

**LATE FEES**

**Legal Disclaimer:** Although a good faith attempt has been made to make this table as complete as possible, it is still subject to human error and constantly changing laws. It should neither be considered complete nor used as a substitute for legal advice. No warranty, either expressed or implied, is attached in any regard to this table. Any reproduction, distribution, sharing, or modification of this table without the express written permission of an authorized agent of DocuTech Corporation is prohibited.

**Notes:** With the exception of consumer loans in Oklahoma, all minimum charge amounts listed are optional.

**Last Updated:** July, 2011

| State | Loan Type | Loan Amount | Lien Type | Days Late (Minimum) | Maximum Percentage | Minimum Charge | Maximum Charge | Legal Reference |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| AL | Consumer Credit Transaction[[1]](#endnote-1) | Any | Any | 10 | 5% | $18 | $100 | Ala. Code §5-19-4(a) |
| AK | Small Loan[[2]](#endnote-2) | $25,000 (or less) | Any | Any | 10% | None | $25 | Alaska Stat. §06.20.260(a)(6) |
| AK | Installment Loan[[3]](#endnote-3) (Less than 7 years) | $10,000 (or less, excluding interest) | Any | 15 | 5% | None | $15 | Alaska Statute §45.45.080(c)(1) |
| AZ | Consumer Lender Loan[[4]](#endnote-4) | $10,000(or less) | Any | 7 | 5% | None | None | Ariz. Rev. Stat. §6-635(a)(1) |
| AZ | Closed-End Loan[[5]](#endnote-5) | $5,000 (or less) | Any | 10 | 5% | None | $10 | Ariz. Rev .Stat. §44-1205(a)(2) |
| AR | Industrial Loan[[6]](#endnote-6) | Any | Any | Any | 5% | None | None | Ark. Code Ann. §23-36-112 |
| CA | Real Property Secured Loan (REL)[[7]](#endnote-7) | Any | Any | 10 | 10% | $5 | None | Cal. Bus. & Prof. Code §10242.5(a) |
| CA | Delinquent Balloon Payment (REL)[[8]](#endnote-8) | Any | Any | 10 | (*LSMI* x 10%) x (1 + *m*)[[9]](#endnote-9) | None | None | Cal. Bus. & Prof. Code §10242.5(c) |
| CA | Real Property Secured Loan (CRMLA)[[10]](#endnote-10) | Any | Any | 10 | 6% | $5 | None | Cal. Civ. Code §2954.4 |
| CO | Consumer Credit Transaction[[11]](#endnote-11) | Any | Secondary | 10 | 5% | None | None | Colo. Rev. Stat. Ann. §5-2-203 |
| CT | Any Type of Loan | Any | Any | Any | Reasonable | None | None | Conn. Gen. Stat. Ann. §49-6c; *McKeever v. Fiore*, 78 Conn. App. 783 (Conn. App., 2003) |
| DE | Closed-End Loan[[12]](#endnote-12) | Any | Any | Any | 5% | None | None | Del. Code Ann. tit. 5, §2231(2); 5 Del. Admin. Code §2203-3.2.3 |
| DE | Revolving Credit Plan[[13]](#endnote-13) | Any | Any | Any | Any | None | None | 5 Del. C. §2222; 5 Del. Admin. Code §2203-3.1.6 |
| DC  | Any Type of Loan | Any | Any | 10 | 5% | None | None | D.C. Code Ann. §28-3310(b) |
| FL | High Cost Home-Loan[[14]](#endnote-14) | Any | Any | 15 | 5% | None | None | Fla. Stat. Ann. §494.00791(13) |
| FL | Consumer Finance Loan[[15]](#endnote-15) | $1,000 - $25,000 | Any | 10 | Any | None | $10 | Fla. Stat. Ann. §516.031(3)(a)(9); Fla. Admin. Code r. §69V-160.015 |
| GA | Home Loan[[16]](#endnote-16) | FNMA Conforming Loan Limit | Any | 10 | 5% | None | None | Ga. Code Ann. §7-6A-3(3) |
| HI | Consumer Loans[[17]](#endnote-17) | Any [[18]](#endnote-18) | Any | Any | 5% | None | None | Haw. Rev. Stat. §412:9-304(1) |
| ID | Precomputed Regulated Consumer Credit Transaction[[19]](#endnote-19) | Any | Secondary | 10 | 5% | $12.50 | None | Idaho Code §28-42-301(1) |
| ID | Regulated Consumer Loan[[20]](#endnote-20) | Any | Secondary | 15 | 5% | $15 | None | Idaho Code §28-42-301(2) |
| ID | Nonprecomputed Regulated Consumer Credit Transaction[[21]](#endnote-21) | Any | Secondary | 10 | 5% | $15 | None | Idaho Code §28-42-301(3) |
| IL | Installment Loan[[22]](#endnote-22) | Any | Any | 10 | 5% | None | None | 815 Ill. Comp. Stat. Ann. 205/4.1a-(e) |
| IN | Consumer Loan,[[23]](#endnote-23) Refinance, or Consolidation | Any | Secondary | 10 | Any | None | $17.50 | Ind. Code §24-4.5-3-203.5; Ind. Admin. Code tit. 750, r. 1-1-1(1) |
| IA | Interest-Bearing Consumer Credit Transaction[[24]](#endnote-24) | $25,000(or less) | Secondary | 10 | 5% | None | $15.00 | Iowa Code Ann. §537.2502(1)(b) |
| IA | Precomputed Consumer Credit Transaction[[25]](#endnote-25) | $25,000(or less) | Secondary | 10 | 5%[[26]](#endnote-26) | None | $20.00 | Iowa Code Ann. §537.2502(1)(a) |
| IA | Open-End Credit[[27]](#endnote-27) | Any | Secondary | Any | Any | None  | $15.00 | Iowa Code Ann. §§535.10(3)(b) & 537.2502(4) |
| KS | Consumer Credit Transaction[[28]](#endnote-28) | $25,000 (or less) | Secondary[[29]](#endnote-29) | 10 | 5% | None | $25.00 | Kan. Stat. Ann. §16a-2-502(1) |
| KS | Consumer Credit Transaction[[30]](#endnote-30) (Alternative Charge) | $25,000 (or less) | Secondary[[31]](#endnote-31) | 10 | Any | None | $10[[32]](#endnote-32) | Kan. Stat. Ann. §16a-2-502(2) |
| KY | Real Estate Loan[[33]](#endnote-33) | Any | Any | 10 | None | None | None | Ky. Rev. Stat. Ann. §286.8-110(3) |
| KY | Consumer Loans[[34]](#endnote-34) | $15,000(or less) | Any | 7 | 2% | None | None | Ky. Rev. Stat. §286.4-530(4) |
| KY | Consumer Loans[[35]](#endnote-35) (Alternative Charge) | $15,000(or less) | Any | 7 | 5% | $15 | None | Ky. Rev. Stat. Ann. §286.4-533(5) |
| KY | High-Cost Home Loan[[36]](#endnote-36) | $15,000 - $200,000 | Any | 15 | 5% | $10 | None | Ky. Rev. Stat. Ann. §360.100(2)(q) |
| LA | Consumer Loan Secured by Fixed Property[[37]](#endnote-37) | Any | Any | Any | 5% | None | None | La. Rev. Stat. Ann. §6:1097(B)(2) |
| LA | Consumer Credit Transaction[[38]](#endnote-38) | Any | Any | 10 | 5% | $10 | None | La. Rev. Stat. Ann. §9:3527(A) |
| LA | Revolving Loan Account[[39]](#endnote-39) | Any | Any | 10 | Any | None | $15 | La. Rev. Stat. Ann. §9:3527(B) |
| ME | Consumer Credit Transaction[[40]](#endnote-40) or Open-End Credit Plan[[41]](#endnote-41) | Any | Second[[42]](#endnote-42) | 15 | 5%[[43]](#endnote-43) | None | $10[[44]](#endnote-44) | Me. Rev. Stat. Ann. tit. 9-A, §2-502(1) |
| MD | Mortgage Loan[[45]](#endnote-45)  | Any | Any | 15 | 5% | $2 | None | MD. Code Ann., Com. Law, §12-105(c)(3) |
| MD | Secondary Mortgage Loan[[46]](#endnote-46) | Any | Secondary | 10 | 5% | $2 | None | MD. Code Ann., Com. Law, §12-405(c) |
| MD | Revolving Credit Plan[[47]](#endnote-47) | Any | Any | Any | Any | None | None | MD. Code Ann., Com. Law, §12-910 |
| MD | Credit Grantor[[48]](#endnote-48) Closed End Credit[[49]](#endnote-49) | Any | Any | Any | Any | None | None | MD Code Ann., Com. Law, §12-1008 |
| MA | 1-to-4 Family Dwelling House Mortgage[[50]](#endnote-50) | Any | Any | 15[[51]](#endnote-51) | 3% | None | None | Mass. Gen. Laws Ann. ch. 183, §59 |
| MI | Extension of Credit[[52]](#endnote-52) Made by a Regulated Lender[[53]](#endnote-53) | Any | Any | Any  | 5% | $15 | None | Mich. Comp. Laws Ann. §445.1856(b) & (c) |
| MN | Conventional Loan[[54]](#endnote-54) | $100,000(or less) | Any | 10 | 5% | $7.28[[55]](#endnote-55) | None | Minn. Stat. Ann. §§47.20(6b) & 47.59(6)(a)(4) |
| MN  | Loan[[56]](#endnote-56)  | Any | Any | 10 | 5% | $7.28[[57]](#endnote-57) | None | Minn. Stat. Ann. §47.59(6)(a)(4) |
| MS | Loan  | Any | Any | 15 | 4% | $5.00 | None | Miss. Code Ann. §75-17-27 |
| MS | Loan with a stated maturity of 5 years or less | $100,000 (or less) | Any | 15 | 4% | $5.00 | $50.00 | Miss. Code Ann. §75-17-27 |
| MO | Residential Real Estate Loan[[58]](#endnote-58) | Any | Primary | 15 | Any | None | None | Mo. Ann. Stat. §408.052(1) |
| MO  | Second Mortgage Loan[[59]](#endnote-59) | Any | Secondary | 15 | 5% | $15.00 | $50.00 | Mo. Ann. Stat. §408.233(4) |
| MT | Consumer Loan[[60]](#endnote-60)  | Any | Any | Any | 5% | $15 | $50.00 | Mont. Code Ann. §32-5-301(2) |
| NE  | Installment Loan[[61]](#endnote-61) | Any | Any | 10 | 5% | None | None | Neb. Rev. Stat. §45-1024(2)(d) |
| NV  | Any Contract[[62]](#endnote-62) | Any | Any | Any | Any | None | None | Nev. Rev. Stat. §99.050 |
| NH | Precomputed Consumer Credit Transaction[[63]](#endnote-63) | Any | Any | Any | Any | None | None | N.H. Rev. Stat. Ann. §358-K:2(IV) |
| NJ | Secondary Mortgage Loan[[64]](#endnote-64) | Any | Secondary | Any | 5% | None | None | N.J. Stat. Ann. §17:11C-80(c) |
| NJ  | Commercial Loans | Any | Any | Any | 5% | None | None | *MetLife Capital Financial Corp. v. Washington Ave. Associates L.P.,* 159 N.J. 484 (N.J., 1999) |
| NM | Home Loan[[65]](#endnote-65) | FNMA Conforming Loan Limit Size | Any | 15 | 5% | None | None | N.M. Stat. Ann. §58-21A-4(K) |
| NM | Mortgage Loan[[66]](#endnote-66) | Any | Any | Any | Any | None | None | N.M. Stat. Ann. §58-21-18 |
| NY | Mortgage on Real Property[[67]](#endnote-67) | Any | Any | 15 | 2% | None | None | N.Y. Real Prop. Law §254-b(1) &(2); N.Y. Comp. Codes R. & Regs. Tit. 3, §80.8(i)[[68]](#endnote-68) |
| NC | Home Loans[[69]](#endnote-69) | <$300,000[[70]](#endnote-70) | Any | 15 | 4% | None | None | N.C. Gen. Stat. §24-10.1 |
| NC | Open-End Credit Plan[[71]](#endnote-71) | <$300,000[[72]](#endnote-72) | Any | 30 | Any | None | $5 OR $10[[73]](#endnote-73) | N.C. Gen. Stat. §24-11(d1) |
| ND | Legal Indebtedness[[74]](#endnote-74) | Any | Any | Any | 15% | None | $15[[75]](#endnote-75) | N.D. Cent. Code §47-14-05 |
| OH | Consumer Transaction in Connection with a Residential Mortgage[[76]](#endnote-76) | Any | Primary | Any | Any | Any | Any | Ohio Rev. Code Ann. §1345.031(B)(7) |
| OH  | Small Loans[[77]](#endnote-77) | $5,000 (or less) | Any | 10 | 5% | $15 | Any | Ohio Rev. Code Ann. §§1321.57(L) & 1321.58(c)(3) |
| OK | Precomputed Consumer Loan,[[78]](#endnote-78) Refinancing, or Consolidation | Any | Any | 10 | 5% | $5 | $23.00[[79]](#endnote-79) | Okla. Stat. Ann. tit. 14A, §3-203(1) |
| OK | Nonprecomputed Consumer Loan,[[80]](#endnote-80) Refinancing, Consolidation, or Revolving Loan Account | Any | Any | 10 | 5% | $5 | $23.00[[81]](#endnote-81) | Okla. Stat. Ann. tit. 14A, §3-203(5) |
| OR | Mortgage[[82]](#endnote-82) | Any | Any | 15[[83]](#endnote-83) | 5% | None | None | Or. Rev. Stat. §86.165 |
| OR | Precomputed Loan Contract[[84]](#endnote-84) | Any | Any[[85]](#endnote-85) | 10 | 5% | None | $5 | Or. Rev. Stat. §725.340(2)(a) |
| OR | Consumer Finance Loan[[86]](#endnote-86) | Any[[87]](#endnote-87) | Any | Any | Reasonable and *bona fide* | None | None | Or. Rev. Stat. §725.340(1)(b) |
| PA | Secondary Mortgage Loan[[88]](#endnote-88) | Any[[89]](#endnote-89) | Secondary | 15 | 10% | $20.00 | None | 7 Pa. Cons .Stat. §6125(b)(2)(iii) |
| RI | High-Cost Home Loan[[90]](#endnote-90) | Any[[91]](#endnote-91) | Any | 15/10[[92]](#endnote-92) | 3% | None | None | R.I. Gen. Laws §34-25.2-6(k) |
| SC | Consumer Loan[[93]](#endnote-93) (and refinancing or consolidation of such) | Any | Any | 10 | 5% | $5.40[[94]](#endnote-94) | $13.50[[95]](#endnote-95) | S.C. Code Ann. §37-3-203 |
| SD | Any Type of Loan[[96]](#endnote-96) | Any | Any | Any | None | None | None | S.D. Codified Laws §54-4-58(8) |
| TN | Loans made by an Industrial Loan and Thrift Company, Industrial Bank, or Industrial Investment Company[[97]](#endnote-97) | Any | Any | 5 | 5% | $15.00 | None | Tenn. Code. Ann. §45-5-403(a)(4) |
| TX | A Loan[[98]](#endnote-98) | Any[[99]](#endnote-99) | Any | 10 | 5% | $7.50 | None | Tex. Fin. Code Ann. §302.001(d) |
| TX | Secondary Mortgage Loan[[100]](#endnote-100) | Any | Secondary | 10 | 5% | None | None | Tex. Fin. Code Ann. §342.302; 7 Tex. Admin. Code §83.703(d) |
| UT | Consumer Credit Agreement | Any | HELOC orSecondary[[101]](#endnote-101) | Any | 5%[[102]](#endnote-102) | $30[[103]](#endnote-103) | None | Utah Code Ann. §70C-2-102(1) |
| VT | Any Type of Loan | Any | Primary[[104]](#endnote-104) | \* | \* | \* | \* | Vt. Stat. Ann. tit. 8, §2216 |
| VT | Any Type of Loan | Any | Any[[105]](#endnote-105) | Any | Reasonable | None | None | Vt. Stat. Ann. tit. 9, §44 |
| VA | Any Type of Loan | Any | Any | 7 | 5% | None | None | Va. Code Ann. §6.2-400 |
| WA | Consumer Loan[[106]](#endnote-106) | Any | Any | 10 | 10% | None | None | Wash. Rev. Code Ann. §31.04.105(5); Wash. Admin. Code §208-620-555(7) |
| WV | Precomputed Consumer Loan[[107]](#endnote-107) | Any | Any | 10 | 5%[[108]](#endnote-108) | $15[[109]](#endnote-109) | None | W. Va. Code Ann. §31-17-8(1) |
| WV | Nonprecomputed Consumer Loan[[110]](#endnote-110) | Any | Any | 10 | 5% | None | $15 | W. Va. Code Ann. §46A-3-113 |
| WI | Precomputed Loan[[111]](#endnote-111) | Any | Any | 10 | 5% | None | None | Wis. Stat. Ann. §138.09(7)(e)(1) |
| WI | Nonprecomputed Loan | Any | Any | Any | 9.5%/8%[[112]](#endnote-112) | None | None | Wis. Stat. Ann. §138.09(7)(e)(2) |
| WI | First-lien Residential Mortgage Loan[[113]](#endnote-113) | Any | Primary | 15 | 5% | None | None | Wis. Stat. Ann. §138.052(6) |
| WI | Consumer Credit Transaction[[114]](#endnote-114) | <=$25,000[[115]](#endnote-115) | Secondary[[116]](#endnote-116) | 10 | 5% | None | $10 | Wis. Stat. Ann. §422.203(1) |
| WY | Consumer Loan[[117]](#endnote-117) | Any | Primary[[118]](#endnote-118) | 10 | 5% | $10 | None | Wyo. Stat. Ann. §40-14-312 |
| WY | Consumer Credit Sale[[119]](#endnote-119) | Any | Primary | 10 | 5% | $10 | None | Wyo. Stat. Ann. §40-14-214 |

1. “’Credit Transaction.' A loan or credit sale made by a creditor . . . the term ‘credit transaction’ refers only to consumer loans and consumer credit sale irrespective of whether the term is preceded by the word ‘consumer.’” (Ala. Code §5-19-1[9])

“Consumer. When used as an adjective with reference to a credit transaction, characterizes the credit transaction as one in which the party to whom credit is extended is a natural person and the money, property, or services which are subject of the transaction are primarily for personal, family, or household purposes.” (*Ibid.* [2]) [↑](#endnote-ref-1)
2. These late fee restrictions can be found in the Alaska Small Loans Act. Licensees under this Act are authorized to make loans in the amount or value of $25,000 or less and charge and receive a greater rate of interest, discount, or consideration that would be permitted (unless the Act specifies otherwise) if the licensee were not licensed under this Act (see Alaska Stat. §06.20.010[a]). [↑](#endnote-ref-2)
3. A secured or unsecured instrument loan not exceeding the principal amount of $10,000 (not including interest) which is repayable in substantially equal installments over a period not exceeding seven years (see Alaska Stat. §45.45.080[b]). [↑](#endnote-ref-3)
4. These restrictions apply to a “licensee.” “Unless exempt under §6-602, a person, whither located in this state or in another stat, shall not engage in the business of a consumer lender without first being licensed as a consumer lender by the superintendent.” (Ariz. Rev. Stat. §6-603[A])

“’Consumer lender’ means a person that advertises to make or procure, solicits or holds itself out to make or procure, or makes or procures consumer lender loans to consumers in this state.” (*Ibid.* §6-601[5])

“’Consumer lender loans’ means consumer loans, consumer revolving loans and home equity revolving loans.” (*Ibid.* [6])

“’Consumer loan’ means the direct closed end loan of money in an amount of ten thousand dollars or less that is subject to a finance charge. For the purpose of determining whether a consumer loan is ten thousand dollars or less, only the principal amount of the loan shall be considered and not any finance charges or other fees allowed pursuant to §6-635.” (*Ibid.* [7])

Consumer revolving loans and home equity loans are capped at ten thousand dollars as well (see *Ibid.* [9] & [12]).

“(A) This chapter does not apply to:

(1) A person who does business under any other law of this state, or any other state while regulated by a state agency of that other state, or of the United States, relating to 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.

(3) A person not regularly engaged in the business of making consumer lender loans.

(4) A person who is licensed pursuant to [Ariz. Rev. Stat. §6-901 *et seq.*] to the extent that the person’s activities are governed by that chapter.

(B)(4) Consumer lender loans that are lawfully made to nonresidents of the state in any other state under and in accordance with a regulatory consumer lender law similar in principle to this chapter.” (*Ibid.* §6-602) [↑](#endnote-ref-4)
5. Does not apply to closed-end loans subject to Ariz. Rev. Stat. §6-601 *et seq.* [↑](#endnote-ref-5)
6. These restrictions apply to “industrial loan institutions.”

“As used in this chapter, unless the context otherwise requires, ‘industrial loan institution’ moans any corporation organized under the general corporation laws of this state, which is engaged in lending money, to be paid in weekly, monthly, or other periodical installments or principal sums, as a business. However, this definition shall not be construed to include building and loan associations, commercial banks or savings banks, trust companies, credit unions, pawnbrokers, agricultural or livestock pools, rural credit unions, or farmers cooperative societies.” (Ark. Code Ann. §23-36-101) [↑](#endnote-ref-6)
7. “The provisions of this article . . . apply only to loans secured by a dwelling.” (Cal. Bus. & Prof. Code §10240.1)

“As used in this article, ‘dwelling’ means any of the following units which are owned by a signatory to the mortgage or deed of trust secured by the dwelling unit at the time of execution of the mortgage or deed of trust: (a) A single dwelling unit in a condominium or cooperative. (b) Any parcel containing only residential buildings if the total number of units on the parcel is four or less.” (*Ibid.*  §10240.2) [↑](#endnote-ref-7)
8. Applies to a loan secured by a mortgage or deed of trust on real property (see directly above). [↑](#endnote-ref-8)
9. “The charge shall not exceed an amount equal to the maximum late charge that could have been assessed with respect to the largest single monthly installment previously due, other than the balloon payment, multiplied by the sum of one plus the number of months occurring since the late-payment charge bean to accrue. For purposes of this subdivision, ‘month’ means the period between a particular day of a calendar month and the same day of the next calendar month.” (Cal. Bus. & Prof. Code §10242.5[c]) [↑](#endnote-ref-9)
10. These restrictions apply to a loan secured by a mortgage or a deed of trust on real property containing only a single-family, owner-occupied dwelling.

“As used in this section, ‘single-family, owner-occupied dwelling’ means a dwelling that will be owned and occupied by a signatory to the mortgage or deed of trust secured by the dwelling within 90 days of the execution of the mortgage or deed of trust.” (Cal. Civ. Code §2954.4[f])

“This section is not applicable to loans made by a credit union subject to Division 5 (commencing with Section 14000) of the Financial Code, by an industrial loan company subject to Division 7 (commencing with Section 18000) of the Financial Code, or by a finance lender subject to Division 9 (commencing with Section 22000) of the Financial Code., and is not applicable to loans made or negotiated by a real estate broker subject to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.” (*Ibid.* [e]) [↑](#endnote-ref-10)
11. “For purposes of this article, ‘consumer credit transaction’ applies to consumer loans, including supervised loans, consumer credit sales, and refinancing and consolidations of these transactions but does not include consumer leases except for the charges and procedures in sections 5-2-202 and 5-2-203.” (Colo. Rev. Stat. Ann. §5-2-102)

“(a) Except as provided in paragraph (b) of this subsection (15) and except with respect to a ‘loan primarily secured by an interest in land’ as defined in subsection (26) of this section, ‘consumer loan’ means a loan made of arranged by a person regularly engaged in the business of making loans in which: (I) The consumer is a person other than an organization; (II) The debt is incurred primarily for a personal, family, or household purpose; (II) Either the debt is by written agreement payable in installments or a finance charge is made; and (IV) Either the principal does not exceed seventy-five thousand dollars or the debt is secured by an interest in loan.

(b) Unless the loan is made subject to this code by an agreement described in section 5-2-501, ‘consumer loan’ does not include: (I) A loan for a business, investment, or commercial purpose; (II) A loan primarily for an agricultural purpose; or (III) A reverse mortgage . . .

(c) Unless the loan is made subject to this code by an agreement described in section 5-2-501 and except as provided with respect to the disclosure described in section 5-3-101, consumers’ remedies for transactions secured by interest in land as described in section 5-5-204, and powers and functions of the administrator under part 1 of article 6 of this title., ‘consumer loan’ does not include a ‘loan primarily secured by an interest in land’ as defined in subsection (26) of this section.” (*Ibid.* §5-1-301[15])

“(a) ‘Loan primarily secured by an interest in land’ means a consumer loan secured by a mobile home or primarily secured by an interest in land if, at the time the loan is made the value of the collateral is substantial in relation to the amount of the loan; and

(I) The rate of the finance charge does not exceed 12% per year calculated according to the actuarial method on the unpaid balances of the principal on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term; or (II) Notwithstanding the rate of the finance charge, and other than a precomputed loan as defined in subsection (35) of this section, the loan is secured by a first mortgage or deed of trust lien against a dwelling to: (A) Finance the acquisition of that dwelling; or (B) To refinance, by amendment, payoff, or otherwise, an existing loan made to finance the acquisition of that dwelling, including a refinance loan providing additional sums for any purpose whether or not related to acquisition or construction.

(b) As to any refinance loan in the form of a revolving loan account that is in whole or in part for purposes other than acquisition or construction, section 5-3-103 shall apply.

(c) With respect to loans secured by a first mortgage or deed of trust lien against a dwelling to refinance an existing loan to finance the acquisition of the dwelling and providing additional sums for any other purpose that are not subject to this code pursuant to paragraph (a) of this subsection (26), the lender shall disclose to the consumer that the refinance loan creates a lien against the dwelling or property and that the limits set forth in section 5-5-112 on the amount of attorney fees that a lender may charge the consumer are not applicable.

(d) For purposes of this subsection (26): (I) A ‘loan secured by a first mortgage or deed of trust lien against a dwelling to finance the acquisition of the dwelling” includes a loan secured by a first mortgage of deed of trust lien against a dwelling to finance the original construction of such dwelling or to refinance any such construction loan; (II) “Dwelling means any improved real property, or portion thereof, that is used or intended to be used as a residence and contains more than four dwelling units; and (III) ‘First mortgage or deed of trust’ means a mortgage or deed of trust having priority as a lien over the lien of any other mortgage or deed of trust on the same dwelling and subject to the lien of taxes levied on that dwelling.” (*Ibid.* [26])

“’Supervised loan’ means a consumer loan, including a loan made pursuant to a revolving credit account, iv which the rate of the finance charge exceeds 12% per year as determined according to the provisions on finance charges contained in section 5-2-201.” (*Ibid.* [47]) [↑](#endnote-ref-11)
12. These restrictions apply to loans extended by a “licensee.” In regards to whom is required to be licensed:

“This chapter shall not apply: (1) To any banking organization, federal credit union or insurance company; or (2) To any other person, if and to the extent that such person is lending money in accordance with and as authorized by any other applicable law of this State of the United States, including but not limited to the registration requirements in Chapter 17 of this title.” (Del. Code Ann. tit. 5, §2202[a])

“’Closed end credit’ means the extension of credit by a licensee to a borrower pursuant to an arrangement or agreement which is not a revolving credit plan as defined in subchapter II of this chapter.” (*Ibid.* §2227[2]) [↑](#endnote-ref-12)
13. These restrictions apply to loans extended by a “licensee.” In regards to whom is required to be licensed:

“This chapter shall not apply: (1) To any banking organization, federal credit union or insurance company; or (2) To any other person, if and to the extent that such person is lending money in accordance with and as authorized by any other applicable law of this State of the United States, including but not limited to the registration requirements in Chapter 17 of this title.” (Del. Code Ann. tit. 5, §2202[a])

“’Revolving credit plan’ or ‘plan’ means a plan contemplating the extension of credit under an account governed by an agreement between a licensee and a borrower pursuant to which: (a) The licensee permits the borrower and, if the agreement governing the plan so provides, persons acting on behalf of or with authorization from the borrower, from time to time to make purchases from participating merchants and/or obtain loans by use of a credit device; (b) The amounts of such purchases from participating merchants and loans are charged to the borrower’s account under the revolving credit plan; (c) The borrower is required to pay the licensee the amounts of all purchases and loans charged to such borrower’s account under the plan but has the privilege of paying such amounts outstanding from time to time in full or otherwise in accordance with the agreement governing the plan; and (d) Interest may be charged and collected by the licensee from time to time on the outstanding unpaid indebtedness under such plan.” (*Ibid.* §2214[1]) [↑](#endnote-ref-13)
14. “’High-cost home loan’ means a home loan as defined in 15 U.S.C. s. 1602(aa) and regulations adopted thereunder.” (Fla. Stat. Ann. §494.0079[7]) Basically, a high-cost home loan is a loan subjected to Federal Anti-Predatory Loan laws. [↑](#endnote-ref-14)
15. “Every licensee may lend any sum of money not exceeding $25,000. A licensee may not take a security interest secured by land on any loan less than $1,000. The licensee may charge, contract for, and receive thereon interest charges as provided and authorized by this section. The maximum interest rate shall be 30 percent per annum, computed on the first $2,000 of the principal amount as computed from time to time; 24 percent per annum on that part of the principal amount as computed from time to time exceeding $2,000 and not exceeding $3,000; and 18 percent per annum on that part of the principal amount as computed from time to time exceeding $3,000 and not exceeding $25,000.” (Fla. Stat. Ann. §516.031[1]) [↑](#endnote-ref-15)
16. “’Home loan’ means a loan, including an open-end credit plan where the principal amount does not exceed the conforming loan size limit for a single-family dwelling as established by the Federal National Mortgage Association and the loan is secured by a mortgage, security deed, or deed to secure debt on real estate located in this state upon which there is located or there is to be a structure or structures, including a manufactured home, designed primarily for occupancy of from one to four families and which is or will be occupied by a borrower as the borrower’s principal dwelling, except that home loan shall not include:

(A) A reverse mortgage transaction;

(B) A loan that provides temporary financing for the acquisition of land by the borrower and initial construction of a borrower’s dwelling thereon or the initial construction of a borrower’s dwelling on land owned by the borrower;

(C) A bridge loan made to a borrower pending the sale of the borrower’s principal dwelling or a temporary loan made to a borrower and secured by the borrower’s principal dwelling pending the borrower’s obtaining permanent financing for such principal dwelling;

(D) A loan secured by personal property including, but not limited to, a motor vehicle, motor home, boat or watercraft and also secured by the borrower’s principal dwelling to provide the borrower with potential income tax advantages when such personal property is the primary collateral for such loan;

(E) A new loan secured by a borrower’s principal dwelling as a result of a lien taken in connection with a debt previously contracted or incurred when the loan documents for such new loan do not include a mortgage, security deed, or deed to secure debt expressly securing such new loan; or

(F) A loan primarily for business, agricultural, or commercial purposes.” (Ga. Code Ann. §7-6A-2[8]) [↑](#endnote-ref-16)
17. “’Consumer loan’ means a loan made to a natural person primarily for personal, family, or household purposes: (1) In which the principal amount does not exceed $25,000 or in which there is an express written commitment to extend credit in a principal amount not exceeding $25,000; or (2) Which is secured by real property, or by personal property used or expected to be used as the borrower’s principal dwelling.” (Haw. Rev. Stat. §412:9-100) [↑](#endnote-ref-17)
18. “’Consumer loan’ means a loan made to a natural person primarily for personal, family, or household purposes: (1) In which the principal amount does not exceed $25,000 or in which there is an express written commitment to extend credit in a principal amount not exceeding $25,000; or (2) Which is secured by real property, or by personal property used or expected to be used as the borrower’s principal dwelling.” (Haw. Rev. Stat. §412:9-100) [↑](#endnote-ref-18)
19. “’Regulated consumer credit transaction’ means a regulated credit transaction, subsection (36) of this section, and for a consumer purpose, subsection (12) of this section.” (Idaho Code §28-41-301[33])

“’Consumer purpose moans primarily a personal, family, or household purpose. For purpose of this act, consumer purpose does not include a credit transaction: (a) Engaged in by a debtor for an agricultural purpose; or (b) Engaged in by a debtor for an investment purpose; or (c) Creating a debt secured by a first mortgage of first deed of trust on real property; or (d) In which the debtor is an organization, rather than a natural person.” (*Ibid.* [12])

“’Regulated credit transaction’ means a regulated credit sale or regulated loan or a refinancing or consolidation thereof.” (*Ibid.* [36])

“’Regulated loan’ means a loan made by a creditor regularly engaged in the business of making loans in which the debt is payable in installments or a finance charge is made.” (*Ibid.* [38]) [↑](#endnote-ref-19)
20. “’Regulated consumer loan’ means a regulated loan, subsection (38) of this section, and for a consumer purpose, subsection (12) of this section.” (Idaho Code §28-41-301[34])

“’Consumer purpose means primarily a personal, family, or household purpose. For purpose of this act, consumer purpose does not include a credit transaction: (a) Engaged in by a debtor for an agricultural purpose; or (b) Engaged in by a debtor for an investment purpose; or (c) Creating a debt secured by a first mortgage of first deed of trust on real property; or (d) In which the debtor is an organization, rather than a natural person.” (*Ibid.* [12])

“’Regulated loan means a loan made by a creditor regularly engaged in the business of making loans in which the debt is payable in installments or a finance charge is made.” (*Ibid.* [38]) [↑](#endnote-ref-20)
21. “’Regulated consumer credit transaction’ means a regulated credit transaction, subsection (36) of this section, and for a consumer purpose, subsection (12) of this section.” (Idaho Code §28-41-301[33])

“’Consumer purpose means primarily a personal, family, or household purpose. For purpose of this act, consumer purpose does not include a credit transaction: (a) Engaged in by a debtor for an agricultural purpose; or (b) Engaged in by a debtor for an investment purpose; or (c) Creating a debt secured by a first mortgage of first deed of trust on real property; or (d) In which the debtor is an organization, rather than a natural person.” (*Ibid.* [12])

“’Regulated credit transaction’ means a regulated credit sale or regulated loan or a refinancing or consolidation thereof.” (*Ibid.* [36])

“’Regulated loan’ means a loan made by a creditor regularly engaged in the business of making loans in which the debt is payable in installments or a finance charge is made.” (*Ibid.* [38]) [↑](#endnote-ref-21)
22. There is no official definition for “installment loan” or “lender.” [↑](#endnote-ref-22)
23. “’Consumer loan’ means a loan made by a person regularly engaged in the business of making loans in which: (a) The debtor is a person other than an organization; (b) The debt is primarily for a personal, family, or household purpose; (c) Either the debt is payable in installments or a loan finance charge is made; and (d) Either: (i) the principal does not exceed fifty thousand dollars ($50,000); or (ii) 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.

Except as described in IC 24-4.5-3-105 of this chapter, the term does not include a first lien mortgage transaction.” (Ind. Code Ann. §24-4.5-1-301.5[9])

Unless the loan is made subject to IC 24-4.5-3 by agreement . . . and except with respect to disclosure . . . debtor’s remedies . . . providing payoff amounts . . . providing property tax information . . . and powers and functions of the department . . . ‘consumer loan’ does not include a first lien mortgage transaction.” (*Ibid.* §24-4.5-3-105) [↑](#endnote-ref-23)
24. “’Consumer credit transaction’ means a consumer credit sale or consumer loan, or a refinancing or consolidation thereof, or a consumer lease, or a consumer rental purchase agreement.” (Iowa Code Ann. §537.1301[12])

“(a) Except as provided in paragraph ‘b’, a ‘consumer loan’ is a loan in which all of the following are applicable: (1) The person is regularly engaged in the business of making loans. (2) The debtor is a person other than an organization. (3) The debt is incurred primarily for a personal, family, or household purpose. (4) Either the debt is payable in installments or a finance charge is made. (5) The amount financed does not exceed $25,000.

(b) A ‘consumer loan’ does not include: . . . (2) A debt which is secured by a first lien on real property and which is incurred primarily for the purpose of acquiring that real property, or refinancing a contract for deed to that real property, or constructing on that real property a building containing one or more dwelling units. (3) A loan finance authority and secured by a lien on land. . . .

(c) In determining which loans are consumer loans under this subsection the rules of construction stated in this paragraph shall be applied: (1) A debt is incurred primarily for the purpose to which a majority of the loan proceeds are applied or are designated by the debtor to be applied. (2) Loan proceeds used to refinance or pay a prior loan owed by the same borrower are incurred for the same purposes and in the same proportion as the principal of the loan refinanced or paid. (3) Loan proceeds used to pay a prior loan by a different borrower are incurred for the new borrower’s purposes in agreeing to pay the prior loan. (4) The assumption of a loan by a different borrower is treated as if the new borrower had obtained a new loan and had used all of the proceeds to pay the loan assumed. (5) The provisions of this paragraph shall not be construed to modify or limit the provisions of section 535.8, subsection 2, paragraph ‘c’ or ‘e.’ [↑](#endnote-ref-24)
25. These restrictions do not apply to an open-end credit arrangement.

“A ‘precomputed consumer credit transaction’ is a consumer credit transaction, other than a consumer lease or a consumer rental purchase agreement, in which the debt is a sum comprising the amount financed and the amount of the finance charge computed in advance.” (Iowa Code Ann. §537.1301[36])

“’Consumer credit transaction’ means a consumer credit sale or consumer loan, or a refinancing or consolidation thereof, or a consumer lease, or a consumer rental purchase agreement.” (*Ibid.* [12])

“(a) Except as provided in paragraph ‘b’, a ‘consumer loan’ is a loan in which all of the following are applicable: (1) The person is regularly engaged in the business of making loans. (2) The debtor is a person other than an organization. (3) The debt is incurred primarily for a personal, family, or household purpose. (4) Either the debt is payable in installments or a finance charge is made. (5) The amount financed does not exceed $25,000.

(b) A ‘consumer loan’ does not include: . . . (2) A debt which is secured by a first lien on real property and which is incurred primarily for the purpose of acquiring that real property, or refinancing a contract for deed to that real property, or constructing on that real property a building containing one or more dwelling units. (3) A loan finance authority and secured by a lien on land. . . .

(c) In determining which loans are consumer loans under this subsection the rules of construction stated in this paragraph shall be applied: (1) A debt is incurred primarily for the purpose to which a majority of the loan proceeds are applied or are designated by the debtor to be applied. (2) Loan proceeds used to refinance or pay a prior loan owed by the same borrower are incurred for the same purposes and in the same proportion as the principal of the loan refinanced or paid. (3) Loan proceeds used to pay a prior loan by a different borrower are incurred for the new borrower’s purposes in agreeing to pay the prior loan. (4) The assumption of a loan by a different borrower is treated as if the new borrower had obtained a new loan and had used all of the proceeds to pay the loan assumed. (5) The provisions of this paragraph shall not be construed to modify or limit the provisions of section 535.8, subsection 2, paragraph ‘c’ or ‘e.’ [↑](#endnote-ref-25)
26. Alternatively, “the deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent” may be assessed. Provisions concerning deferral charges may be found in Iowa Code Ann. §537.2503. [↑](#endnote-ref-26)
27. “’Open-end credit’ moans an arrangement, other than a consumer rental purchase agreement, pursuant to which all of the following are applicable: (a) A creditor may permit a consumer, from time to time, to purchase or lease on credit from the creditor or pursuant to a credit card, or to obtain loans from the creditor or pursuant to a credit card. (b) The amounts financed and the finance and other appropriate charges are debited to an account. (c) The finance charge, if made, is computed on the account periodically. (d) Either the consumer has the privilege of paying in full or in installments, or the transaction is a consumer credit transaction solely because a delinquency charge or the like is treated as a finance charge pursuant to subsection 21, paragraph ‘b’, subparagraph (1) of this section or the creditor otherwise periodically imposes charges computed on the account for delaying payment of it and permits the consumer to continue to purchase or lease on credit.” (Iowa Code Ann §537.1301[31]) [↑](#endnote-ref-27)
28. “’Consumer credit transaction’ means a consumer credit sale, consumer lease, or consumer loan or a modification thereof including a refinancing, consolidation, or deferral.” (Kan. Stat. Ann. §16a-1-301[15])

“(a) Except as provided in paragraph (b), a ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (i) The debtor is a person other than an organization; (ii) The debt is incurred primarily for a personal, family or household purpose; (iii) Either the debt is payable by written agreement in more than four installments or a finance charge is made; and (iv) Either the amount financed does not exceed $25,000 or the debt is secured by an interest in land.

(b) Unless the loan is made subject to the uniform consumer credit code by written agreement, a ‘consumer loan’ does not include: (i) A loan secured by a first mortgage unless: (A) The loan-to-value ratio of the loan at the time when made exceeds 100%; or (B) in the case of subsection (1) of K.S.A. 16a-3-308a and amendments thereto, the annual percentage rate of the loan exceeds the code mortgage rate; or (ii) a loan made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant.” (*Ibid.* [17]) [↑](#endnote-ref-28)
29. First-lien mortgages may also be included, if the loan-to-ratio value of the loan exceeds 100% when it is made, or its annual percentage rate exceeds the code mortgage rate. Please see directly above for details. [↑](#endnote-ref-29)
30. “’Consumer credit transaction’ means a consumer credit sale, consumer lease, or consumer loan or a modification thereof including a refinancing, consolidation, or deferral.” (Kan. Stat. Ann. §16a-1-301[15])

“(a) Except as provided in paragraph (b), a ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (i) The debtor is a person other than an organization; (ii) The debt is incurred primarily for a personal, family or household purpose; (iii) Either the debt is payable by written agreement in more than four installments or a finance charge is made; and (iv) Either the amount financed does not exceed $25,000 or the debt is secured by an interest in land.

(b) Unless the loan is made subject to the uniform consumer credit code by written agreement, a ‘consumer loan’ does not include: (i) A loan secured by a first mortgage unless: (A) The loan-to-value ratio of the loan at the time when made exceeds 100%; or (B) in the case of subsection (1) of K.S.A. 16a-3-308a and amendments thereto, the annual percentage rate of the loan exceeds the code mortgage rate; or (ii) a loan made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant.” (*Ibid.* [17]) [↑](#endnote-ref-30)
31. First-lien mortgages may also be included, if the loan-to-ratio value of the loan exceeds 100% when it is made, or its annual percentage rate exceeds the code mortgage rate. Please see directly above for details. [↑](#endnote-ref-31)
32. If the scheduled payment amount is $25 or less, then the cap is reduced to $5. [↑](#endnote-ref-32)
33. Certain lenders and brokers are exempt from these restrictions. The exemptions are promulgated in Ky. Rev. Stat. Ann. §286.8-020, which is too long to include in this publication. [↑](#endnote-ref-33)
34. “Every licensee may lend any sum of money not exceeding fifteen thousand dollars ($15,000), excluding charges, and may charge, contract for and receive thereon charges not in excess of three percent (3%) per month on that part of the unpaid principal balance not in excess of one thousand dollars ($1,000) and two percent (2% per month on that part of that part of the unpaid principal balance exceeding one thousand dollars ($1,000) but not exceeding three thousand dollars ($3,000); provided, however, that in any loan wherein the original principal amount of the loan (face amount less precomputed charges ) exceeds three thousand dollars ($3,000), the licensee may not charge at a rate per month in excess of two percent (2%) per month on the unpaid balances of the principal.” (Ky. Rev. Stat. §286.4-530[1])

“This subtitle shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, building and loan associations, cooperative marketing associations, credit unions, loan and investment companies, or licensed pawnbrokers. This subtitle does not apply to the purchase or acquisition, directly or indirectly, of notes, chattel mortgages, installment or conditional sales contracts, embodying liens or evidencing title retention arising from the bona fie sale of goods or services by a seller of such goods or services.” (*Ibid.* §286.4-410[2]) [↑](#endnote-ref-34)
35. “Every licensee may lend any sum of money not exceeding fifteen thousand dollars ($15,000), excluding charges, and may charge, contract for and receive thereon charges not in excess of three percent (3%) per month on that part of the unpaid principal balance not in excess of one thousand dollars ($1,000) and two percent (2% per month on that part of that part of the unpaid principal balance exceeding one thousand dollars ($1,000) but not exceeding three thousand dollars ($3,000); provided, however, that in any loan wherein the original principal amount of the loan (face amount less precomputed charges ) exceeds three thousand dollars ($3,000), the licensee may not charge at a rate per month in excess of two percent (2%) per month on the unpaid balances of the principal.” (Ky. Rev. Stat. §286.4-530[1])

“This subtitle shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, building and loan associations, cooperative marketing associations, credit unions, loan and investment companies, or licensed pawnbrokers. This subtitle does not apply to the purchase or acquisition, directly or indirectly, of notes, chattel mortgages, installment or conditional sales contracts, embodying liens or evidencing title retention arising from the bona fie sale of goods or services by a seller of such goods or services.” (*Ibid.* §286.4-410[2]) [↑](#endnote-ref-35)
36. “’High-cost home loan- means a loan other than an open-end credit plan or a reverse mortgage transaction in which:

1. The principal amount of the loan is greater than fifteen thousand dollars ($15,000) and does not exceed two hundred thousand dollars ($200,000);

2. The borrower is a natural person;

3. The debt is incurred by the borrower primarily for personal, family, or household purposes;

4. The loan is secured by a mortgage on residential property or secured by collateral which has a mortgage lien interest in residential real property, which is or will be occupied by the borrower as the borrower’s principal dwelling; and

5. The terms of the loan exceed either or both of the following thresholds: (a) Without regard to whether the loan transaction is or may be a ‘residential mortgage transaction’ as defined in 12 CFR 226.2(a)(24), as amended from time to time, the loan at the time the loan is consummated is such that the loan is considered a ‘mortgage’ under section 152 of the Home Ownership and Equity Protection Act of 1994, (Pub. L. No. 103-325, 15 U.S.C. sec. 1602(aa), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including 12 CFR 226.32, as the same may be amended from time to time; or (b) The total points and fees payable by the borrower at or before the loan closing exceed the greater of three thousand dollars ($3,000) or six percent (6%) of the total loan amount as shown as the amount financed on the final Truth-in-Lending Statement.” (Ky. Rev. Stat. §360.100[1][a]) [↑](#endnote-ref-36)
37. There is no official definition for the term, “consumer loan, secured by a mortgage on residential immovable property.” “Residential immovable property is defined as follows:

“ . . . any immovable property located in this state upon which is constructed or intended to be constructed a dwelling.” (La. Rev. Stat. Ann. §6:1083[17])

The consumer loan must be made contractually subjected to the Louisiana Secure and Fair Enforcement of Mortgage Licensing Act of 2009 (La. Rev. Stat. Ann. §6:1097 *et seq.*). [↑](#endnote-ref-37)
38. “’Consumer credit transaction’ means a consumer loan or a consumer credit sale . . .” (La. Rev. Stat. Ann. §9:3516[13])

“’Consumer loan’ means a loan of money or its equivalent made by a supervised financial organization, a licensed lender, or lender in which the debtor is a consumer, and the loan is entered into primarily for personal, family, or household purposes and includes debts created by the use of a lender credit card, revolving loan account, or similar arrangement, as well as insurance premium financing.” (*Ibid.* [14]) [↑](#endnote-ref-38)
39. “(a) ‘Revolving loan account’ means an arrangement between a lender and a consumer pursuant to which (i) The creditor may permit the consumer to obtain consumer loan advances on a preauthorized basis; (ii) The creditor reasonably contemplates repeated transactions; (iii) The creditor may impose a loan finance charge from time to time on the outstanding unpaid balance of the consumer’s account; and (iv) The amount of credit that may be extended to the consumer under the account, up to any limit set by the creditor, is generally made available to the extent that any unpaid balance is repaid.

(b) The amount borrowed under a revolving loan account may include, if required by the creditor, an amount not greater than ninety-nine dollars and ninety-nine cents exceeding the draft or similar order if said amount is immediately credited to the consumer’s deposit account with the creditor or with the creditor’s agent.” (La. Rev. Stat. Ann. §9:3516[30]) [↑](#endnote-ref-39)
40. “’Consumer credit transaction’ means a consumer credit sale, consumer lease or consumer loan or a modification thereof including a refinancing, consolidation or deferral.” (Me. Rev Stat. Ann. tit. 9-A, §1-301[12])

“(A) Except as provided in paragraph B, a ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (1) The debtor is a person other than an organization; (2) The debt is incurred primarily for a personal, family, or household purpose; (3) Either the debt is payable in installments or a finance charge is made; and (4) For loans made by: (a) A supervised financial organization, either the amount financed does not exceed $50,000, consistent with Title X of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, or the debt is secured by manufactured housing or an interest in land; or (b) A supervised lender other than a supervised financial organization, either the amount financed does not exceed $50,000, consistent with Title X of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, or the debt is secured by manufactured housing or an interest in land.

The exempt transaction amount in divisions (a) and (b) are automatically adjusted to correspond with any inflation adjustment made to the exempt transaction amount referenced in the Federal Truth in Lending Act, Section 104, subsection (3) and any rules adopted pursuant to that Act.

(B) ‘Consumer loan’ does not include a sale or lease in which the seller or lessor allows the buyer or lessee to purchase or lease pursuant to a credit card other than a lender credit card.” (*Ibid.* [14]) [↑](#endnote-ref-40)
41. “’Open-end credit’ means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of those transactions and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open-end credit plan within the meaning of the preceding sentence is an open-end credit plan, even if credit information is verified from time to time.” (Me. Rev. Stat. Ann. tit. 9-A, §1-301[26]) [↑](#endnote-ref-41)
42. “This act does not apply to:

8. A loan or credit sale made by a creditor to finance or refinance the acquisition of real estate or the initial construction of a dwelling, or a loan made by a creditor secured by a first mortgage on real estate, if the security interest in real estate is not made for the purpose of circumventing or evading this Act, provided that:

A. With respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, this exclusion applies only to advances made:

 (1) Pursuant to the terms of a construction financing agreement;

 (2) To protect the security or to perform the covenants of the consumer;

 (3) As negative amortization of principal under the terms of the financing agreement;

(4) From funds withheld at consummation pending the resolution of matters that otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards; or

(5) Pursuant to the terms of a reverse mortgage transaction, as defined the Federal Truth in Lending Act, 15 United States Code, §§1601 *et seq.*, if the transaction is made pursuant to a commitment to purchase issued by, or is in a form approved for purchase by, any state or federal agency, instrumentality or government-sponsored enterprise, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

 B. The exemption provided by this subsection does not apply to the requirements on servicing of assigned supervised loans, §2-310; and

C. With respect to a creditor other than a supervised financial organization, the exemption provided by this subsection applies to Articles 2, 3, 4, and 5 only.” [↑](#endnote-ref-42)
43. Alternatively, the deferral charge allowed under Me. Rev. Stat. Ann. tit. §2-503 may be assessed instead. [↑](#endnote-ref-43)
44. Alternatively, the deferral charge allowed under Me. Rev. Stat. Ann. tit. §2-503 may be assessed instead. [↑](#endnote-ref-44)
45. “’Mortgage loan’ means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate on which a dwelling is constructed or intended to be constructed.” (MD. Code Ann., Fin. Inst. §11-501[l]) [↑](#endnote-ref-45)
46. “(1) ‘Secondary mortgage loan’ means a loan or deferred purchase price secured in whole or in part by a mortgage, deed of trust, security agreement, or other lien on real property located in the State, which property: (i) Is subject to the lien of one or more prier encumbrances, except a ground rent or other leasehold interest; and (ii) Has a dwelling on it designed principally as a residence with accommodations for not more than four families.

(2) ‘Secondary mortgage loan’ does not include: (i) A loan to any corporation unless the lender required the borrower to incorporate as a condition for obtaining the loan; or (ii) A commercial loan of more than $75,000, as defined in §12-101(c) of this title.” (MD. Code Ann., Com. Law §12-405[i]) [↑](#endnote-ref-46)
47. “’Revolving credit plan’ or ‘plan’ means a plan that contemplates the extension of credit under an account governed by an agreement between a credit grantor and a borrower under which: (1) The credit grantor permits the borrower and, if the agreement governing the plan permits, persons acting on behalf of or with authorization from the borrower to make purchases or obtain loans from time to time; (2) The amounts of purchases and loans are charged to the borrower’s account; (3) The borrower is required to pay the credit grantor the amounts of all purchases and loans charged to the borrower’s account under the plan but has the privilege of paying amounts due from time to time as agreed; and (4) Interest or finance charges may be charged and collected by the credit grantor from time to time on the amounts due under the plan.” (MD. Code Ann., Com. Law §12-901[l]) [↑](#endnote-ref-47)
48. “(1) ‘Credit grantor’ means any individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity making a loan or other extension of credit under this subtitle which 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 or which is licensed under Title 12, Subtitle 4 of the Financial Institutions Article or is a retailer.

(2) ‘Credit grantor’ includes: (i) Any bank, trust company, depository institution, or savings bank having a branch in this State; (ii) A person not required to be licensed under this subtitle, who is exempt from the licensing provisions of Title 11, Subtitle 5 of the Financial Institutions Article, who makes a loan or extension of credit under this subtitle secured by a secondary mortgage on real property; and (iii) Any person who acquires or obtains the assignment of an agreement for an extension of credit made under this subtitle.” (MD. Code Ann., Com. Law §12-1001[g]) [↑](#endnote-ref-48)
49. “’Closed end credit’ means an extension of credit by a credit grantor to a borrower under an arrangement or agreement which is not a revolving credit plan as defined in Subtitle 9 of this title.” (MD Code Ann., Com. Law §12-1001[d]) [↑](#endnote-ref-49)
50. These restrictions apply to “A mortgagee, assignee or holder of a mortgage note secured by a first or subordinate lien on a dwelling house of 4 or less separate households or on a residential condominium unit occupied or to be occupied in whole or in part by the mortgagor . . . “ (Mass. Gen. Laws Ann. ch. 183, §59) [↑](#endnote-ref-50)
51. 10 days, if the payments are bi-weekly. [↑](#endnote-ref-51)
52. “’Extension of credit’ means a loan or credit sale made by a regulated lender. An extension of credit does not include an extension of credit described in section 501(a)(1) of title V of the depository institutions deregulation and monetary control act of 1980, Public Law 96-221, 12 U.S.C. 1735-7 nt.” (Mich. Comp. Laws Ann. §445.1852[g]) [↑](#endnote-ref-52)
53. These restrictions do not apply to a depository institution.

“’Regulated lender’ means a depository institution, a licensee under the consumer financial services act, Act No. 161 of the Public Acts of 1988, being sections 487.2051 to 487.2072 of the Michigan Compiled Laws, Act No. 379 of the Public Acts of 1984, being sections 493.101 to 493.114 of the Michigan Compiled Laws, the motor vehicle sales finance act, Act No. 27 of the Public Acts of the Extra Session of 1950, Act No. 125 of the Public Acts of 1981, being sections 493.51 to 493.81 of the Michigan Compiled Laws, or the regulatory loan act of 1963, Act No. 21 of the Public Acts of 1939, being sections 493.1 to 493.26 of the Michigan Compiled Laws, or a seller under the home improvement finance act, Act No. 332 of the Public Acts of 1965.” (Mich. Comp. Laws Ann. §445.1852[i]) [↑](#endnote-ref-53)
54. “’Conventional loan’ means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than $100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the Farmers Home Administration, and which is not made pursuant to the authority granted in subdivision 1, clause (3) or (4). The term mortgage does not include contracts for deed or installment land contracts.” (Minn. Stat. Ann. §47.20[2][3]) [↑](#endnote-ref-54)
55. This amount changes from time to time. The next update is scheduled on or before April 30, 2012 and will become effective July 1st of that year. See the cited statute for the update. [↑](#endnote-ref-55)
56. “‘Loan’ means: (1) the creation of debt by the financial institution’s payment of money to the borrower or a third person for the account of the borrower; (2) the creation of debt pursuant to a credit card in any manner, including a cash advance or the financial institution’s honoring a draft or similar order for the payment of money drawn or accepted by the borrower, paying or agreeing to pay the borrower’s obligation, or purchasing or otherwise acquiring the borrower’s obligation from the oblige or the borrower’s assignee; (3) The creation of debt by a cash advance to a borrower pursuant to an overdraft line of credit arrangement; (4) the creation of debt by a credit to an account with the financial institution upon which the borrower is entitled to draw immediately; (5) the forbearance of debt arising from a loan; and (6) the creation of debt pursuant to open-end credit.

‘Loan’ does not include the forbearance of debt arising from a sale or lease, a credit sale contract, or an overdraft from a person’s deposit account with a financial institution which is not pursuant to a written agreement to pay overdrafts with the right to defer repayment thereof.” (Minn. Stat. Ann. §47.59[l])

These restrictions apply to a financial institute who extends this loan. “Financial Institute” is defined as follows:

“’Financial institution’ means a state or federally chartered bank, a state or federally chartered bank and trust, a trust company with banking powers, a state or federally chartered saving bank, a state or federally chartered savings association, in industrial loan and thrift company organized under chapter 53, a regulated lender organized under chapter 56, or an operating subsidiary of any such institution.” (*Ibid.* [k]) [↑](#endnote-ref-56)
57. This amount changes from time to time. The next update is scheduled on or before April 30, 2012 and will become effective July 1st of that year. See the cited statute for the update. [↑](#endnote-ref-57)
58. “’Residential real estate loan’ shall mean a loan made for the acquisition, construction, repair, or improvement of, or secured by, residential real estate. The term shall also include any loan made to refinance such a loan. No loan secured by residential real estate shall be considered to be a business loan unless such loan meets the requirements of subdivision (2) of this section and subdivision (2) of section 408.035.” (Mo. Rev. Stat. §408.015[7]) [↑](#endnote-ref-58)
59. “. . . The restrictions of this section shall not apply: (1) To any loan which is insured or covered by guarantee made by any department, board, bureau, commission, agency or establishment of the United States, pursuant to the authority of any act of Congress heretofore or hereafter adopted; and (2) To any loan for which an offer or commitment or agreement to purchase has been received from and which is made with the intention of reselling such loan to the Federal Housing Administration, Farmers Home Administration, Federal Home Loan Mortgage Corporation, or to any successor to the above-mentioned organizations, to any other state or federal governmental or quasi-governmental organization; and (3) Provided that the 1994 reenactment of this section shall not be construed to be action taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in excess of those permitted under this section shall be returned to the person from whom received upon demand.” (*Ibid.* §408.052[1])

 “A ‘second mortgage loan’ shall mean a loan secured in whole or in part by a lien upon any interest in residential real estate created by a security instrument, including a mortgage, trust deed, or other similar instrument or document, which provides for interest to be calculated at the rate allowed by the provisions of section 408.323, which residential real estate is subject to one or more prior mortgage loans.” (Mo. Ann. Stat. §408.231[1])

“1. With respect to a second mortgage loan, any person, firm or corporation may charge, contract for, and receive interest in any manner at rates agreed to by the parties computed on unpaid balances of the principal for the time actually outstanding.

4. Sections 408.231 to 408.241 shall not apply to any loans on which the rate of interest and fees charged are lawful under Missouri law without regard to the rates permitted in subsection 1 of this section and the fees permitted in section 408.233.” (*Ibid.* 408.232) [↑](#endnote-ref-59)
60. “(a) “Consumer loan’ means credit offered or extended to an individual primarily for personal, family, or household purposes, including loans for personal, family, or household purposes that are not primarily secured by a mortgage, deed of trust, trust indenture, or other security interest in real estate.

(b) Consumer loans do not include: (i) deferred deposit loans provided for in Title 31, chapter 1, part 7; or (ii) Title loans provided for in Title 31, chapter 1, part 8; or (iii) residential mortgage loans as defined in 32-9-103.” (Mont. Code Ann. §32-5-102[2])

“’Residential mortgage loan’ means a loan primarily for personal, family, or household use secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in section 103(v) of the Truth in Lending Act, 15 U.S.C. 1602(v), or on residential real estate located in Montana.” (*Ibid.* §32-9-103)

“Except as provided in subsection (5), a person may not engage in the business of making consumer loans in any amount and contract for, charge, or receive directly or indirectly on or in connection with any loan any compensation, whether for interest, fees, other consideration, or expense, except as provided in and authorized by this chapter. The provisions of this chapter do not apply to any exempted person.” (*Ibid.* §32-5-103[1]) [↑](#endnote-ref-60)
61. “3. Loan, when used in the Nebraska Installment Loan Act, does not include any loan made by a person who is not a licensee on which the interest does not exceed the maximum rate permitted by section 45-101.03.

4. Nothing in the Nebraska Installment Loan Act applies to any loan made by a person who is not a licensee if the interest on the loan does not exceed the maximum rate permitted by section 45-101.03.” (Neb. Rev. Stat. §45-1002)

“Except as provided in section 45-101.04, any rate of interest which may be agreed upon, not exceeding sixteen percent per annum on the unpaid balance, shall be valid upon any loan or forbearance of money, goods, or things in action and may be taken yearly, for any shorter period, or in advance, if so expressly agreed.” (*Ibid.* §45-101.03[1])

“No financial institution is eligible for a license or to make loans under the Nebraska Installment Loan Act.” (*Ibid.* §45-1003) [↑](#endnote-ref-61)
62. “Except as otherwise provided in section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto, parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.” (Nev. Rev. Stat. §99.050)

Note that this statute is a part of Title 8 (Commercial Instruments and Transactions) of the Nevada Revised Statutes. [↑](#endnote-ref-62)
63. “’Precomputed consumer credit transaction’ means a consumer credit transaction in which the debt is a sum comprising the amount of the credit or loan and the amount of the interest and other charges computed in advance.” (N.H. Rev. Stat. Ann. §358-K:1[X])

“’Consumer credit transaction’ means a consumer credit sale or a consumer loan.” (*Ibid.* [V])

“’Consumer loan’ means a loan made by a creditor to a debtor when the debt is payable in installments or an interest or other charge is made.” (*Ibid.* [VI]) [↑](#endnote-ref-63)
64. “’Secondary mortgage loan’ means a loan made to an individual, association, joint venture, partnership, limited partnership association, limited liability company, trust, or any other group of individuals, however organized, except a corporation, which is secured in whole or in part by a lien upon any interest in real property, including but not limited to shares of stick in a cooperative corporation, created by a security agreement, including a mortgage, indenture, or any other similar instrument or document, which real property is subject to one or more prior mortgage liens and on which there is erected a structure containing a one, two, three, or four family dwelling, as defined in section 103(v) of the Truth in Lending Act, Pub.L. 90-321 (15 USC §1602[v]), a portion of which structure may be used for nonresidential purposes. Except that the following loans shall not be subject to the provisions of this act: (1) a loan which is to be repaid in 90 days or less; (2) a loan which is taken as security for a home repair contract executed in accordance with the provisions of the ‘Home Repair Financing Act,’ P.L.1960, c. 41 (C.17:16C-62 *et seq.*); or (3) a loan which is the result of the private sale of a dwelling, if title to the dwelling is in the name of the seller and the seller has resided in that dwelling for at least one year, if the buyer is purchasing that dwelling for his own residence and, if the buyer, as part of the purchase price, executes a secondary mortgage in favor of the seller.” (N.J. Stat. Ann. §17:11C-53) [↑](#endnote-ref-64)
65. “’Home loan’ means a loan, including an open-end credit plan, other than a reverse mortgage transaction or a bridge loan, where the principal amount does not exceed the conforming loan size limit for a single-family dwelling as established by the federal national mortgage association and were the loan is secured by:

1. A mortgage or deed of trust on real estate in this state upon which there is located or there is to be located a structure: (a) designed principally for occupancy by one to four families; and (b) that is or will be occupied by a borrower as the borrower’s principal residence; or

2. A security interest on a manufactured home that is or will be occupied by a borrower as the borrower’s principal residence.” (N.M. Stat. Ann. §58-21A-3[J]) [↑](#endnote-ref-65)
66. These restrictions apply to “any loan originated, brokered, negotiated, or made by a licensee pursuant to the Mortgage Loan Company Act”. According to N.M. Rev. Stat. Ann. §58-21-3(1), it is unlawful for any person to act as a mortgage loan company without a license.

“’Mortgage loan company’ means any person who, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

1. Accepts an application for a mortgage loan; negotiates terms for a mortgage loan; or solicits, processes, originates, brokers or makes loans for others;

2. Offers to: (a) accept an application for a mortgage loan; (b) negotiates terms for a mortgage loan; or (c) solicit, process, originate, broker or make mortgage loans for others; or

3. Closes mortgage loans that may be in the mortgage loan company’s own name with funds provided by others and that are assigned to the mortgage lenders providing the funding of such loans.” (*Ibid.* §58-21-2[I])

“’Mortgage loan’ means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling as so defined.” (*Ibid.* [J]) [↑](#endnote-ref-66)
67. There is no official definition for “mortgage on real property.” However, the statute cited does limit these restrictions to real property “improved by a one to six family residence occupied by the owner.” Alternatively, the mortgage may be secured by “a note representing a loan for the purpose of financing the purchase of an ownership interest in, a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of residential real estate”.

“The provisions in this section shall not apply to any loan or forbearance insured by the federal housing commissioner or for which a commitment to insure has been made by the federal housing commissioner or to any loan or forbearance insured or guaranteed pursuant to the provisions of an act of congress entitled ‘Servicemen’s Readjustment Act of 1944’, or to the extent the provisions of this section are inconsistent with any other federal law or regulation.” [↑](#endnote-ref-67)
68. This administrative law applies to “junior mortgage loans” and does not contain any restrictions on late charges. However, a “junior mortgage loan”, as defined in N.Y. Comp. Codes R. & Regs. Tit. 3, §80.1(c), is a loan secured by a one-to-four family dwelling; therefore the restrictions that apply in the statutory law apply to junior mortgage loans as well. [↑](#endnote-ref-68)
69. These restrictions apply to loans listed in N.C. Gen. Stat.§§24-10.1 & 24-1.1A, which are too extensive to summarize in this document. [↑](#endnote-ref-69)
70. See N.C. Gen. Stat. Ann. §24-9. [↑](#endnote-ref-70)
71. These restrictions apply to an “ . . . extension of credit under an open-end credit or similar plan (including . . . revolving charge accounts . . . ) under which no service charge shall be imposed upon the consumer or debtor if the account is paid in full within 25 days form the billing date, but upon which there may be imposed an annual charge not to exceed $24, there may be charged and collected interest, finance charges or other fees at a rate in the aggregate not to exceed one and one-half percent per month computed on the unpaid portion of the balance of the previous month less payments or credit within the billing cycle or the average daily balance outstanding during the current billing period.” (N.C. Gen. Stat. §24-11[a]) [↑](#endnote-ref-71)
72. See N.C. Gen. Stat. Ann. §24-9. [↑](#endnote-ref-72)
73. “A lender may charge a party to a loan or extension of credit governed by this section a late payment charge not to exceed $5 on accounts having an outstanding balance of less than $100 and $10 on accounts having an outstanding balance of $100 or more . . .” [↑](#endnote-ref-73)
74. There is no official definition for “legal indebtedness.” However, such indebtedness must have a fixed interest rate and cannot exceed the interest rate specified in N.D. Cent. Code §47-14-09(1), which is as follows:

“Except as otherwise provided by the laws of this state, a person , either directly or indirectly, may not take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than five and one-half percent per annum higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months in effect for North Dakota for the six months immediately preceding the month in which the transaction occurs, as computed and declared on the last day of each month by the state banking commissioner, but that in any event the maximum allowable interest rate ceiling may not be less than seven percent, and in the computation of interest the same may not be compounded; provided, however, that a minimum interest charge of $15 may be made.” [↑](#endnote-ref-74)
75. “. . . unless otherwise agreed to in any commercial, agricultural, or real estate note or mortgage.” [↑](#endnote-ref-75)
76. “’Consumer transaction’ means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. ‘Consumer transaction’ does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan officers, mortgage brokers, or nonbank mortgage lenders and their customers; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.” (Ohio Rev. Code §1345.01[A]) [↑](#endnote-ref-76)
77. Small loans are loans of $5,000 or less.

“Notwithstanding any other provisions of the Revised Code, a registrant may contract for and receive interest for open-end loans at a rate or rates not exceeding 21% per year . . .” (Ohio Rev. Code Ann. §1321.58[B]) [↑](#endnote-ref-77)
78. “Except with respect to a loan primarily secured by an interest in land . . . a ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which (1) the debtor is a person other than an organization; (2) the debt is incurred primarily for a personal, family, or household purpose; (3) either the debt is payable in installments or a loan finance charge is made; and (4) . . . the debt is secured by an interest in land.” (14A Okla. Stat. Ann. tit. 14A, §3-104)

“Unless the loan is made subject to this act by agreement . . . ‘consumer loan’ does not include a ‘loan primarily secured by an interest in land’, if at the time the loan is made the value of this collateral is substantial in relation to the amount of the loan, and the loan finance charge does not exceed 13% per year calculated according to the actuarial method on the unpaid balances of the principal on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term.” (*Ibid.* §3-105) [↑](#endnote-ref-78)
79. If greater, the same amount as a permissible deferral charge, authorized under 14A Okl. St. Ann. §3-204(3). The amount of the delinquency charge cannot be an amount less than $5, nor more than the greater of 5% of the unpaid amount of the installment, $22.00, or the deferral charge. The $22.00 amount is subject to change each year and the new amount can be found in the Appendices of Okla. Admin. Code §160:20. [↑](#endnote-ref-79)
80. “Except with respect to a loan primarily secured by an interest in land . . . a ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which (1) the debtor is a person other than an organization; (2) the debt is incurred primarily for a personal, family, or household purpose; (3) either the debt is payable in installments or a loan finance charge is made; and (4) . . . the debt is secured by an interest in land.” (Okla. St. Ann. tit. 14A, §3-104)

“Unless the loan is made subject to this act by agreement . . . ‘consumer loan’ does not include a ‘loan primarily secured by an interest in land’, if at the time the loan is made the value of this collateral is substantial in relation to the amount of the loan, and the loan finance charge does not exceed 13% per year calculated according to the actuarial method on the unpaid balances of the principal on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term.” (*Ibid.* §3-105) [↑](#endnote-ref-80)
81. The amount of the delinquency charge cannot be an amount less than $5, nor more than the greater of 5% of the unpaid amount of the installment or $22.00. The $22.00 amount is subject to change each year and the new amount can be found in the Appendices of Okla. Admin. Code §160:20. [↑](#endnote-ref-81)
82. These restrictions do not apply to a mortgage banking company or mortgage servicing company, except that if they charge a late fee that is not in conformance with these restrictions, they must disclose that they are exempt from these restrictions to the borrower before closing (see Or. Rev. Stat. §86.180). These restrictions also do not apply to loans insured, guaranteed, or purchased by an instrumentality of the federal government (see Or. Rev. Stat. §86.185). [↑](#endnote-ref-82)
83. Unless the period ends on a Saturday, Sunday, or legal holiday, then the period is extended to the next business day. [↑](#endnote-ref-83)
84. Open-end loan plans are exempt from these late fee restrictions (see Or. Rev. Stat. §725.345[4]). [↑](#endnote-ref-84)
85. The loan must be scheduled to be repaid in 62 months or less. [↑](#endnote-ref-85)
86. “’Consumer finance loan’ means a loan or line of credit that is unsecured or secured by personal or real property and that has periodic payments and terms longer than 60 days.” (Or. Rev. Stat. §725.010[2]) [↑](#endnote-ref-86)
87. The APR of the consumer finance loan cannot exceed the greater of 36% or 30 percentage points in excess of the discount window primary credit rate (see Or. Rev. Stat. §725.340[a][1]) [↑](#endnote-ref-87)
88. “’Secondary mortgage loan.’ A loan which is: (1) made primarily for personal, family, or household use; and (2) secured by any secondary lien mortgage, deed of trust or equivalent consensual security interest on a dwelling or on residential real estate.” (7 Pa. Cons. Stat. §6102) [↑](#endnote-ref-88)
89. The loan cannot assess more than 1.85% interest per month, a month being 30 days (see *Ibid.* §6125[b][2][i]). [↑](#endnote-ref-89)
90. “’High-cost home loan’ means a home loan in which the terms of the loan meet or exceed one of more of the thresholds as defined in subsection (r) of this section.” (R.I. Gen. Laws, §34-25.2-4[l])

“’Home loan’ means a loan, including an open-end credit plan, other than a reverse mortgage transaction, where the loan is secured by: (1) A mortgage or deed of trust on real estate in this state upon which where is located or there is to be located a structure or structures designed principally for occupancy of from one to four (4) families which is or will be occupied by a borrower as the borrower’s principal dwelling; or (2) A security interest on a manufactured home which is or will be occupied by a borrower as the borrower’s principal dwelling.” (*Ibid.* [m]) [↑](#endnote-ref-90)
91. See R.I. Gen. Laws §34-25.2-4(r) for determining amount and interest thresholds, which make the loan a high-cost home loan. [↑](#endnote-ref-91)
92. 10 days, if the payments are bi-weekly. [↑](#endnote-ref-92)
93. “ . . . ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (a) the debtor is a person other than an organization; (b) the debt is incurred primarily for a personal, family, or household purpose; (c) either the debt is payable in installments or a loan finance charge is made; and (d) . . . the debt is secured by an interest in land.” (S.C. Code Ann. §37-3-104) [↑](#endnote-ref-93)
94. If the minimum charge exceeds 5% of the unpaid amount of the installment, it may still be collected. Per S.C. Code §37-1-109, this dollar amount is subject to change each even-numbered year, effective on July 1st. The new amount is published in S.C. Reg. §28-62. [↑](#endnote-ref-94)
95. Per S.C. Code §37-1-109, this dollar amount is subject to change each even-numbered year, effective on July 1st. The new amount is published in S.C. Reg. §28-62. [↑](#endnote-ref-95)
96. Except loans provided by any state or national bank and their subsidiaries, any bank holding company and subsidiary, any other federally insured financial institution and its holding company and subsidiary, and any South Dakota chartered trust company (see S.D. Cent. Law §54-4-37). [↑](#endnote-ref-96)
97. “ ‘Industrial loan and thrift company’ means a person engaged in the business of making loans and imposing the interest and loan charges authorized under this chapter, and includes persons engaged in business as endorsement companies.” (T.C.A. §45-5-102[10]

“’Industrial bank’ means a person organized and registered as an industrial bank pursuant to this chapter, engaged in the business of making loans and imposing the interest and loan charges authorized under this chapter, that issues thrift certificates and that is also examined, supervised and liquidated as a state bank under this title.” (*Ibid.* [8])

“’Industrial investment company’ means a person organized and registered as an industrial investment company pursuant to this chapter, engaged in the business of making loans and imposing the interest and loan charges authorized under this chapter, that issues investment certificates subject to the Tennessee Securities Act, compiled in title 48, chapter 2, part 1, and that is also examined, supervised and liquidated as a state bank under this title.” (*Ibid.* [9]) [↑](#endnote-ref-97)
98. “’Loan’ means an advance of money that is made to or on behalf of an obligor, the principal amount of which the obligor has an obligation to pay the creditor. The term does not include a judgment.” (V.T.C.A., Finance Code §301.002[10]) [↑](#endnote-ref-98)
99. The interest rate must be less than 10% per year. A delinquency fee is considered to be a part of interest (see Tex. Fin. Code §302.103). [↑](#endnote-ref-99)
100. “’Secondary mortgage loan’ means a loan that is: (a) secured in whole or in part by an interest, including a lien or security interest, in real property that is: (i) improved by a dwelling designed for occupancy by four or fewer families; and (ii) subject to one or more liens, security interest, prior mortgages, or deeds of trust; and (b) not to be repaid before the 91st day after the date of the loan.” (V.T.C.A., Finance Code §342.001[4]) [↑](#endnote-ref-100)
101. Closed-end, first lien loans on a dwelling are exempted (see Utah Code Ann. §70C-1-202[2][b]) [↑](#endnote-ref-101)
102. A contract renewed, executed, or modified after May 3, 1999 by a depository institution can contract for a delinquency charge that exceeds these limitations.

“’Depository institution’ means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that: (a) holds and receives deposits, savings, or share accounts; (b) issues certificates of deposit; or (c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or be electronic means to effect third party payments.” (U.C.A. 1953 §7-1-103[8]) [↑](#endnote-ref-102)
103. A contract renewed, executed, or modified after May 3, 1999 by a depository institution can contract for a delinquency charge that exceeds these limitations.

“’Depository institution’ means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that: (a) holds and receives deposits, savings, or share accounts; (b) issues certificates of deposit; or (c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or be electronic means to effect third party payments.” (U.C.A. 1953 §7-1-103[8]) [↑](#endnote-ref-103)
104. First lien loans falling under the purview of 12 U.S.C.A. §1735f-7a are subject to Federal late fee restrictions. The types of loans subject to this act are too complex to include a summary in this document. [↑](#endnote-ref-104)
105. Any loan that is not subject to 12 U.S.C.A. §1735f-7a is subject to these restrictions. See endnote directly above for more details. [↑](#endnote-ref-105)
106. In this context, the loan must have an interest rate of 25% per year or less. [↑](#endnote-ref-106)
107. This includes a refinancing or consolidation of such loan.

“’Consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (a) The debtor is a person other than an organization; (b) The debt is incurred primarily for a personal, family, household, or agricultural purpose; (c) Either the debt is payable in installments or a loan finance charge is made; and (d) Either the principal does not exceed forty-five thousand dollars or the debt is secured by an interest in land or a factory-built home as defined in section two, article fifteen, chapter thirty-seven of this code.” (W. Va. Code §46A-1-102[15])

“’Precomputed loan.’ A loan, refinancing or consolidation is ‘precomputed’ if: (a) The debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance; or (b) The loan is expressed in terms of the principal amount; the loan installment payments are a scheduled, fixed amount including principal and interest and assume payment on the installment due date; and interest payments will not vary or result in an adjustment during the term of the loan or at its final payment as a result of the actual installment payment dates.” (*Ibid.* [33]) [↑](#endnote-ref-107)
108. Alternatively, an amount equal to the deferral charge that is permitted to defer the unpaid amount of the installment for the period that is delinquent may be charged. See W. Va. Code §46A-3-114 for deferral charges. [↑](#endnote-ref-108)
109. Alternatively, an amount equal to the deferral charge that is permitted to defer the unpaid amount of the installment for the period that is delinquent may be charged. See W. Va. Code §46A-3-114 for deferral charges. [↑](#endnote-ref-109)
110. This includes a refinancing or consolidation of such loan.

“’Consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (a) The debtor is a person other than an organization; (b) The debt is incurred primarily for a personal, family, household, or agricultural purpose; (c) Either the debt is payable in installments or a loan finance charge is made; and (d) Either the principal does not exceed forty-five thousand dollars or the debt is secured by an interest in land or a factory-built home as defined in section two, article fifteen, chapter thirty-seven of this code.” (W. Va. Code §46A-1-102[15]) [↑](#endnote-ref-110)
111. Must be a fixed rate precomputed loan.

“‘Precomputed loan’ means a loan in which the debt is expressed as a sum comprising the principal and the amount of interest computed in advance.” (Wis. Stat. Ann. §138.09[7][a][1]) [↑](#endnote-ref-111)
112. 9.5% for the first $1,000 of the loan and 8% for all amounts beyond this (see Wis. Stat. Ann. §138.09[b][1] for details). It can only be assessed against the unpaid principal balance exclusive of interest. [↑](#endnote-ref-112)
113. “Loan’ means a loan secured by a first lien real estate mortgage or, or an equivalent security interest in, a one-family to 4-family dwelling which the borrower uses as his or her principal place of residence and which is made, refinanced, renewed, extended or modified on or after November 1, 1981, but does not include a manufactured home transaction as defined in §138.056(1)(bg).” (Wis. Stat. Ann. §138.052[1][b])

These restrictions do “not apply to a loan insured, or committed to be insured, or secured by mortgage or trust deed insured by the U.S. secretary of housing and urban development, insured, guaranteed or committed to be insured or guaranteed under 38 USC 3701 to 3727 or insured or committed to be insured under 7 USC 1921 to 1995 [FHA or VA loans].” (*Ibid.*[8])

They also do not apply to a loan to a corporation or a limited liability company, or a loan primarily for a business or agricultural purpose (see *Ibid.* [10]). [↑](#endnote-ref-113)
114. “’Consumer credit transaction’ means a consumer transaction between a merchant and a customer in which real or personal property, services or money is acquired on credit and the customer’s obligation is payable in installments or for which credit a finance charge is or may be imposed, whether such transaction is pursuant to an open-end credit plan or is a transaction involving other that open-end credit. The term includes consumer credit sales, consumer loans, consumer leases and transactions pursuant to open-end credit plans.” (Wis. Stat. Ann. §421.301[10])

“’Consumer transaction’ means a transaction in which one or more of the parties is a customer for purposes of that transaction.” (*Ibid.* [13])

“’Consumer loan’ means a loan made by a lender to a customer which is payable in installments or for which a finance charge is or may be imposed, and includes transactions pursuant to an open-end credit plan other than a seller credit card.” (*Ibid.* [12])

Open-end credit plans are excluded from these restrictions. [↑](#endnote-ref-114)
115. “Chapters 421 to 427 do not apply to any of the following:

6. Consumer credit transactions in which the amount financed exceeds $25,000 . . .” (Wis. Stat. Ann. §421.202) [↑](#endnote-ref-115)
116. “Chapters 421 to 427 do not apply to any of the following:

7. Transactions secured by a first lien real estate mortgage or equivalent security instrument.” (*Ibid.*) [↑](#endnote-ref-116)
117. “Except with respect to a loan primarily secured by an interest in land, ‘consumer loan’ is a loan made by a person regularly engaged in the business of making loans in which: (i) The debtor is a person other than an organization; (ii) The debt is incurred primarily for a personal, family or household purpose; (iii) Either the debt is payable in installments or a loan finance charge is made; and (iv) Either the principal does not exceed fifty thousand dollars ($50,000.00) of the debt is secured by an interest in land or a dwelling, as defined in W.S. §40-14-640(a)(iv), located in Wyoming.” (Wyo. Stat. §40-14-304)

“(a) Unless the loan is made subject to this act by agreement as provided by W.S. §40-14-354 and except as provided by W.S. §40-14-320 with respect to disclosure and by W.S. §40-14-520 with respect to debtors’ remedies, ‘consumer loan’ does not include a ‘loan primarily secured by an interest in land’ if: (i) At the time the loan is made the value of this collateral is substantial in relation to the amount of the loan; and (ii) The loan finance charge does not exceed eighteen percent (18%) per year calculated according to the actuarial method on the unpaid balances of the principal on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term.

(b) For purposes of this section, ‘loan primarily secured by an interest in land’ is limited to a first mortgage loan which is not precomputed.” (Wyo. Stat. §40-14-305)

Consumer loan includes a refinancing or consolidation of a consumer loan. [↑](#endnote-ref-117)
118. Subordinate loans may be subjected to these restrictions, if the loan is made subject to the Wyoming Uniform Consumer Credit Code by agreement (see Wyo. Stat. §40-14-305[a]). [↑](#endnote-ref-118)
119. “(a) Except as provided in subsection (b) of this section, ‘consumer credit sale’ is a sale of goods, services or an interest in land in which: (i) Credit is granted by a person who regularly engages as a seller in credit transactions of the same kind; (ii) The buyer is a person other than an organization; (iii) The goods, services or interest in land are purchased primarily for a personal, family or household purpose; (iv) Either the debt is payable in installments or a credit service charge is made; and (v) With respect to a sale of goods or services, the amount financed does not exceed fifty thousand dollars ($50,000.00) or the debt is secured by a dwelling, as defined in W.S. §40-14-640(a)(iv), located in Wyoming.

(b) Unless the sale is made subject to this act by agreement pursuant to W.S. §40-14-256, ‘consumer credit sale’ does not include: (i) A sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar agreement; or (ii) A sale of an interest in land if the credit service charge does not exceed eighteen percent (18%) per year calculated according to the actuarial method on the unpaid balances of the amount financed on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term, except as provided for disclosure and debtors’ remedies in W.S. §40-14-520.” (Wyo. Stat. §40-14-204)

These restrictions also apply to a refinancing or consolidation of a consumer credit sale. [↑](#endnote-ref-119)