch. 140, §§ 114B, 114C; 209 Mass. Code Regs. § 26.01.*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Any creditor. § 114B.

*Licensure requirements and implications of licensure:* None.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Applies to open-end credit plans. § 114B. Section 114C applies to credit card issuers.

*What rate of interest is allowed?* Periodic rate of 18%, but if index rate determined by state banking commissioner based on U.S. Treasury bills exceeds 18%, creditor may charge rate established by creditor. Minimum charge of \$0.50 is allowed. Ch. 140, § 114B.

*What loan fees are allowed?* Credit card issuer may charge an annual fee. No cap stated. Ch. 140, § 114C.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent..

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute is silent.

*Does statute prohibit unconscionable loan charges?* No, but Mass. Code Regs. tit. 940, § 3.16(1) provides that an act or practice is violation of the state deceptive practices statute, Mass. Gen. Laws Ch. 93A (which applies to lending) if it is oppressive or unconscionable in any respect.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Criminal usury statute, caps interest and expenses at 20%, and defines interest broadly. Ch. 271, § 49. It exempts any loan for which the rate of interest is regulated under any other law and any lender subject to control, regulation or examination by any state or federal regulatory agency. Ch. 271, § 49(e). Since Ch. 140, §§ 114B and 114C do not regulate "interest," but only the "periodic rate" and the "annual fee," it appears that the criminal usury statute applies to lenders operating under those statutes. However, a lender can exempt itself from the criminal usury statute by notifying the state attorney general of its intent to engage in higher-rate transactions. Ch. 271, § 49(d).

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Must file annual report. Ch. 140, § 98.

*Other significant features:* Loan splitting prohibited. Ch. 140, § 100.



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## MICHIGAN

### *Mich. Comp. Laws §§ 493.1 to 493.24 (Regulatory Loan Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to lenders, but exempts banks, savings banks, industrial banks, trust companies, building and loan associations, credit unions, and licensed pawnbrokering. §§ 493.2, 493.20.

*Licensure requirements and implications of licensure:* Must have license to make loans at rate higher than non-licensee can charge. § 493.2(1).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute applies to open-end credit consisting of direct advances from the licensee or checks issued by the licensee, but not open-end credit available through the use of a credit card or charge card. § 493.13(1)(b).

*What rate of interest is allowed?* 25% per year, but a depository institution may charge any rate of interest or finance charge on a credit card. §§ 493.13(1) (incorporating § 445.1854).

*What loan fees are allowed?* Provision applies to open-end credit consisting of direct advances from the licensee or checks issued by the licensee, but not to open-end credit available through the use of a credit card or charge card. § 493.13(1)(b). Reasonable annual fee. § 493.13(8), (9).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit insurance, and any other insurance under the insurance code. § 493.13a.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 493.13(4).

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Licensee must permit payment to be made in advance in any amount on any loan at any time. § 493.14(c).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Forbids liens on real estate except by execution or otherwise after entry of judgment. § 493.12(2). Wage assignments are invalid. Security interest in borrower's household goods is invalid unless in writing and signed by borrower, plus borrower's spouse if borrower is married and not separated. § 493.17.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent. Criminal usury law, § 438.41, criminalizes charging more than 25% only when lender is not authorized or permitted by law to do so.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual financial statement, including information on earnings and statement of volume and type of business activities. Commissioner shall publish an annual analysis and recapitulation. § 493.11.

*Other significant features:* Anti-evasion provision. § 493.18(1), (2).

### *Mich. Comp. Laws §§ 445.1851 to 445.1864 (Credit Reform Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Act applies to extensions of credit made by regulated lenders. § 445.1854. "Regulated lender" means a depository institution, a licensee under the consumer financial services act, the motor vehicle sales finance act, or the regulatory loan act (summarized above), or a seller under the home improvement finance act. § 445.1852(i).

*Licensure requirements and implications of licensure:* Act applies to extensions of credit by “regulated lenders.” § 445.1854. Non-depository lenders, other than sellers under home improvement finance act, qualify as “regulated lenders” only if they are licensed under other law. § 445.1852(i).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 25%, but depository institution may charge any rate of interest or finance charge on a credit card. § 445.1854.

*What loan fees are allowed?* Except for depository institutions and as otherwise provided by law, a regulated lender may require the borrower to pay a processing fee of 2% of amount of credit extended. § 445.1856(1)(a). A depository institution may charge, collect, and receive from a borrower or buyer all fees and charges that are agreed to or accepted by the borrower. § 445.1857.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* An agreement by a borrower or buyer to pay a penalty is void and unenforceable, but this section defines prepayment charges not to be penalties. § 445.1858(c)

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute is silent.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent. Criminal usury law, § 438.41, criminalizes charging more than 25% only when lender is not authorized by law to do so.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

### [Mich. Comp. Laws §§ 493.101 to 493.114 \(Regulatory Loans; Credit Card Arrangements\).](#)

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to lenders that offer credit cards, but excludes banks, savings and loan associations, credit unions, and retail sellers or other creditors under the Retail Installment Sales Act, except that, to the extent such a lender uses the rate authority provided in the Act, it must also comply with the Act’s other substantive provisions. § 493.114(1).

*Licensure requirements and implications of licensure:* Must be licensed under this Act or the consumer financial services act, §§ 487.2051 to 487.2072, in order to make or negotiate, or offer to make or negotiate, a credit card arrangement. § 493.102.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 18%. § 493.110(1).

*What loan fees are allowed?* Licensee may assess a fee for the privilege of having a credit card or charge card if fee is not computed as a percentage of the unpaid balance. § 493.110(1).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life or credit

accident and health insurance or any other insurance. § 493.110(2), (3).

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute is silent.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent. Criminal usury law, § 438.41, criminalizes charging more than 25% only when lender is not authorized by law to do so.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## MINNESOTA

### *Minn. Stat. § 47.59 (Financial Institution Credit Extension Maximum Rates).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Law applies to any "financial institution," defined as a bank, a bank and trust, a trust company with banking powers, a saving bank, a savings association, an industrial loan and thrift company organized under chapter 53, a regulated lender organized under chapter 56 (see next summary), or an operating subsidiary of any such institution. § 47.59 subdiv. 1(k).

*Licensure requirements and implications of licensure:* Statute is silent, but the lenders to which it applies are required by other law to be licensed or chartered or the equivalent.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For loan pursuant to open-end credit other than a credit card, § 47.59 subdiv. 3(a) allows:

- 21.75% on unpaid balance; or
- 33% on unpaid balance not exceeding \$1,125 and 19% per year on unpaid balance over \$1,125.

For credit card, 18%. § 47.59 subdiv. 3(a).

*What loan fees are allowed?*

- \$50 annual fee.
- Over-the-limit charges and charges for obtaining a cash advance in an amount not to exceed the \$30 charge permitted by § 604.113 for dishonored checks.
- The charges generally allowed for all extensions of credit: official fees and taxes; dishonored check fees; and charges for other benefits, including insurance, conferred on the borrower that are of a type that is not for credit.

### *§ 47.59 subdiv. 6(a), (c).*

*What types of insurance are allowed, and any limits the lending statute places on charges?* An additional charge may be made for insurance written in connection with the loan contract, including property insurance, liability insurance, credit insurance, or mortgage insurance providing life, accident, health, or unemployment coverage, and vendor's single interest insurance. 47.59 subdiv. 6(b).

*Does statute prohibit all other fees besides those specifically allowed?* Borrower is not required to pay any charge

in excess of those allowed by the statute. § 47.59 subdiv. 14.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Borrower may prepay in full the unpaid balance of a consumer loan at any time without penalty. § 47.59 subdiv. 9.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignment is unenforceable unless it is a revocable payroll deduction or preauthorized payment plan or applies only to wages already earned at the time of the assignment. § 47.59 subdiv. 12(c). Other than this, statute is silent about what security interests are authorized or prohibited, but it refers to charges for perfecting security interests and insurance on property securing a loan.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent, but an annual report to the commissioner of commerce is required by chapters 53 and 56 and § 47.60.

*Other significant features:* Not applicable.

### ***Minn. Stat. § 47.601 (Consumer Short-Term Loans).***

*What types of lenders it applies to (e.g., banks vs. non-banks):* "Consumer short-term lender" means an individual or entity, other than a state or federally chartered bank, savings bank, or credit union, engaged in the business of making or arranging consumer short-term loans. § 47.601subdiv. 1(d), (e).

*Licensure requirements and implications of licensure:* A loan is void, and the borrower is not obligated to pay any amounts owing if the loan is made by a consumer short-term lender who has not obtained an applicable license from the commissioner. § 47.601 subdiv. 6(b).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* "Consumer short-term loan" means a loan to a borrower which has a principal amount, or an advance on a credit limit, of \$1,000 or less and requires a minimum payment within 60 days of loan origination or credit advance of more than 25% of the principal balance or credit advance. § 47.601 subdiv. 1(d).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* § 47.601 operates as a reporting statute for loans of \$1,000 or less; lenders operate under other statutes when making these loans.

*What rate of interest is allowed?* No contract or agreement between a consumer short-term loan lender and a borrower residing in Minnesota may contain a provision "in which interest rates, fees, charges, or loan amounts exceed those allowable under section 47.59, subdivision 6, or 47.60, subdivision 2, other than by de minimis amounts if no pattern or practice exists." § 47.59, subdiv. 6 allows:

- \$50 annual fee.
- Over-the-limit charges and charges for obtaining a cash advance in an amount not to exceed the \$30 charge permitted by § 604.113 for dishonored checks.
- The charges generally allowed for all extensions of credit: official fees and taxes; dishonored check fees; and charges for other benefits, including insurance, conferred on the borrower that are of a type that is not for credit.

§ 47.60 subdiv. 2 allows:

- 7% of loan amount, with a minimum of \$10, plus a \$5 administrative fee, if loan is more than \$100 but no more than \$250.

- 6% of loan amount, with a minimum of \$17.50, plus a \$5 administrative fee, if loan amount is more than \$250.

Lesser amounts for loans of \$100 or less

*What loan fees are allowed?* See preceding entry.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute refers to holding of a check evidencing the borrower's obligation on a short-term loan, 47.601 subdiv. 2(d), but this appears to be intended to prevent the assertion of the holder-in-due course defense. Otherwise the statute is silent.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report containing total dollar amount, over and above principal, collected on consumer short-term loans; the average APR and range of APRs; the number of individual borrowers, broken down by the number who obtained: (i) 5 or more loans; (ii) 10 or more loans; (iii) 15 or more loans; and (iv) 20 or more loans; and the total number and dollar amount of loans charged off or written off. § 47.601 subdiv. 4.

*Other significant features:* No forum or choice of law other than Minn. No class action ban for certain violations. § 47.601 subdiv. 2.

### [Minn. Stat. §§ 56.0001 to 56.26 \(Regulated Loan Act\).](#)

*What types of lenders it applies to (e.g., banks vs. non-banks):* Lenders making loans under this statute are referred to as "regulated lenders." The statute excludes banks, savings associations, trust companies, licensed pawnbrokers, and credit unions. § 56.002.

*Licensure requirements and implications of licensure:* Must have license in order to make loans with the charges allowed by this statute, but industrial loan and thrift companies need not be licensed, and certain federally related entities may purchase mortgage loans from licensees without being licensed. §§ 56.002 56.01. Loan made without required license is unenforceable. § 56.18.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Not exceeding \$100,000 or 15% of corporate licensee's stock and surplus. § 56.01.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For open-end credit other than a loan under an overdraft checking plan, either (1) 21.75% or (2) 33% on first \$1,125 (adjusted for inflation) and 19% on the remainder. For a credit card, 18%. §§ 56.125 subdiv. 1, 56.131 subdiv. 1(a), 47.59 subdiv. 3(a)(1).

*What loan fees are allowed?* Recording fees and taxes, or the cost of non-filing insurance if less than this amount. § 56.131 subdiv. 2, 5, 6 One-time \$25 loan administrative fee if principal is \$6,480 or less (adjusted for inflation). § 56.131 subdiv. 2.

*What types of insurance are allowed, and any limits the lending statute places on charges?* May sell credit life, accident and health, and unemployment insurance,

and property insurance on collateral. §§ 56.125(3), 56.155.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. §§ 56.131 subdiv. 2, 56.15.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent except for special provisions for loans secured by real estate. § 56.131 subdiv. 2.

*Any restrictions on prepayment penalties?* Borrower may pay in full at any time without penalty. § 56.125 subdiv. 1.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Lien on real estate is allowed only when outstanding balance first exceeds \$6,480 (adjusted for inflation); may remain in effect until account is terminated. § 56.125 subdiv. 2. Statute does not explicitly authorize other types of security interests, but does authorize non-filing insurance. § 56.131 subdiv. 2(c).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report containing the information required by the commissioner, who shall publish an annual analysis and recapitulation. § 56.11.

*Other significant features:* Prohibition against loan-splitting. § 56.131 subdiv. 3. Anti-subterfuge provision. § 56.18.

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## MISSISSIPPI

*Miss. Code Ann. § 75-17-19 (Revolving Charge Agreements).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Any lender or issuer of credit cards and any retail seller. § 75-17-19(1).

*Licensure requirements and implications of licensure:* Statute is silent.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 21%, but may charge 50 cents in any month when there is a finance charge that is less than 50 cents. § 75-17-19(1), (4).

*What loan fees are allowed?* Bank that issues credit card may charge annual fee of \$12 per year. § 75-17-19(2). Statute also allows any lender or issuer of credit cards to provide “such products, services, charges and fees” as agreed upon. § 75-17-19(6). However, a licensee under the Small Loan Regulatory Law would be limited by §§ 75-67-119, 75-17-21, and 75-17-25 to a yield of 36%.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute is silent.

*Does statute prohibit unconscionable loan charges? Statute is silent.*

*Must lender underwrite or evaluate borrower's ability to repay? Statute is silent.*

*If state has a criminal usury law, is lending under this statute exempt from it? Not applicable.*

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports: Statute is silent.*

*Other significant features: Not applicable.*

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## MISSOURI

### *Mo. Rev. Stat. §§ 408.100 to 408.213 (Interest on Small Loans).*

*What types of lenders it applies to (e.g., banks vs. non-banks): Applicable broadly to loans that are not made under other Missouri laws. §§ 408.100, 408.190.*

*Licensure requirements and implications of licensure: Statute is silent. This is not a licensing statute.*

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features: Statute excludes loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops, and loans to corporations. § 408.100.*

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property): Statute is silent.*

*What rate of interest is allowed? Any rate agreed to by parties. § 408.100.*

*What loan fees are allowed?*

- Recording fees. § 408.140(1)(2).
- Insurance premiums. § 408.140(1)(5).
- Credit advance fee of lesser of \$75 or 10% of cash advance, if open-end credit contract is tied to a transaction account in a depository institution, such

account is in the institution's assets, and contract provides for open-end loans of 31 days or longer. § 408.140(1)(10).

- Annual fee of \$50. § 408.140(3).
- Any credit card fee which lenders in any contiguous states are permitted to charge. § 408.145.

*What types of insurance are allowed, and any limits the lending statute places on charges? Non-filing insurance, property insurance, life, health, accident, and involuntary unemployment insurance. § 408.140(1).*

*Does statute prohibit all other fees besides those specifically allowed? Yes. § 408.140(1).*

*Does statute restrict balloon payments or require substantially equal installments? No. Loan contract may provide for repayment as the parties may agree. § 408.120.*

*Any restrictions on refinancing? Statute is silent.*

*Any restrictions on prepayment penalties? Statute is silent. § 408.170.*

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)? Statute is silent.*

*Does statute prohibit unconscionable loan charges? Statute is silent.*

*Must lender underwrite or evaluate borrower's ability to repay? Statute is silent.*

*Is lending under this statute exempt from state criminal usury law? Statute is silent. Criminal usury statute, § 408.095, criminalizes charging interest greater than 24% only when not permitted by other Missouri laws.*

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports: Statute is silent.*

*Other significant features: Prohibition against loan-splitting. § 408.200.*

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## NEBRASKA

### *Neb. Rev. Stat. §§ 45-1001 to 45-1069 (Installment Loan Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Any person, other than a financial institution (defined by §§ 8-101 and 45-1002(g) as a bank, savings bank, building and loan association, savings and loan association, credit union, or similar organization covered by federal deposit insurance, or a trust company) is eligible for a license and to be allowed to make loans under the Installment Loan Act. § 45-1003.

*Licensure requirements and implications of licensure:* License required to charge the interest rates and other charges allowed by the Installment Loan Act. 45-1004(1).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute's limitations do not apply to open-end credit. §§ 45-1025(3), 45-1066.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute authorizes licensees to make "preauthorized loans," defined to encompass open-end credit other than credit card lending. § 45-1061(5).

*What rate of interest is allowed?* 24% on first \$1,000, and 21% on remainder. §§ 45-1024(1), 45-1062.

*What loan fees are allowed?*

- Reasonable expenses for making, closing, disbursing, extending, readjusting, or renewing of loans, including abstracting, recording, releasing, and registration fees; title examinations; credit reports; survey; and fees and expenses charged for electronic title and lien services.
- Nonrefundable loan origination fee not to exceed the lesser of \$500 or 7% of first \$2,000 and 5% of remainder. § 45-1024(5).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property and liability

insurance on motor vehicle; fire and extended-coverage insurance on real property or tangible personal property; involuntary unemployment or job protection insurance; life, health, and accident insurance; any other type of insurance or motor club service; nonfiling insurance; charges for debt cancellation contracts or debt suspension contracts; amounts charged for a guaranteed asset protection waiver. §§ 45-1024(5), 45-1026, 45-1064.

*Does statute prohibit all other fees besides those specifically allowed?* Other than specified charges, no further or other amounts whatsoever shall be directly or indirectly charged, contracted for, or received. § 45-1024(4).

*Does statute restrict balloon payments or irregular payment schedules?* No. Borrower has the right to pay the balance in monthly installments. Minimum monthly payment is to be set by licensee but must be at least 1.5% of average daily balance (2% if average daily balance is \$3,000 or less). § 45-1063. Requirement of substantially equal installments does not apply to open-end credit. § 45-1066.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Borrower may prepay one or more full installments at any time. § 45-1022.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Licensee may retain any security interest, including a mortgage on real property, until the preauthorized account is terminated. § 45-1065. Statute imposes requirements on wage assignments but does not prohibit them. §§ 45-1028, 45-1030

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent.



*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report of the licensee's earnings, operations, assets, and other relevant information as the department may reasonably require. § 45-1018.

*Other significant features:* Anti-evasion provision: wage assignment amounts to a loan. § 45-1021.

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## NEVADA

*Nev. Rev. Stat. §§ 675.010 to 675.490 (Installment Loan and Finance Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to any person who makes installment loans that are not governed by state payday loan law. Does not apply to:

- Banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers, insurance companies, or real estate investment trusts.
- Loans from employee benefit plans.
- Attorneys rendering legal services if loan is secured by real property.
- Real estate brokers if loan is secured by real property.
- Firms or corporations principally engaged in mortgage lending with approval by Fannie Mae, HUD, and the Department of Veterans Affairs.
- Person who provides money for investment in loans secured by a lien on real property, on his or her own account.
- Mortgage financing provided by seller of real property.
- Person holding a nonrestricted state gaming license.
- Licensed payday lenders.

§ 675.040. Commissioner may grant additional exemptions. § 675.055.

*Licensure requirements and implications of licensure:* Must have license to engage in business of lending, except for deferred deposit loan services, high-interest loan services, or title loan services, which must obtain appropriate license under other laws. § 675.060.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For a loan for an indefinite term, agreed rate. However, § 604.400 prohibits any person, including a person licensed under this chapter, from operating a "high-interest loan service," defined by §§ 604A.0703 and 604A.0705 as one making loans, including open-end loans, with an APR of more than 40%. Even with a license under chapter 604A, a lender can make high-rate loans only with loan terms up to 35 days (90 days if the loan is payable in installments). § 604A.408. Statute also allows imposition of 50 cent charge if interest in any month is less than that. § 675.363.

*What loan fees are allowed?*

- Any fees imposed on the licensee pursuant to Act.
- 25 cents per transaction, or annual fee of \$20. § 675.365.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Title insurance on real property offered as security; life, health or disability, and involuntary unemployment insurance; property insurance on collateral; insurance protecting lender's interest in the collateral; single interest non-filing insurance; and any other credit-related insurance approved by the commissioner. § 675.300.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prepayment allowed without penalty. § 675.361(4).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignments are invalid. § 675.340. Prohibits security interest on real property, other than judgment lien, except real property upon which is situated a mobile home or factory-built housing that also secures the loan. § 675.350.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report containing information prescribed by commissioner. § 675.260.

*Other significant features:* Anti-evasion provisions. §§ 675.035, 675.060, 675.070 675.300.

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## NEW HAMPSHIRE

### *N.H. Rev. Stat. Ann. §§ 399-A:1 to 399-A:19 (Small Loans).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Any person engaged in the business of making small loans, including closed-end loans, open-end loans, title loans, and payday loans. § 399-A:1(XV) (moved to §§ 399-A:1(XX) and 399-A:2 as of Jan. 1, 2016) Chapter does not apply to banks, trust companies, insurance companies, savings or building and loan associations, credit unions, or lenders that exclusively make educational loans. § 399-A:2(III).

*Licensure requirements and implications of licensure:* License required to engage in business of making

small loans, i.e., those with finance charges greater than 10% (other than recording fees and costs of repossession or sale of collateral). §§ 399-A:1(XIV) (moved to § 399-A:1(XX) as of Jan. 1, 2016), 399-A:2(I). Loan is void if it includes charges in excess of those permitted by statute. § 399-A:11(V).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute applies to loan of \$10,000 or less. § 399-A:1(XIV) (moved to § 399-A:1(XX) as of Jan. 1, 2016).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 36% APR, calculated under federal Truth in Lending rules, but excluding one application fee per borrower per year and one participation or membership fee per borrower per year. § 399-A:12(II) (moved to § 399-A:16(I) as of Jan. 1, 2016).

*What loan fees are allowed?* See preceding entry. One annual application fee and one annual participation or membership fee per year. Statute allows recording fees, but prohibits any other charges for examination, service, brokerage, commission, or other fee, except repossession costs. § 399-A:11(XI) (moved to § 399-A:15(XI) as of Jan. 1, 2016).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life, accident and health, and involuntary unemployment insurance, and property insurance on collateral. § 399-A:11(XII), (XIII) (moved to § 399-A:15(XII), (XIII) as of Jan. 1, 2016).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 399-A:11(XI) (moved to § 399-A:15(XI) as of Jan. 1, 2016).

*Does statute restrict balloon payments or require substantially equal installments?* Statute is silent.

*Any restrictions on refinancing?* None applicable to open-end credit.

*Any restrictions on prepayment penalties?* Lender must permit prepayment. § 399-A:12(VI)(d) (moved to § 399-A:15(XVI)(d) as of Jan. 1, 2016). Prepayment penalties are likely prohibited because not listed in § 399-A:11(XI) (moved to § 399-A:15(XI) as of Jan. 1, 2016).

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* Any security agreed upon, § 399-A:12(II) (moved to § 399-A:16(II) as of Jan. 1, 2016), except that security interest on real estate, or on household furniture presently in use if loan is for \$2,000 or less, is prohibited and void. § 399-A:11(VIII), (IX) (moved to § 399-A:15 (IX), (X)) as of Jan. 1, 2016).

*Does statute prohibit unconscionable loan charges?* No, but statute gives the commissioner exclusive authority and jurisdiction to investigate charges, including interest and fees, whether for application on small loans, payday loans, and title loans that are or may be unreasonable or an unfair or deceptive act or practice under the state deceptive practices statute. § 399-A:12(VII) (repealed as of Jan. 1, 2016).

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report; financial statement including balance sheet, income statement, statement of changes in owners' equity, cash flow statement, and note disclosures. Commissioner shall publish annual analysis of this information. § 399-A(6)(I), (II) (moved to § 399-A:10(I), (II) as of Jan. 1, 2016).

*Other significant features:* Prohibits use of multiple loans so that borrower has principal balance over \$10,000. § 399-A:12(III). Requires lender to allow borrower to cancel up to close of next business day. § 399-A:12(XVIII) (moved to § 399-A:15(XVIII) as of Jan. 1, 2016).

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## NEW JERSEY

*N.J. Stat. Ann. §§ 17:11C-1 to 17:11C-49 (West) (New Jersey Consumer Finance Licensing Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to anyone making covered loans, but depository institutions, trust companies, insurance companies, and pawnbrokers are exempt. § 17:11C-6.

*Licensure requirements and implications of licensure:* License required to engage in consumer loan business, i.e., make consumer loans of \$50,000 or less at rates greater than a non-licensee may charge. § 17:11C-3. Loan made without a required license is void unless lender meets statutory good faith error requirements. § 17:11C-33(b).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Applies to any "consumer loan," defined as one for \$50,000 or less, payable in one or more installments, but excludes residential mortgage loans. § 17:11C-2.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Agreed rate. §§ 17:11C-32(a), 17:11C-36(a). However, criminal usury statute caps interest at 30%. § 2C:21-19. If licensee makes loan of more than \$50,000, it is limited to interest rates allowed for non-licensees. § 17:11C-37.

*What loan fees are allowed?*

- Recording fees.
- Annual fee of 1% of the line of credit or \$50, whichever is less.

### § 17:11C-33(a).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life insurance, credit health or disability insurance, credit involuntary unemployment insurance, property insurance on collateral. §§ 17:11C-21(a), (b); 17:11C-36(f).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. §§ 17:11C-33(a), 17:11C-41(f).

*Does statute restrict balloon payments or irregular payment schedules?* Lender must set monthly minimum payments to amortize initial loan advance as follows:

- For advance up to \$2,500: within 48 months and 15 days.
- For advance over \$2,500 up to \$5,000: within 60 months and 15 days.
- For advance over \$5,000 and up to \$10,000: within 84 months and 15 days.
- Over \$10,000: within 120 months and 15 days.

Whenever subsequent advances are made, minimum payment must be recalculated so that new balance is amortized within these periods. § 17:11C-36(e).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Borrower may pay in full at any time. § 17:11C-2.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* A consumer lender may take a security interest in personal property to secure an open-end consumer loan. § 17:11C-39. Wage assignments are prohibited and void. § 17:11C-41(a). Liens on real estate other than judgment liens are prohibited. § 17:11C-41(b).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* No. Criminal usury statute, § 2C:21-19, prohibits charging more than 30% notwithstanding any statute permitting an agreed rate.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report with information specified by commissioner. § 17:11C-43.

*Other significant features:* Prohibits evasions by way of wage assignments or sale-resale of personal property. §§ 17:11C-38, 17:11C-40. Loan-splitting prohibited. §§ 17:11C-32, 17:11C-37.

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## NEW MEXICO

*N.M. Stat. Ann. §§ 58-15-1 to 58-15-39 (Small Loan Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to lenders making loans of \$2,500 or less. Exempts banks, savings and loan associations, credit unions, and licensed pawnbrokers. § 58-15-3(A), (C).

*Licensure requirements and implications of licensure:* May not engage in business of lending in amounts of \$2,500 or less without first having obtained a license. § 58-15-3(A).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* "Installment loan" means a loan that is to be repaid in a minimum of 4 successive substantially equal payment amounts to pay off a loan in its entirety with a period of no less than 120 days to maturity. § 58-15-2(E). May not engage in business of lending in amounts of \$2,500 or less without first having obtained a license. § 58-15-3(A). Nothing in Act shall apply to a person making individual advances of \$2,500 or less under a written agreement providing for a total loan or line of credit in excess of \$2,500. § 58-15-3(B).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Statute requires use of simple interest method, § 58-15-14.1, but does not otherwise limit interest rates.

*What loan fees are allowed?* Recording fees, but not notary fees for taking or releasing a lien. § 58-15-20(A), (C).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute allows term life insurance or credit life insurance, but no other type of life insurance, and prohibits property insurance on unsecured loans. § 58-15-16. Statute also gives director the authority to regulate insurance sales by licensees, § 58-15-11, but does not otherwise specify what types of insurance can be sold.

*Does statute prohibit all other fees besides those specifically allowed?* All other fees not specifically allowed are prohibited.

*Does statute restrict balloon payments or require substantially equal installments?* Installment loan defined as one to be repaid in substantially equal payments. § 58-15-2(E).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prepayment penalties are unenforceable. § 58-15-15.1.

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* “Installment loan” does not mean a loan in which a licensee requires, as a condition of making the loan, the use of post-dated checks or debit authorizations for repayment of that loan. § 58-15-2(E). Section 58-15-32 allows postdated checks and ACH authorizations only for payday loans.

*Does statute prohibit unconscionable loan charges?* Statute is silent, but state deceptive practices statute’s prohibition of unconscionability has been applied to credit charges.

*Must lender underwrite or evaluate borrower’s ability to repay?* Annual report must include procedures the licensee follows as a standard practice to establish each consumer’s ability to repay a loan. § 58-15-10.1(A)(14).

*Is lending under this statute exempt from state criminal usury law?* No, but state’s criminal usury law, §§ 30-43-1 to 30-43-5, applies only where violence or other non-petty criminal acts are threatened or used in collection of a debt that carries an interest rate exceeding 45%.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report giving such relevant information as the director may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business. A summary of the reports shall be included in the published annual report of the director. § 58-15-10(C).

Annual report must include: (1) a description of each loan product offered by the licensee, including: (a) all fees; (b) the minimum, maximum and average annual interest rate; (c) the frequency of periodic payments; (d) the term of the loan; and (e) any other standard conditions of the loan product; (2) the total number of transactions entered into for each loan product in the following amounts: (a) \$500 or less; (b) \$501 to \$1,000; (c) \$1,001 to \$3,000; (d) \$3,001 to \$5,000; and (e) greater than \$5,000; (3) the total number of loans and the total dollar amount of loan principal for each loan product; (4) the average principal loan amount for each loan product; (5) the total number of loans for which the loan principal and accrued interest was not paid in full; (6) the total dollar amount of principal loaned; (7) the total dollar amount of loan principal repaid; (8) the total dollar amount of interest received; (9) the total dollar amount and description of fees received; (10) the total number of loans that were secured by collateral of some type and the total number of such loans in which the security was foreclosed upon or repossessed; (11) the total amount of loan principal and the total amount of accrued interest written-off or charged-off; (12) the percent of consumers who were new consumers; (13) the number of loans that were renewed, refinanced or extended prior to being repaid in full; and (14) procedures the licensee follows as a standard practice to establish each consumer’s ability to repay a loan. §§ 58-15-10, 58-15-10.1(A). However, the department reports that only licensees that make any loan product, with the exception of payday loans, that exceeds an APR of 175%, are required to submit annual reports.

*Other significant features:* Anti-evasion provisions. §§ 58-15-3(D), 58-15-21.

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## NEW YORK

### *N.Y. Banking Law §§ 340 to 361 (McKinney) (Licensed Lender Law).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to anyone making loans of \$25,000 or less to an individual for personal, family, household, or investment purposes (up to \$50,000 if a business or commercial loan) who charges more than otherwise legal rate. Does not apply to pawnbrokers licensed under Gen. Bus. Law §§ 40-55. § 340.

*Licensure requirements and implications of licensure:* License required. § 340. Statute prohibits any entity other than a licensee from charging interest greater than the otherwise legal rate, and provides that a loan is unenforceable if more interest is charged than allowed by law. § 356.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* \$25,000 or less (\$50,000 or less if a business or commercial loan). §§ 340, 351.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Section 351 allows agreed rate, but criminal usury law has 25% cap. Penal Law § 190.40. For loans greater than the \$25,000 or \$50,000 scope of this statute, licensee is limited to the rate permitted by Gen. Oblig. Law § 5-501 (namely 16%). § 353.

*What loan fees are allowed?*

- Recording fees, or non-filing insurance premiums up to \$7.
- Until June 30, 2015, an annual fee of \$50 or 1% of the loan amount, whichever is less, on open end loan.

### **§ 351(6)(a).**

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property insurance

on collateral other than household goods if loan is for \$250 or more; liability insurance on a motor vehicle securing the loan; credit life insurance, credit accident and health insurance, and credit unemployment insurance. § 357.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. §§ 351(6), 353.

*Does statute restrict balloon payments or require substantially equal installments?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Licensee must permit payment to be made in advance in any amount on any loan at any time. § 352.

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* May not take lien other than judgment lien upon real estate. § 350(c). Assignment of unearned wages is prohibited unless revocable or a payroll deduction plan. § 354.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* No explicit exemption. Criminal usury statute, Penal Law § 190.40, prohibits a person, "not being authorized or permitted to do so," from charging more than 25%.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report giving such information as superintendent may require. § 349. Any licensee that charges an annual fee on open end loan accounts shall also report information on open end loan borrowers, including their average annual income, the average amount of loans outstanding at the end of each calendar year, the average interest charged, the average amount of annual fees, and the geographic distribution of loans. § 351(6)(c) (expires and deemed repealed June 30, 2015). Superintendent shall publish

annual report showing the combined assets and liabilities of all licensed lenders. § 349.

*Other significant features:* Not applicable.

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## NORTH CAROLINA

### *N.C. Gen. Stat. § 24-11 (Open-end Credit).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Does not apply to banks, savings and loan associations, savings banks, or credit unions. § 24-9.

*Licensure requirements and implications of licensure:* Statute is silent. Note that §§ 53-166(a) and 53-168(a) require a creditor to have a license if it makes loans that exceed the interest rates provided by this chapter.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed? "Interest and service charges" must not exceed 18%.* § 24-11(b).

*What loan fees are allowed? None.* Statute authorizes \$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. § 24-11(a), (d1).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or require substantially equal installments?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* If interest rate exceeds 15%, loan may not be secured by real or personal property or any other thing of value. § 24-11(c).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## OHIO

### *Ohio Rev. Code Ann. §§ 1321.01 to 1321.20 (West) (Small Loans).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Does not apply to:

- Banks, savings banks, savings societies, trust companies, or credit unions.
- Savings and loan associations whose business is substantially confined to real estate loans and evidences of their own indebtedness.
- Lenders registered under §§ 1321.51 to 1321.60 (Second Mortgage Security Loans).
- Insurance premium finance companies.
- Licensees under the Short Term Loan Act.
- Licensees under the state insurance law.

### *§ 1321.02.*

*Licensure requirements and implications of licensure:* Must have license to engage in business of lending money in amounts of \$5,000 or less and charge

interest and charges greater than amount that would be allowable for unlicensed lender. § 1321.02.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* \$5,000 or less. § 1321.02.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 28% on unpaid principal balance of \$1,000 or less, and 22% on balance over \$1,000. §§ 1321.13(A), 1321.16(B). In the alternative, licensee may charge agreed rate, but not exceeding an APR of 25%. § 1321.131. If licensee extends credit over \$5,000, it is limited to the rates that non-licensees may charge. § 1321.15(B). However, a credit services organization that is completely separate from the lender may be able to charge a fee to arrange a loan at these rates, thereby increasing the cost of credit to the borrower.

*What loan fees are allowed?*

- Recording fees and fees for credit reports. § 1321.13(G).
- Origination fees up to: (1) On loans in the principal amount of \$500 or less, the greater of \$15 or 1% of the principal (for refinancing made after than 6 months, flat amount of \$15); (2) On all other loans, the greater of \$30 or 1% of the principal (for any refinancing, flat amount of \$30). § 1321.13(I).
- Annual fee of the greater of 1% of the original credit line or \$30 for first year, but not exceeding \$20 for subsequent years. § 1321.16(C).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life, accident and health insurance, and unemployment insurance; property insurance on collateral or other property. § 1321.13(E), (F).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 1321.13(G). However, Ohio Admin. Code 1301:8-2-20 allows licensees to engage in other transactions with borrowers, provided the transactions are not a condition of the loan.

*Does statute restrict balloon payments or require substantially equal installments?* The borrower may pay in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement subject to minimum payment requirements as determined by licensee and set forth in agreement. § 1321.16(A)(4), (D).

*Any restrictions on refinancing?* Statute is silent, except that allowable origination fees are reduced for certain refinancings. § 1321.13(I).

*Any restrictions on prepayment penalties?* The borrower may pay in full at any time. § 1321.16(A)(4).

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* Security interest, other than judgment lien, in real estate is prohibited. § 1321.12. Wage assignments are invalid, but borrower may authorize revocable payroll deduction plan. § 1321.32.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* Statute is silent Criminal usury statute, § 2905.21, allows interest in excess of its cap if "otherwise authorized by law."

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report giving information as required by the superintendent of financial institutions. The division publishes an annual analysis and recapitulation of the reports. § 1321.09(A).

*Other significant features:* Loan-splitting prohibited. § 1321.15(A).



**Ohio Rev. Code Ann. §§ 1321.51 to 1321.60 (West) (Second Mortgage Security Loans).**

*What types of lenders it applies to (e.g., banks vs. non-banks):* Does not apply to:

- Banks, savings banks, trust companies, savings and loan associations, and credit unions, and their subsidiaries if regulated by a federal banking agency and owned and controlled by the depository institution.
- Life, property, or casualty insurance companies licensed to do business in the state.
- Loans made pursuant to §§ 1321.01 to 1321.19 (Small Loan Act).
- Business loans described in § 1343.01(B)(6).
- Political subdivisions and governmental agencies and organizations.
- Colleges.
- Credit union service organizations that use services provided by registered mortgage loan originators or that hold a valid letter of exemption.

**§ 1321.53(D).**

*Licensure requirements and implications of licensure:*

Must register in order to: (1) make or collect on residential mortgage loans that are secured by other than a first lien on real estate or (2) make loans of \$5,000 or more that exceed the generally-applicable interest rate cap and are unsecured or secured by other than real property. § 1321.52(A)(1).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 21% or agreed rate up to 25% §§ 1321.58(B), 1321.571. However, a credit services organization that is completely separate from the lender may be able to charge a fee to arrange

a loan at these rates, thereby increasing the cost of credit to the borrower.

*What loan fees are allowed?*

- If credit line is less than \$5,000, \$150 annual fee for first year; if credit line is \$5,000 or more, \$250 for first year. For subsequent years, 0.5% of credit line or \$50, whichever is greater. § 1321.58(C)(1), (2).
- Recording fees. § 1321.57(H).
- \$10 for credit investigation. § 1321.57(H).
- Origination charges as follows (§ 1321.57(J)):
  - For unsecured loans, \$15 if loan is \$500 or less; \$30 if loan is more than \$500 but less than \$1,000; \$100 if loan is at least \$1,000 but less than \$5,000; and \$250 or 1% of principal, whichever is greater, if loan is at least \$5,000;
  - For loan secured by goods or real estate, \$15 if loan is \$500 or less; \$30 if loan is more than \$500 but less than \$1,000; \$100 if loan is more than \$1,000 but less than \$2,000; \$200 if loan is at least \$2,000 but less than \$5,000; and \$250 or 1% of principal, whichever is greater, if loan is at least \$5,000.

**§ 1321.58(C).**

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit life, accident and health insurance, and unemployment insurance; property insurance on collateral and on other property. § 1321.57(E), (F).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 1321.57(H). However, it also provides that it does not prohibit a registrant from engaging in other transactions with the borrower, provided that they are not a condition of the loan.

*Does statute restrict balloon payments or irregular payment schedules?* The borrower at any time may pay all or any part of the unpaid balance on the account or, if the account is not in default, the borrower may pay the unpaid balance in installments subject to minimum payment requirements as determined by the registrant and set forth in the open-end loan agreement. § 1321.58(D).

*Any restrictions on refinancing?* Statute's refinancing restrictions relate solely to loans secured by real estate. § 1321.57 (G)(1).

*Any restrictions on prepayment penalties?* Statute allows prepayment penalty if loan is secured by real estate, § 1321.57(G), but otherwise is silent so banned because not expressly allowed.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* A registrant may make unsecured loans, loans secured by a first or junior mortgage on a borrower's real estate, loans secured by other than real estate, and loans secured by any combination of mortgages and security interests. § 1321.52(C).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent. Criminal usury statute, § 2905.21, allows interest in excess of its cap if "otherwise authorized by law."

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report, on forms supplied by the division. The division shall publish an annual analysis of the information. § 1321.55(B).

*Other significant features:* Loan splitting prohibited. § 1321.59. No registrant, licensee, or person making loans without a certificate of registration in violation of § 1321.52(A) shall, in connection with making or offering to make residential mortgage loans, engage in any unfair, deceptive, or unconscionable act or practice prohibited by the state deceptive practices statute. § 1321.59(O).

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## OKLAHOMA

*Okla. Stat. tit 14A, §§ 1-101 to 6-113 (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Act prescribes maximum charges for all creditors, except lessors, but excludes:

- Extensions of credit to government or governmental agencies.
- Most sales of insurance.
- Transactions under public utility or common carrier tariffs if certain elements are regulated.
- Pawnbrokers.
- For most purposes, loans to build or purchase a residence or to refinance such a loan when made by a lender whose loans are supervised by an agency of the U.S. or made by a FHA approved mortgagee.

**§ 1-202.** Statute also excludes loans granted by institutions of postsecondary education, § 3-104, and certain loans secured primarily by an interest in land if finance charge does not exceed 13%. § 3-105.

*Licensure requirements and implications of licensure:* In order to make (or take an assignment of and collect) a supervised loan (one exceeding 10% interest), must either be a supervised financial organization (a depository institution organized, chartered, or authorized under Oklahoma or federal statutes) or obtain a license. § 3-502. Loan made in violation of licensure requirements is void. § 5-202.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Excludes loans over \$50,000 (adjusted annually for inflation) except for loans secured by an interest in land and private student loans. § 3-104.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For loan other than supervised loan, 10%. § 3-201(1). For supervised loan,

including a loan pursuant to a revolving loan account either:

- 25%; or
- 27% on unpaid balance up to \$2,910, 23% on unpaid balance over \$2,910 but not exceeding \$6,200, and 20% on unpaid balance over \$6,200. § 3-508A.

*What loan fees are allowed?*

- Official fees.
- Reasonable closing costs and taxes, including taxes for recording instruments.
- Charges for other benefits, including insurance, if authorized by rule.
- A charge for processing debtor's application for credit, including costs of credit reports, credit investigations, appraisals, and fees for preparation of loan-related documents.
- Annual fee.
- Transaction fees.
- Cash advance fees.
- Over-the-limit charges.

§§ 3-202, 3-203.2(b). Section 6-104(4) gives the administrator the authority to adopt rules limiting these charges. This authority includes limiting the charges if necessary to protect Oklahoma debtors from being subjected to charges which are unreasonable or excessive as compared to the prevailing charges being imposed by out-of-state lenders and sellers.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute allows creditor to charge for insurance written in connection with the loan, other than insurance protecting the lender against the debtor's default or other credit loss, and specifically mentions property or liability insurance and credit life, accident, and health insurance. §§ 3-202(3), 4-104.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end loans.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Debtor may prepay in full at any time without penalty. § 3-209.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignments are prohibited and unenforceable, but employee may authorize deductions from earnings if the authorization is revocable. § 3-403(1). Security interest in land is prohibited and void for supervised loan with principal or credit limit of \$4,900 or less and finance charge over 21%. § 3-510.

*Does statute prohibit unconscionable loan charges?* Yes. §§ 4-106, 5-108, 6-111.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Statute is silent.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Supervised lenders are required to file an annual report regarding their business operations for each licensed place of business. The department compiles the information from each licensee's report into a consolidated report of the industry. § 3-506(5).

*Other significant features:* Prohibits loan-splitting. § 3-509.

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## OREGON

*Or. Rev. Stat. §§ 725.010 to 725.910 (Consumer Finance Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to any person making "consumer finance loans," defined as secured or unsecured loans or lines of credit that have periodic payments

and terms longer than 60 days. However, the Act does not apply to loans of \$50,000 or less (including business and agricultural loans) if interest rate does not exceed the greater of 12%, or 5% in excess of the discount rate. § 725.045 (cross-referencing §§ 82.010, 82.025). See next entry for exemptions from licensure requirement.

*Licensure requirements and implications of licensure:* Must have license to conduct a business in which person makes a consumer finance loan of \$50,000 or less, or acts as an agent, broker or facilitator for a person that makes such a loan. § 725.045(1). Section 725.045 creates an exception by cross-referencing § 82.025, which makes the generally-applicable prohibition against lending at a rate greater than authorized by statute inapplicable to FDIC-insured depository institutions, credit unions, pawnbrokers, HUD-approved mortgage lenders, first-lien and purchase-money mortgage loans, certain other mortgage loans, federally-guaranteed or insured loans, loans by tax-qualified retirement plans, bona fide sales of securities or commercial paper, and interest charged by broker-dealers in certain circumstances.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* “Consumer finance loan” means a loan that is unsecured or secured by personal or real property and that has periodic payments and terms longer than 60 days. § 725.010(2).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 36% APR or 30 percentage points in excess of the discount window primary credit rate, whichever is greater. §§ 725.340, 725.345(2).

*What loan fees are allowed?* May contract for and receive other reasonable and bona fide fees, expenses or damages, subject to oversight and regulation by the Department of Consumer and Business Services, including:

- Items exempted from the computation of the finance charge in accordance with TILA and similar pass-through fees or charges.
- Prepayment fees and late fees.

### § 725.340(1)(b).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute specifically allows force-placement of insurance on the collateral, but otherwise is silent about insurance. § 725.340(3).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 725.345(2).

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prepayment fees allowed. § 725.340(1)(b). Rebate provisions do not apply to open-end loans. Or. Admin. R. 441-730-0205 prohibits prepayment penalties on home equity loans and on unsecured lines of credit, and in certain other circumstances, such as where the licensee demands repayment of all or part of the unpaid balance of the loan, where payment was made from benefits resulting from death of the borrower, where the collateral has been foreclosed or repossessed and proceeds have been used toward the balance, or where the licensee acts pursuant to a contract clause allowing it to demand payment in full.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* A security interest in real or personal property may be taken to secure an open-end loan plan. § 725.345(3). Wage assignments are prohibited and unenforceable, but borrower may revocably authorize payroll deductions. § 725.355.

*Does statute prohibit unconscionable loan charges?* No, but statute limits fees other than interest to those that are reasonable and bona fide. § 725.340(1)(b).

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent, but Or. Admin. R.

441-730-0015 requires a determination of the credit-worthiness of a borrower based on the information about the borrower's financial condition, such as his or her income, assets, debts, and financial obligations, and the nature and value of any collateral used to secure the loan for the majority of loans made under a consumer finance license.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report containing information required by the director. § 725.190.

*Other significant features:* Not applicable.

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## PENNSYLVANIA

### *7 Pa. Stat. Ann. §§ 6201 to 6219 (West) (Consumer Discount Company Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Does not apply to banking institutions, building and loan associations, credit unions, or entities licensed by Pennsylvania Secretary of Banking. § 6217.

*Licensure requirements and implications of licensure:* License required to engage in business of making loans of \$25,000 or less and charge more than would be permitted without a license. § 6203.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Definition of "revolving loan account" to which statute applies includes requirement that unpaid principal balance not exceed \$25,000. § 6202.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 24% (§ 6217.1).

*What loan fees are allowed?* \$50 annual fee. § 6217.1.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute does not specify what types of insurance are allowed. However, it refers to insurance on collateral (§ 6218), the lender's right to collect insurance premiums from the borrower (§ 6213(N)), and a requirement that insurance coverages be disclosed (§ 6217.1(B)).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 6214(B).

*Does statute restrict balloon payments or irregular payment schedules?* Lender may require payment of contracts in equal weekly, semi-monthly, monthly or any other periodic installments. § 6213(I). Except as otherwise permitted by Act, all installment contracts shall provide for repayment in substantially equal periods and in substantially equal amounts, except as necessary to take borrower's intermittent income into account. § 6214(F).

*Any restrictions on refinancing?* Licensee shall not collect service charge when only the unpaid balance of an existing contract is renewed or refinanced prior to the expiration of 4 months from the date of such existing contract (but may collect service charge on any new money). § 6214(E).

*Any restrictions on prepayment penalties?* Borrower may prepay in whole or part at any time. § 6214(D). Penalties not specifically allowed so banned.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Licensee may lend money on the security of real or personal property or without security. § 6213.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* This statute is silent. Criminal usury statute, 18 Pa. Stat. Ann. §§ 4806.1(h), 4806.3, applies only when interest over its 36% cap is not otherwise authorized by law.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report giving information as the secretary of banking may require. § 6210.

*Other significant features:* No loan splitting. § 6214(C). Does not prohibit wage assignments and sale-resale arrangements, but provides that the amount the lender receives in excess of the amount borrowed is interest. § 6218.

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## RHODE ISLAND

### *R.I. Gen. Laws §§ 6-26.1-1 to 6-26.1-13 (Credit Card Lenders).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to any lending institution or licensee under § 19-14-1 that offers or extends credit in the form of a credit card transaction. “Lending institution” is defined by § 19-9-1 as any regulated institution and any person that makes loans of money or negotiates the lending of money for another in any state or jurisdiction. § 19-14-1 provides for licensure of, inter alia, lenders making small loans, check cashers, debt-management service providers, and mortgage loan originators. § 6-26.1-1(2).

*Licensure requirements and implications of licensure:* Statute applies to credit card lenders licensed under § 19-14-1. § 19-14-26.1 provides that lender that makes loan without a license required by § 19-14-1 forfeits right to collect interest, fees, and charges.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute applies to “credit card plans,” defined to exclude those secured by real property. § 6-26.1-1(4).

*What rate of interest is allowed?* Agreed rate. § 6-26.1-4.

*What loan fees are allowed?*

- Daily, weekly, monthly, annual, or other periodic fees in any amount agreed.
- Transaction charges in any amount agreed.
- A minimum charge for each billing period when there is an outstanding indebtedness.
- Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by credit card lender or agents in connection with plan, or other reasonable fees incident to the application for and the opening, administration and termination of a plan, including commitment, application and processing fees.
- Official fees and taxes.
- Costs incurred for title examination, inspection, appraisal, recording, mortgage satisfaction, or other formal acts necessary or appropriate to the security for plan, and filing fees.
- Over-the-limit charges.
- Prepayment charges authorized under this law.
- Subject to any limitations contained in chapter, any other fees and charges set forth in agreement.

### *§ 6-26.1-5(a).*

*What types of insurance are allowed, and any limits the lending statute places on charges?* Life, health, accident, health and accident or other credit or other permissible insurance policy or program. § 6-26.1-8(a).

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent. § 6-26.1-7.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Individual borrower may pay outstanding balance in full at any time, and with no penalty except for a charge imposed to terminate a plan if the agreement so provides. § 6-26.1-5(b).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Statute allows lender to take any security as collateral, § 6-26.1-2,

except that statute does not apply to extensions of credit secured by real property. § 6-26.1-1(4).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Criminal usury law, § 6-26-2(d), provides that it does not apply to this statute.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report. § 19-14-22.

*Other significant features:* Not applicable.

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## SOUTH CAROLINA

### *S.C. Code Ann. §§ 37-3-101 to 37-3-413 (Consumer Protection Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to consumer credit transactions. § 37-1-201. Includes rules for “supervised” loans (those exceeding 12% interest). Also includes rules for “restricted loans” (certain loans of \$7,500 or less), which are summarized in the closed-end summaries. Does not apply to:

- Extensions of credit to governments or governmental agencies.
- Most insurance sales, insurance rates, and insurance premium finance company transactions.
- Transactions under public or municipal utility or common carrier tariffs that meet certain conditions.
- Pawnbrokers.
- Rates and charges for restricted lenders, and their examination and licensing.
- Agricultural loans, for most purposes.
- Government-supported student loans.
- Federal credit unions.

- Certain transactions in securities or commodities accounts.

### *§ 37-1-202.*

*Licensure requirements and implications of licensure:* To make supervised loans (those exceeding 12% interest), or to take assignments of them and collect on them, must either be a “supervised financial organization” (defined by § 37-1-301(27) as a depository institution or an organization authorized to advance or service insurance premiums) or obtain a license. § 37-3-502. If creditor makes supervised loan without a required license, consumer is not obligated to pay the excess charge. § 37-5-202.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* “Consumer loan” is defined as one in which principal does not exceed \$90,000 (adjusted for inflation from \$25,000) or the debt is secured by land. § 37-3-104. Supervised loan of \$1,080 (adjusted for inflation from \$300) or less must be payable over no more than 25 months; if more than \$1,080 but no more than \$3,600 (adjusted for inflation from \$1,000), must be payable over no more than 37 months. § 37-3-511.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* “Consumer loan” is defined to exclude those where principal exceeds \$90,000 (adjusted for inflation from \$25,000) unless the debt is secured by land. § 37-3-104. However, first lien mortgage loans are excluded from the definition of “consumer loan” for purposes of the provisions that are relevant to this summary. § 37-3-105. In addition, “supervised loan” is defined to exclude those secured by residential real estate or the borrower’s dwelling. § 37-3-501(1)(a).

*What rate of interest is allowed?* Lenders other than supervised lenders: 12%. Supervised financial organizations (defined by § 37-1-301(27) as federally or SC supervised depository lenders): 18% or any other rate that lender files and posts. § 37-3-201(2)(b). Supervised lenders:

- Cash advance no greater than \$600: “maximum charges imposed in Section 34-29-140 as disclosed as an annual percentage rate, ... and provided further that the maximum charge shall not exceed the rate posted and filed pursuant to Section 37-3-305” § 37-3-201(2). For these loans, § 34-29-140(a) allows \$2.50 per month if the loan is \$150 or less, and \$25 per \$100 per year for larger loans, plus an initial charge of 7% of the cash advance or \$56, whichever is less and a \$2 maintenance fee for each month in the loan contract. (§ 34-29-140(a) also specifies rates for cash advances greater than \$600, but these are irrelevant since § 37-3-201 allows lender to charge any rate that it files and posts for loans greater than \$600.)
- Cash advance greater than \$600: any rate that lender files and posts. § 37-3-201(a)(2)(b).
- Or, for loan of any amount, lender may charge 18%. § 37-3-201(c).

*What loan fees are allowed?*

- Official fees and taxes.
- Annual fee for lender credit card meeting certain requirements.
- Over-the-limit fee for certain lender credit cards: \$10 plus the lesser of 10% of credit limit or \$100.
- Charges for other benefits conferred on the debtor, if valuable to the debtor and reasonable in price, of a type which is not for credit, and authorized by rule as permissible additional charges.

### § 37-3-202.

*What types of insurance are allowed, and any limits the lending statute places on charges?* May charge for insurance, including property insurance; liability insurance; credit life, accident and health, and unemployment insurance; vendor’s single interest insurance; and noncredit term life insurance, but not for insurance protecting the lender against the debtor’s default or other credit loss. § 37-3-202.

*Does statute prohibit all other fees besides those specifically allowed?* § 37-5-202(2) provides that a consumer is not

obligated to pay a charge in excess of that allowed by the statute.

*Does statute restrict balloon payments or require substantially equal installments?* Provision does not apply to revolving loan account.

*Any restrictions on refinancing?* No.

*Any restrictions on prepayment penalties?* Debtor may prepay in full at any time without penalty. § 37-3-209.

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* “Consumer loan” does not include a loan secured by a first lien or equivalent security interest in real estate. § 37-3-105(1). “Supervised loan” is defined to exclude those secured by residential real estate or the borrower’s dwelling. § 37-3-501(1)(a). A security interest in land is prohibited for a supervised loan of \$3,600 or less (adjusted for inflation from \$1,000) or an open-end loan with a credit limit of less than \$5,000. § 37-3-510. Wage assignments are prohibited and unenforceable, but borrower may revocably authorize payroll deductions. § 37-3-403.

*Does statute prohibit unconscionable loan charges?* Yes. § 37-5-108, made applicable to restricted loans by §§ 37-1-106 and 37-1-201.

*Must lender underwrite or evaluate borrower’s ability to repay?* No separate requirement, but must consider to determine if unconscionable. § 37-5-108(4)(b).

*Is lending under this statute exempt from state criminal usury law?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Prohibits loan splitting. § 37-3-509.



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## SOUTH DAKOTA

### *S.D. Codified Laws §§ 54-4-36 to 54-4-75 (Money Lenders Licenses).*

*What types of lenders it applies to (e.g. banks vs. non-banks)?* Any person engaged in the business of lending money. § 54-4-40. Statute exempts banks and their subsidiaries, South Dakota chartered trust companies, and retail installment sellers. §§ 54-4-37, 54-4-64.

*Licensure requirements and implications of licensure:* No person may engage in the business of lending money (defined by § 54-4-36(2) to include originating, selling, servicing, acquiring, or purchasing loans, or servicing, acquiring, or purchasing retail installment loans) without a license. §§ 54-4-40, 54-4-52.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute defines “loan” to include installment loan (*i.e.*, one to be repaid in specified amounts over a certain number of months), open-end loan, or single-pay loans. § 54-4-36(7), (11). “Short-term consumer loan” is defined as any loan to any individual borrower with a duration of six months or less, including a payday loan. § 54-4-36(13). “Installment loan” is a loan made to be repaid in specified amounts over a certain number of months. § 54-4-36(7).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Licensee may charge interest and other fees at rates, amounts, and terms as agreed to by the parties. § 54-4-44. *See also* §§ 54-3-13, 54-3-14 (regulated lenders, including installment loan licensees, are exempt from all limitations on interest rates they may charge).

*What loan fees are allowed?* See preceding entry.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property insurance on tangible property that is collateral. § 54-4-59. Debt cancellation or suspension contracts. § 54-4-75. Statute also provides that a licensee may sell insurance

to anyone with whom the licensee has a lending relationship, and requires that credit life insurance or any other life or health insurance must be voluntary. § 54-4-60.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent except for restrictions on short-term consumer loans. § 54-4-65.

*Any restrictions on prepayment penalties?* Statute is silent.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* “Loan” is defined to include unsecured loans and loans secured by real or personal property. § 54-4-11.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## TENNESSEE

### *Tenn. Code Ann. §§ 45-5-101 to 45-5-612 (Industrial Loan and Thrift Companies).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Industrial loan and thrift companies, industrial banks, industrial investment companies. § 45-5-103(a). Law is inapplicable to banks (other than industrial banks), savings and loan associations, credit unions, insurance companies, any other

persons engaged in the business of making loans who are subject to supervision and regulation by a state or federal administrative agency, and licensed pawnbrokers. § 45-5-104.

*Licensure requirements and implications of licensure:* Registration required. § 45-5-103(a).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* No restrictions. Open-end credit plans are defined as “plans under which a registrant contemplates repeated loans that may be without fixed maturities or limitation as to the length of term.” § 45-5-301(2).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* On loan of less than \$100, 7.5% per annum discount interest, but capped at 18% actuarial. On loan of \$100 or more, 24% actuarial. For all open-end credit plans, 24% actuarial. §§ 45-5-301, 45-5-401(c). (Section 45-5-403(b)(1) offers an alternative, but the calculations depend on the number of months in the loan term, so it is inapplicable to open-end credit, which is defined by § 45-5-301(2)(A)(iii) as having no fixed loan term.)

*What loan fees are allowed?*

- 4% of loan amount or a flat service charge of \$10 (less if loan is under \$100), or, for open-end credit or loans secured by real property, the actual bona fide, reasonable expenses directly incident to the loan that are paid to third parties, including title examination, title insurance, surveys, document preparation, credit reports, and appraisals. § 45-5-403(a)(1), (2).
- In addition:
  - Recording fees or non-filing insurance.
  - Installment maintenance fee of \$2.50 per month for loan of less than \$100, \$3.50 per month for loan of \$100 or more but no more than \$750, \$3.00 per month for loan of more than \$750 but no more than \$1,250, and \$2.50 per month for loan over \$1,250.

§ 45-5-403. A general provision of the statute provides that these loan charges can be imposed only if the loan term is at least three years. § 45-5-301(3).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Property insurance on the collateral; life, disability, or involuntary unemployment insurance. §§ 45-5-301(4), (5), (12), 45-5-305.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 45-5-403.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* The flat service charges authorized by § 45-5-403(a)(2) cannot be charged on the portion of a loan that refinances an earlier loan. § 45-5-403(a)(2)(C).

*Any restrictions on prepayment penalties?* Statute is silent about prepayment penalties. Borrower has right to prepay loan of \$100 or more only if contract so provides. § 45-5-402(b)(1).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* May lend money with or without security, and take as security real or personal property, or both. § 45-5-301(1).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report stating names and addresses of registrant's officers and directors or partners, and persons owning controlling interest in registrant; registrant's business locations and the nature of the business conducted at each location; names and addresses of all affiliated lenders and affiliated insurance companies doing business in the state; and

balance sheets, statements of income and expense, summaries of types of loans made, and other statistical information that may reasonably be required by the commissioner. Commissioner must prepare annual analysis and recapitulation of the reports. § 45-5-503. Registrants must also report certain events such as bankruptcy, revocation or suspension proceedings, and indictments or convictions. § 45-5-507.

*Other significant features:* Loan-splitting prohibited. § 45-5-302(11).

### [Tenn. Code Ann. §§ 45-12-101 to 45-12-126 \(Flexible Credit Act\).](#)

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to licensees under this statute. § 45-12-103(a).

*Licensure requirements and implications of licensure:* Licensure required. § 45-5-103(a).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute limits outstanding principal balance to \$4000. § 45-12-111(d).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Applies to any “flex loan plan,” defined as an open-end credit plan under which the licensee contemplates repeated noncommercial loans for personal, family, or household purposes, that may be unsecured or secured by personal property; may be without fixed maturities or limitation as to the length of term; and are subject to prepayment in whole or in part at any time without penalty. § 45-12-102(6).

*What rate of interest is allowed?* 24% per annum. § 45-12-111(b). However, the licensee may also collect a “customary fee” of up to 0.7% per day (255% per year) of the average daily balance, which the statute defines not to be interest. § 45-12-111(c). Combining this with the 24% interest rate equals 279%.

*What loan fees are allowed?* Statute is silent.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules? Lender must require payments in amounts sufficient to reduce principal balance by at least 3% per month.* § 45-12-111(e).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prohibited. § 45-12-102(6).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Loans may be unsecured or secured by personal property. § 45-12-102(6)(A).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower’s ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report is required, but statute does not require it to include any information about loans made. Commissioner must prepare annual analysis and recapitulation of the reports. § 45-12-122. Registrants must also report certain events such as bankruptcy, revocation or suspension proceedings, and indictments or convictions. § 45-12-121.

*Other significant features:* Loan-splitting prohibited, but the prohibition can be evaded by having the borrower sign a paper. § 45-12-113(c)(1). Anti-evasion provision. § 45-12-113(d).

## TEXAS

### *Tex. Fin. Code Ann. §§ 346.001 to 346.206 (West) (Revolving Credit Accounts).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to “revolving credit accounts,” defined to include both those by which a consumer may obtain direct loans (“revolving loan accounts”) and those that provide credit cards that can be used to purchase goods or services from a third party or obtain loans from the creditor or a third party (“revolving triparty accounts”). §§ 346.003, 346.004. Statute is limited to personal, family, or household use unless the contract opts in to coverage. § 346.004.

*Licensure requirements and implications of licensure:* Must hold a license under Consumer Loans Law, § 342.051, to engage in business of making, transacting, negotiating, collecting, or servicing loans subject to chapter 342, or to charge interest greater than that otherwise authorized. Banks, savings banks, savings and loan associations, insurance premium finance companies, insurance agents who arrange loans on behalf of banks, savings banks, or savings and loan associations, e-filers authorized by IRS who arrange refund anticipation loans, and certain licensed or registered mortgage lenders and originators (limited to home equity and secondary mortgage loans) need not be licensed. § 346.005(b).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 18%. § 346.101.

*What loan fees are allowed?*

- Annual fee of \$50 if credit limit \$5,000 or less, \$75 if credit limit exceeds \$5,000 but does not exceed \$25,000, and \$125 if credit limit exceeds \$25,000.
- Cash advance charge of \$2 or 2% of the advance, whichever is greater.

- Over-the-limit fee of \$15 or 5% of the amount by which the credit limit is exceeded, whichever is greater.
- Recording fees.

### **§§ 346.103, 346.202.**

*What types of insurance are allowed, and any limits the lending statute places on charges?* Section 346.201 incorporates chapter 342: Lender may require property insurance on tangible personal property collateral for non-real property loan, but only if cash advance is \$300 or more. § 342.401. If cash advance is \$100 or more, lender may offer credit life, credit health and accident, and involuntary unemployment insurance at the time the loan is made. § 342.402. For loan that is not secured by real property, lender may offer, but not require, a debt suspension agreement or debt cancellation agreement, and, if a motor vehicle is collateral, a gap waiver agreement. § 342.4021.

*Does statute prohibit all other fees besides those specifically allowed?* Yes, by virtue of § 349.001.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Prepayment penalties are prohibited on all chapter 342 loans because they are not specifically authorized.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Creditor may require or take real or personal property as collateral. § 346.201.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that*

*the state agency review or take other steps regarding the reports:* Lenders licensed under § 342.051 must file annual reports. See § 342.559.

*Other significant features:* Loan-splitting prohibited. § 346.203.

### **Tex. Fin. Code Ann. §§ 342.051 to 342.560 (West) (Consumer Loans).**

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to all lenders, but exempts some from licensure requirement.

*Licensure requirements and implications of licensure:* Must hold a license to engage in business of making loans subject to the chapter, or to charge interest greater than that otherwise authorized. Banks, savings banks, savings and loan associations, insurers, insurance agents who arrange loans, e-filers authorized by IRS who arrange refund anticipation loans, and certain licensed or registered mortgage lenders and originators need not be licensed. § 342.051.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* For loans made under the add-on rates allowed by § 342.201(a) or the split rates allowed by § 342.201(e), loan term cannot exceed:

- 37 months if loan is for \$1,500 or less.
- 49 months if loan is for more than \$1,500 but no more than \$3,000.
- 60 months if loan is for more than \$3,000.

**§ 342.508.** The statute does not include any exemption for open-end credit from this generally-applicable provision.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute applies to loans for consumer purposes, other than certain mortgage loans, if interest rate exceeds 10%. § 342.005.

*What rate of interest is allowed?* Three alternatives:

- Simple interest rates that produce the equivalent of add-on interest of:

- \$18 per \$100 per year on first \$2,010 (adjusted for inflation from original amount of \$300); and
- \$8 per \$100 per year on amount over \$2,010 but no more than \$16,750 (adjusted for inflation from original amount of \$2,500). §§ 342.201(a), 342.455(g).
- The rates set by §§ 303.001 to 303.017 (twice the rate on certain Treasury bills, with a 21% cap). §§ 342.201(d), 303.009(d).
- Split simple interest rates (referred to in Texas as “graduated rates” or “three-tiered rates”) as follows:
  - 30% on first \$3,350 (adjusted for inflation from original amount of \$500);
  - 24% on amount greater than \$3,350 but no more than \$7,035 (adjusted for inflation from original amount of \$1,050); and
  - 18% on amount greater than \$7,035 but no more than \$16,750 (adjusted for inflation from \$2,500). § 342.201(e).

### **§ 342.455 (incorporating § 342.201).**

*What loan fees are allowed?* Administrative fee of \$100. § 342.455 (incorporating § 342.201(f)); 7 Tex. Admin. Code § 83.503 (increasing the fee to \$100, effective July 10, 2014, and stating that it may be charged in addition to interest).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Lender may require property insurance on tangible personal property collateral for non-real property loan, but only if cash advance is \$300 or more. § 342.401. If cash advance is \$100 or more, lender may offer credit life, credit health and accident, and involuntary unemployment insurance. § 342.402. For loan that is not secured by real property and for which the finance charges are computed under the simple interest rates (18% to 24%) allowed by § 342.201(d), lender may offer, but not require, a debt suspension agreement or debt cancellation agreement, and, if a motor vehicle is collateral, a gap waiver agreement. § 342.4021. Authorized lender (a bank, savings association, or licensed consumer lender) may offer, but not require,

an automobile club membership. § 342.457. *See also* § 342.455(e) (referring to insurance coverage in open-end credit contracts).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 342.502.

*Does statute restrict balloon payments or irregular payment schedules?* No. Statute refers to single-payment loans and irregular transactions. §§ 342.201(c), 342.202. *See also* § 342.001(1), (2) (definitions of irregular and regular transactions).

*Any restrictions on refinancing?* Administrative fee (\$100) can be charged only once in any 180-day period, and only once in any 365-day period if lender charged the split simple interest rates allowed by § 342.201(e). § 342.201(f).

*Any restrictions on prepayment penalties?* Lender must allow prepayment. § 342.453. Prepayment penalties are prohibited on all chapter 342 consumer loans because they are not specifically authorized by § 342.502.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Wage assignments and liens on real property, other than judgment liens, are prohibited, but lender may take an assignment of a warrant drawn against a state fund or a claim against a state fund or a state agency. § 342.503.

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent, but administrative rule requires lenders making loans under chapter 342 to consider, in determining the size, duration, and schedule of installments, the financial ability of the borrower to repay the loan, and evaluate whether the borrower should be reasonably able to repay all other known obligations concurrently. 7 Tex. Admin. Code § 83.852.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Authorized lender (a bank, savings association, or licensed consumer lender) must file annual report containing information required by the commissioner. Commissioner shall publish annual consolidated analysis and recapitulation. § 342.559. However, 7 Tex. Admin. Code § 83.835 limits the annual reporting requirement to licensees of the Office of the Consumer Credit Commissioner, so it does not apply to banks, savings banks, savings and loan associations, or other lenders that need not be licensed.

*Other significant features:* Loan splitting prohibited. § 342.501. Anti-evasion provision. § 342.051(b).

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## UTAH

*Utah Code Ann. §§ 70C-1-101 to 70C-8-203 (West) (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to extensions of credit to natural persons, but excludes:

- Business, commercial, or agricultural credit.
- Closed-end credit secured by a first lien on a dwelling or building lot.
- Certain transactions in securities or commodities accounts.
- Credit over \$50,000 (adjusted for inflation) or with a credit limit over that amount, unless secured by real property or a personal-property dwelling.
- Certain transactions under public utility or common carrier tariffs.
- Most insurance sales.
- Pawnbrokers.
- Certain educational loans.
- Rent-to-own transactions

## §§ 70C-1-201, 70C-1-202.

*Licensure requirements and implications of licensure:*

Licensure is not required, but creditors subject to the Code, other than federally insured depository institutions and their wholly owned subsidiaries, must file notification with the department at least 30 days before commencing business in the state. § 70C-8-202.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Law does not apply to extension of credit that is not secured by the consumer's principal dwelling and in which the amount financed or credit limit exceeds \$50,000 (adjusted annually for inflation). § 70C-1-202.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent

*What rate of interest is allowed?* Rate set by contract. § 70C-2-101. Statute also provides that, if there is an unpaid balance in an open-end account on the date the finance charge is applied, the creditor may assess a minimum charge. § 70C-4-101.

*What loan fees are allowed?* Parties may contract for payment of any finance charge and other charges and fees except where restricted or otherwise covered by provisions of the Code. § 70C-2-101.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Except as otherwise provided in statute, a creditor may agree to provide insurance. Statute specifically mentions property insurance on collateral, credit life insurance, and liability insurance. §§ 70C-6-103, 70C-1-204, 70C-6-202, 70C-6-303.

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 70C-7-201.

*Does statute restrict balloon payments or require substantially equal installments?* Provision does not apply to open-end credit.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Provisions do not apply to open-end credit.

*What security interests are allowed or prohibited (including postdated checks and ACH authorization)?* Wage assignments prohibited unless revocable, or a payroll deduction plan, or applicable only to wages already earned at the time of the assignment. § 70C-2-202.

*Does statute prohibit unconscionable loan charges?* Yes. § 70C-7-106.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*Is lending under this statute exempt from state criminal usury law?* Statute is silent.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## VIRGINIA

*Va. Code Ann. § 6.2-312 (Open-End Credit Plans); Va. Code Ann. §§ 6.2-313, 6.2-318, 6.2-400.*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies broadly to lenders engaged in extending credit under open-end credit plans. § 6.2-312(A). However, licensed payday lenders are prohibited from extending open-end credit under this section. § 6.2-312(C).

*Licensure requirements and implications of licensure:* Statute is silent.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Bank or savings institution may impose finance charges and other charges or fees as agreed by the parties. § 6.2-313. Credit unions and other non-bank lenders may also impose finance charges and other charges and fees as agreed by the parties, but only for open-end credit plans that allow a grace period of at least 25 days from the billing date to pay the balance without incurring finance charges. §§ 6.2-312(A), 6.2-318. A lender is unlikely to offer cash advances under such a plan.

*What loan fees are allowed?* See preceding entry.

*What types of insurance are allowed, and any limits the lending statute places on charges?* Statute is silent.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Statute is silent.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Provisions do not apply to open-end loans.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* May be secured by a subordinate mortgage or deed of trust on residential real estate. § 6.2-312(B). No person shall make a loan or otherwise extend credit under an open-end credit plan or any other lending arrangement that is secured by a non-purchase money security interest in a motor vehicle unless such loan or extension of credit is made in accordance with, or is exempt from, the provisions of chapter 22 (motor vehicle title loans). § 6.2-312(D).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that*

*the state agency review or take other steps regarding the reports:* Statute is silent.

*Other significant features:* Not applicable.

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## WASHINGTON

### *Wash Rev. Code §§ 31.04.015 to 34.04.903 (Consumer Loan Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies to loans, broadly defined, but excludes:

- Banks, savings banks, trust companies, savings and loan or building and loan associations, and credit unions.
- Pawnbrokers.
- Retail installment sellers, unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit.
- Entities making loans under check cashers law.
- Business, commercial, or agricultural loans unless secured by borrower's primary residence.
- "Person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal TILA."
- Entities making loans under housing trust fund law.
- Entities making loans under programs of the U.S. Department of Agriculture, HUD, or other similar federal government programs.
- Loans made by nonprofit housing organizations or under federal- or state-funded low-income housing programs.
- "Entities making loans that are not residential mortgage loans under a credit card plan."
- Individuals employed by a licensed residential loan servicing company, unless so required by federal law or regulation.



- Licensed entities that process payments on seller-financed loans secured by liens on real or personal property.

### § 31.04.025.

*Licensure requirements and implications of licensure:*

License required. If non-mortgage loan is made without a required license, fees or interest must be refunded. § 31.04.035(1).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Statute is silent.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* 25%. § 31.04.115(2)(a).

*What loan fees are allowed?*

- Nonrefundable, prepaid, origination fee not to exceed 4% of the first \$20,000 and 2% of remainder. § 31.04.105(2).
- Actual fees paid to third parties who provide goods or services, including credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred in connection with an appraisal that meets statutory requirements. § 31.04.105(3).
- For open-end loan: May charge other authorized fees, plus annual fee, payable each year in advance. § 31.04.115(3).

See also Wash. Admin. Code §§ 208-620-555, 208-620-560 (providing details about fees).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Licensee may sell insurance covering real and personal property, covering the life or disability or both of borrower, and covering the involuntary unemployment of borrower. §§ 31.04.105(10), 31.04.115(4).

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* For open-end loan: The borrower may prepay in full at any time without prepayment penalty or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement. § 31.04.115(1)(d).

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Borrower has the privilege of paying the account in full at any time without prepayment penalty. § 31.04.115(1)(d).

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* For open-end loan: security interest in real or personal property is allowed. § 31.04.115(5).

*Does statute prohibit unconscionable loan charges?* Statute is silent.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent. Cf. Wash. Admin. Code § 208-620-506 (requiring that underwriting standards for mortgage loans include analysis of ability to repay).

*If state has a criminal usury law, is lending under this statute exempt from it?* Not applicable.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Annual report with information as director may reasonably require. Director shall publish annual analysis and recapitulation § 31.04.155.

*Other significant features:* Not applicable.

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## WEST VIRGINIA

*W. Va. Code §§ 46A-1-101 to 46A-8-102 (Consumer Credit and Protection Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Applies generally to consumer lending, but excludes:

- Extensions of credit to government or governmental agencies or instrumentalities.
- Sale of insurance by an insurer, except as otherwise provided.
- Certain transactions under public utility or common carrier tariffs.
- Licensed pawnbrokers.
- Mortgage lender and broker licensees, to the extent of a conflict with state Mortgage Lender, Broker and Servicer Act.

### §§ 46A-1-103, 46A-1-105.

*Licensure requirements and implications of licensure:* Must obtain license in order to make “regulated” consumer loans or take assignments of them and collect them. § 46A-4-101. “Regulated consumer loan” is one with an interest rate over 18%, except those that qualify for federal law preemption from state interest rate limitations, including federal law bank parity provisions, or where other state law specifically permits the lender to make the loan at that rate without a regulated consumer lender license. § 46A-1-102(38). Loan made without a required license is void. § 46A-5-101(2).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* “Consumer loan” is defined as one where either the principal does not exceed \$45,000 or the debt is secured by an interest in land or a factory-built home. § 46A-1-102(15).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* Several alternate rates are allowed:

- 18% on the first \$750 of unpaid principal balance and 12% on the unpaid principal balance in excess of \$750, but lender may charge a minimum of \$0.50 for any month in which there is an unpaid balance. § 46A-3-106.

- The alternate rate set forth in § 31a-4-30a: 1% in excess of 90-day discount rate. § 46A-3-117.
- The alternate rate set forth in §§ 47-6-5b and 47-6-5c: 1-1/2% above long-term T-bills. § 46A-3-117.
- Regulated lender may charge: For loan of \$2,000 or less that is not secured by real property, 31% actuarial. For loan of greater than \$2,000 or which is secured by real property, 27% actuarial, but 18% if loan exceeds \$10,000. § 46A-4-107(1), (2), (3).
- For a loan of \$2,000 or less, a regulated consumer lender may charge 31% plus a processing fee of 2% of the amount financed, as long as the lender charges no other finance charges. § 46A-4-107(7).
- As a final alternative, any lender may charge 18% actuarial, by virtue of a board order under §§ 47A-1-1 to 47A-1-4.

*What loan fees are allowed?* Lender may charge (and add to principal) 2% of the amount financed as an origination fee, points or investigation fee, but may charge 5% if loan is secured by real estate. Lender may also charge:

- Official fees and taxes.
- Annual fee for lender credit card that can be used to purchase goods or services from at least 100 persons not related to the issuer.
- Charges for other benefits, including insurance, in certain circumstances if commissioner adopts rule.
- Documentary charge if reasonable in amount and applied equally to cash and credit customers.

### § 46A-3-109(a).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Insurance on the consumer’s life and earning capacity, on any real or personal property offered as security, and vendor’s or creditor’s single interest insurance with respect to which the insurer has no right of subrogation. § 46A-3-109(b).

*Does statute prohibit all other fees besides those specifically allowed?* Yes. § 46A-4-107(4).

Does statute restrict balloon payments or irregular payment schedules? Provision does not apply to open-end credit.

Any restrictions on refinancing? Only provision relates solely to loans secured by real estate. § 46A-4-107(4).

Any restrictions on prepayment penalties? Consumer may repay in full the unpaid balance of a consumer loan, refinancing or consolidation at any time without penalty (with an exception for certain loans secured by real estate). § 46A-3-110.

What security interests (or postdated checks or ACH authorizations) are allowed or prohibited? Wage assignments are allowed but must be revocable and limited to 25% of disposable earnings, and are prohibited altogether and void for regulated consumer lenders. §§ 46A-2-116, 46A-4-109(2). Other than a purchase money lien, no regulated consumer lender may take a security interest in household goods in the possession and use of the borrower, and agreement creating non-purchase money security interest in items other than household goods must be in writing, signed in person by the borrower, and by borrower's spouse if borrower is married (unless they are separated); non-complying security interest is void. § 46A-4-109(3).

Does statute prohibit unconscionable loan charges? Yes. § 46A-2-121.

Must lender underwrite or evaluate borrower's ability to repay? Statute is silent.

If state has a criminal usury law, is lending under this statute exempt from it? Criminal usury provision, § 46A-5-103, only criminalizes certain violations of the Consumer Credit and Protection Act, so does not provide an independent limit on the rates the Act authorizes.

Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports: Annual report in form prescribed by commissioner relating to all regulated consumer loans made, including the lender's financial condition, assets, and liabilities. § 46A-4-104.

Other significant features: Loan-splitting prohibited. § 46A-4-108.

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## WISCONSIN

*Wis. Stat. §§ 421.101 to 427.105 (Wisconsin Consumer Act).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Act applies broadly to consumer credit transactions. § 421.107. Does not apply to:

- Transactions in which all parties are organizations.
- Certain transactions under public utility or common carrier tariffs.
- Pawnbrokers' rates and charges.
- Most sales of insurance.
- Consumer credit transactions in which amount financed exceeds \$25,000.
- First lien real estate mortgage transactions.
- Certain securities transactions.
- Motor vehicle leases that do not meet definition of consumer lease.
- Transactions for agricultural purposes, except for debt collection restrictions and a disclosure provision.
- For some purposes, certain consumer credit transactions made, insured, or guaranteed by a government agency.

*§§ 421.202, 421.203.*

*Licensure requirements and implications of licensure:* Registration requirement for those who make or solicit consumer credit transactions (except a person who engages in consumer credit transactions solely through honoring credit cards issued by third parties not related to such person), and those who directly collect payments from or enforce rights against customers arising from such transactions. § 426.201. Lenders other than banks, savings banks, savings and loan associations, trust companies, credit unions, or any of their affiliates, or licensed payday lenders

must also have license to charge more than 18% on consumer loans § 138.09.

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Act does not apply to consumer credit transactions in which amount financed exceeds \$25,000. § 421.202(6).

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* No limit. § 422.201(2) (bn), (10s), 138.09(bp).

*What loan fees are allowed?* Fees and charges that are agreed upon by the parties, which may include periodic membership fees, cash advance fees, charges for exceeding a designated credit limit, charges for late payments, charges for providing copies of documents and dishonored check charges. § 420.202(2m).

*What types of insurance are allowed, and any limits the lending statute places on charges?* Creditor may charge for credit life insurance, credit accident and sickness insurance, credit unemployment insurance, and other insurance, § 422.202(2s), but may not charge for property insurance unless amount financed is \$800 or more and value of property is \$800 or more. § 424.301(3). May also charge for future service contracts; motor club service contracts; mechanical breakdown, extended warranty, or maintenance service contracts; and other charges approved by the administrator. § 422.202(2s).

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* No. See closed-end credit summary.

*Any restrictions on refinancing?* Provision does not apply to open-end credit.

*Any restrictions on prepayment penalties?* May prepay in full at any time without penalty. § 422.208.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited?* Act does not apply to transactions secured by a first lien on real

estate. § 421.202(7). Wage assignments are prohibited unless revocable at will by the customer. § 422.404. In a consumer loan transaction that constitutes an interlocking loan (a purchase-money loan in which the lender has a relationship with the seller or lessor), no creditor shall take a negotiable instrument, other than a check, as evidence of the obligation of the customer. § 422.406(2). For a consumer loan, lender may not take a non-purchase money security interest in: (a) clothing of the customer and the customer's dependents and the following, if they are not fixtures: dining table and chairs, refrigerator, heating stove, cooking stove, radio, beds and bedding, couch and chairs, cooking utensils and kitchenware or (b) real property if the obligation secured is less than \$1,000. § 422.417(3).

*Does statute prohibit unconscionable loan charges?* Yes. § 425.107.

*Must lender underwrite or evaluate borrower's ability to repay?* Statute is silent.

*If state has a criminal usury law, is lending under this statute exempt from it?* Section 943.27 criminalizes loan contracts with interest exceeding 20% actuarial, but only if the rate is prohibited by a law other than § 943.27.

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports:* Administrator must report annually on practices in consumer transactions, on the use of consumer credit in the state, on problems attending the collection of debts, on the problems of persons of limited means in consumer transactions, and on the operation of the Act, including the administrator's procedures and policies and recommendations for amendments to the Act. The administrator shall make available upon request a list of all persons against whom complaints have been filed and the results of all investigations completed or not being actively pursued along with a brief description of the facts of each case and the action taken in each. § 426.104.

*Other significant features:* Loan splitting prohibited. § 138.09(7)(j). Anti-evasion provision. § 138.09(9)(a).

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## WYOMING

### *Wyo. Stat. Ann. §§ 40-14-101 to 40-14-702 (Consumer Credit Code).*

*What types of lenders it applies to (e.g., banks vs. non-banks):* Act prescribes maximum charges for all creditors, § 40-14-107. However, except as required by § 40-14-641 (provision on loan originator licensing) Act does not apply to extensions of credit to government or governmental agencies; the sale of insurance by an insurer if the premium is not financed; certain transactions under public utility or common carrier tariffs; ceilings on credit unions' rates and charges or limits on their loan maturities; or credit transactions primarily for agricultural purposes except as provided. § 40-14-121.

*Licensure requirements and implications of licensure:* To make supervised loans, i.e., loans with interest rate higher than 10%, must have license or be a supervised financial organization (a depository institution, other than an insurer, that is subject to federal or state supervision). Must also have license to take assignments of and collect upon supervised loans (with 3-month grace period). § 40-14-342. Loan made in violation of licensure requirements is void. § 40-14-521(b).

*Size and length of loans to which the statute applies, and any restrictions in the statute on these features:* Relevant provisions apply to "consumer loans," defined to exclude those in which the principal exceeds \$75,000, unless the debt is secured by an interest in land or a dwelling located in Wyoming. § 40-14-304. However, "consumer loan" does not include a first mortgage loan that is not precomputed and that is primarily secured by an interest in land if: (i) at the time the loan is made the value of the collateral is substantial in relation to the amount of the loan and (ii) the finance charge does not exceed 18% actuarial. § 40-14-305.

*Other restrictions on applicability of statute (e.g., it only applies if lender takes a mortgage on real property):* Statute is silent.

*What rate of interest is allowed?* For consumer loan other than a supervised loan, 10%, but (with exceptions for pawnbrokers and post-dated check cashers), lender may charge a minimum loan finance charge of \$30.00. § 40-14-310(a), (f). For a supervised loan with initial principal of \$75,000 or less, either 36% on first \$1,000 and 21% on remainder, or 21% on entire unpaid balance. Where the initial principal exceeds \$75,000, any finance charge specified in loan agreement. § 40-14-348.

*What loan fees are allowed?*

- Official fees and taxes.
- Annual fee for lender credit card (see definition at § 40-14-140(a)(v)) or similar arrangement that entitles the user to purchase goods or services from at least 100 persons not related to the issuer.
- Charges excluded from the loan finance charge by the federal Consumer Credit Protection Act or by rule adopted by the administrator.

### *§ 40-14-311.*

*What types of insurance are allowed, and any limits the lending statute places on charges?* Credit insurance providing life, accident, or health coverage, property insurance, and liability insurance. §§ 40-14-40440-14-431, 40-14-452. Creditor may charge for property insurance only if amount financed is \$300 or more and the value of the property is \$300 or more. § 40-14-450.

*Does statute prohibit all other fees besides those specifically allowed?* Statute is silent.

*Does statute restrict balloon payments or irregular payment schedules?* Provisions do not apply to open-end credit.

*Any restrictions on refinancing?* Statute is silent.

*Any restrictions on prepayment penalties?* Debtor may prepay without penalty. § 40-14-318.

*What security interests (or postdated checks or ACH authorizations) are allowed or prohibited? Wage assignments prohibited and unenforceable for consumer loans, but employee may authorize deductions from earnings if the authorization is revocable, and lender may take an assignment of commissions or accounts receivable payable to the debtor for services rendered. § 410-14-334. For a supervised loan where principal is \$1,000 or less, security interest in land is prohibited and void. § 40-14-350.*

*Does statute prohibit unconscionable loan charges? Yes. § 40-14-508.*

*Must lender underwrite or evaluate borrower's ability to repay? Statute is silent.*

*If state has a criminal usury law, is lending under this statute exempt from it? Not applicable.*

*Reporting requirements, including detail about what must be reported and whether there are any requirements that the state agency review or take other steps regarding the reports: Administrator may conduct research and make appropriate studies and must make annual report on the operation of his office, on the use of consumer credit in the state, and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit. The report shall include a description of certain of the administrator's procedures and policies, the number and percentages of offices which are periodically investigated or examined, a statement of the types of consumer credit problems of creditors and debtors which have come to his attention and their disposition, and the activities of his office. § 40-14-604(e).*

*Other significant features: Loan splitting prohibited. § 40-14-349.*