

Arizona Statutes (Consumer Lenders & Licensing)

**§ 32-1001. Definitions**

In this chapter, unless the context otherwise requires:

1. “Claim” means an obligation for the payment of money or its equivalent and a sum or sums owed, due or asserted to be owed or due to another, for which a person is employed to demand payment and collect or enforce such payment, and includes:

(a) Obligations for the payment of money to another, in the form of conditional sales agreements, notwithstanding the personal property sold thereunder, for which payment is claimed or may be or is repossessed in lieu of payment.

(b) An obligation for the payment of money or its equivalent and a sum or sums owed, due or asserted to be owed or due which is sold or assigned to a purchaser or assignee for which either:

(i) The final payment has not been tendered to the seller or assignor.

(ii) Title has not yet passed.

(iii) The purchaser or assignee has a right of recourse against the seller or assignor.

2. “Collection agency” means:

(a) All persons engaged directly or indirectly in soliciting claims for collection or in collection of claims owed, due or asserted to be owed or due.

(b) Any person who, in the process of collecting debts occurring in the operation of his own business, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts.

3. “Department” means the department of financial institutions.

4. “Financial institution” means a person who does business under any other law of this state or law of another state or the United States relating to banks, trust companies, savings and loan associations, credit unions and savings banks.

5. “Person” means an individual, firm, partnership, association or corporation.

6. “Superintendent” means the superintendent of financial institutions.

Credits

Amended by Laws 1978, Ch. 82, § 1; Laws 1978, Ch. 123, § 1, eff. Sept. 3, 1978, retroactively

effective to July 1, 1978; Laws 1988, Ch. 276, § 28; Laws 1992, Ch. 236, § 1; Laws 2004, Ch. 188, § 29, eff. Jan. 1, 2006.

### **§ 32-1004. Exemptions**

A. The following persons are exempt from the provisions of this chapter when engaged in the regular course of their respective businesses but shall comply with the requirements of § 32-1051, paragraphs 2 through 7 and § 32-1055, subsection C and subsection D, paragraphs 1, 2, 3 and 5:

1. Attorneys-at-law.
2. A person regularly employed on a regular wage or salary in the capacity of credit person or a similar capacity, except as an independent contractor.
3. Banks, including trust departments of a bank, fiduciaries and financing and lending institutions.
4. Common carriers.
5. Title insurers, title insurance agents and abstract companies while doing an escrow business.
6. Licensed real estate brokers.
7. Employees of licensees under this chapter.
8. Substation payment offices employed by or serving as independent contractors or public utilities.
9. A person licensed pursuant to title 6, chapter 7.
10. A person licensed pursuant to title 6, chapter 9.
11. A person licensed pursuant to title 6, chapter 14, article 1.
12. A participant in a finance transaction in which a lender receives the right to collect commercial claims due the borrower by assignment, by purchase or by the taking of a security interest in those commercial claims.
13. An accounting, bookkeeping or billing service provider that complies with all of the following:
  - (a) Does not accept accounts that are contractually past due at the time of receipt.

(b) Does not initiate any contact with individual debtors except for the initial written notice of the amount owing and one written follow-up notice.

(c) Does not give or send to any debtor a written communication that requests or demands payment.

(d) Does not receive or have access to monies paid by debtors or their insurers.

(e) All communications with the debtors are done in the name of the creditor.

14. A person collecting claims owed, due or asserted to be owed or due to a financial institution the deposits of which are insured by an agency of the federal government, or any affiliate of the financial institution, if the person is related by common ownership or affiliated by corporate control with the financial institution and collects the claims only for the financial institution or any affiliate of the financial institution.

15. A person who is licensed pursuant to title 20, chapter 2, article 3, 3.1, 3.2, 3.3 or 3.5<sup>4</sup> and who is authorized to collect premiums under an insurance policy financed by a premium finance agreement as defined in § 6-1401.

B. For the purposes of subsection A, paragraph 12 of this section:

1. A transaction shall not be deemed a finance transaction if the primary purpose is to facilitate the collection of claims.
2. Commercial claim does not include an account arising from the purchase of a service or product intended for personal, family or household use.

C. For the purposes of subsection A, paragraph 13, subdivision (b) of this section, the initial written notice and follow-up notice may contain only the following information:

1. The name, address and telephone and telefacsimile numbers of the creditor.
2. The amount due and an itemization of that amount.
3. The date payment is due.
4. The address or place where payment is to be made.
5. If the payment is past due, that payment is past due.

D. For a person who is exempt under subsection A, paragraph 14 of this section, the superintendent shall investigate complaints of residents of this state relating to any violations of

§ 32-1051, paragraphs 2 through 7 or § 32-1055, subsection C or subsection D, paragraph 1, 2, 3 or 5 and may examine the books, accounts, claims and files of a person that relate to the complaint. A person who is exempt and who violates the provisions of § 32-1051, paragraphs 2 through 7 or § 32-1055, subsection C or subsection D, paragraph 1, 2, 3 or 5 is subject to the provisions of §§ 6-132, 6-136 and 6-137.

Credits

Added by Laws 1988, Ch. 276, § 29. Amended by Laws 1990, Ch. 60, § 1; Laws 1990, Ch. 363, § 7; Laws 1990, Ch. 356, § 1; Laws 1991, Ch. 188, § 55; Laws 1992, Ch. 236, § 2; Laws 1993, Ch. 154, § 9, eff. April 20, 1993; Laws 1996, Ch. 136, § 9; Laws 2000, Ch. 7, § 1; Laws 2001, Ch. 205, § 41, eff. Oct. 1, 2001; Laws 2014, Ch. 153, § 4.

**§ 32-1021. Original application for license; financial statement; bond; definition**

A. A person desiring to conduct a collection agency shall make an original application to the department upon forms prescribed by the superintendent setting forth verified information to assist the superintendent in determining the applicant's ability to meet the requirements of this chapter.

B. An application for an original or a renewal license shall be accompanied by:

1. A financial statement in the form provided in § 32-1022, showing the applicant's assets and liabilities and truly reflecting the applicant's net worth in cash or its equivalent.
2. A bond in the form provided in § 32-1022, computed on a base consisting of the gross annual income of the licensee generated from all business transacted in this state by the licensee during the preceding year, in the minimum amount as follows:

Base	Minimum Bond
Not over \$250,000	\$10,000
\$250,001 to \$500,000	\$15,000
\$500,001 to \$750,000	\$25,000
\$750,001 and over	\$35,000

C. The superintendent may require from all applicants additional information that the superintendent deems necessary in determining whether the applicant is entitled to the license sought.

D. For the purposes of this section, “all business transacted in this state” includes:

1. The collection of debts from debtors who reside in this state, regardless of where the licensee is located.
2. The collection of debts made from an office in this state, regardless of where the debtor resides.
3. The collection of debts made on behalf of creditors who reside in this state, regardless of where the debtor and the collection agent reside.

#### Credits

Amended by Laws 1969, Ch. 136, § 2; Laws 1978, Ch. 82, § 2; Laws 1978, Ch. 123, § 4, eff. July 1, 1978; Laws 1990, Ch. 210, § 15; Laws 2000, Ch. 7, § 2.

#### **§ 32-1022. Contents of financial statement; bond provisions**

A. The financial statement required by § 32-1021 shall be sworn to by the applicant, if he is an individual, or by a partner, director, manager or treasurer in its behalf if the applicant is a partnership, corporation or incorporated association. The information in the financial statement shall be confidential and is not a public record.

B. The bond shall run to the people of the state and shall be executed and acknowledged by the applicant as principal and by a corporation, licensed by this state to transact fidelity and surety insurance business, as surety. The bond shall be continuous in form and shall remain in full force and effect at all times while holding a license. The bond shall be conditioned that the applicant, within thirty days from the last day of the month in which a collection is made, shall make an account of and pay to the client the proceeds collected for him by the applicant, less charges for collection in accordance with the agreement between the applicant and client, but when the amount due the client is less than five dollars, payment may be deferred for an additional thirty days.

C. Any surety company intending to withdraw as surety of any licensee shall give sixty days' notice of such intention to the superintendent, which notice shall be by registered mail and shall also give sixty days' notice by registered mail to the licensee addressed to his last known address. When a surety shall for any cause cancel the bond of any licensee, the superintendent shall immediately notify such licensee by registered mail addressed to his last known address as shown by the files of the department. The license of any licensee shall be void unless, prior to the termination, a new bond has been filed with the department. A licensee changing his surety shall file a new bond with the department with a surety on the new bond meeting the qualifications of this section.

D. Notwithstanding § 35-155, in lieu of the bond described in this section, an applicant for a license or renewal of a license may deposit with the superintendent a deposit in the form of cash or alternatives to cash in the amount prescribed under § 32-1021. The superintendent may accept any of the following as an alternative to cash:

1. Certificates of deposit or investment certificates which are payable or assigned to the state treasurer, issued by banks doing business in this state and fully insured by the federal deposit insurance corporation or any successor institution.
2. Certificates of deposit, investment certificates or share accounts which are payable or assigned to the state treasurer, issued by a savings and loan association or savings bank doing business in this state and fully insured by the federal deposit insurance corporation or any successor institution.
3. Certificates of deposit, investment certificates or share accounts which are payable or assigned to the state treasurer, issued by a credit union doing business in this state and fully insured by the national credit union administration or any successor institution.

E. The superintendent shall deposit the cash or alternative to cash received under this section with the state treasurer. The state treasurer shall hold the cash or alternatives to cash in the name of this state to guarantee the faithful performance of all legal obligations of the person required to post bond pursuant to § 32-1021, subsection B. The person is entitled to receive any accrued interest earned from the alternatives to cash. The state treasurer may impose a fee to reimburse the state treasurer for administrative expenses. The fee shall not exceed ten dollars for each cash or alternative to cash deposit and shall be paid by the applicant for a license or renewal of a license. The state treasurer may prescribe rules relating to the terms and conditions of each type of security provided by this section.

F. In addition to such other terms and conditions as the superintendent prescribes by rule or order, the principal amount of the deposit shall be released only on written authorization of the superintendent or on the order of a court of competent jurisdiction. The principal amount of the deposit shall not be released before the expiration of three years from the first to occur of any of the following:

1. The date of substitution of a bond for a cash alternative.
2. The surrender of the license.
3. The revocation of the license.
4. The expiration of the license.

G. A suit may not be commenced on a bond or cash or alternatives to cash later than three years following the act or acts on which the suit is based, except that for claims of fraud or mistake, the period of limitations shall be measured as prescribed in § 12-543, paragraph 3.

### Credits

Amended by Laws 1969, Ch. 136, § 3; Laws 1978, Ch. 123, § 5, eff. July 1, 1978; Laws 1988, Ch. 276, § 30; Laws 1990, Ch. 210, § 16; Laws 1991, Ch. 188, § 56.

### **§ 32-1023. Qualifications of applicants**

A. An applicant for a license issued under this chapter shall:

1. Be a citizen of the United States and be of good moral character.
2. Not have been convicted of a crime involving moral turpitude.
3. Not have defaulted on payment of money collected or received for another.
4. Not have been a former licensee under the provisions of this chapter whose license was suspended or revoked and not subsequently reinstated.

B. If the applicant for a license is a firm, partnership, association or corporation, the qualifications required by subsection A of this section shall be required of the individual in active management of the firm, partnership, association or corporation.

C. When a licensed agency ceases to be under the active management of a qualified person, as defined in rules, notice of this fact shall be given to the superintendent within ten days. The licensee shall have ninety days after the termination of the services of the acting manager to replace the qualified person and notify the superintendent of the qualified replacement. If the agency is not placed under the active management of a new qualified person and notice thereof given to the superintendent within the ninety-day period, the license of the agency expires unless a provisional license has been granted under the provisions of § 32-1027.

### Credits

Amended by Laws 1969, Ch. 136, § 4; Laws 1972, Ch. 146, § 51; Laws 1978, Ch. 123, § 6, eff. July 1, 1978; Laws 1990, Ch. 210, § 17; Laws 2000, Ch. 7, § 3.

### **§ 32-1024. Licensing out-of-state collection agents**

The superintendent shall issue a license to operate a collection agency to a person who holds and presents with the person's application a valid and subsisting license to operate a collection agency issued by another state or an agency of another state if:

1. Requirements for securing the license were, at the time of issuance, substantially the same or equal to requirements imposed by this chapter.
2. The state concerned extends reciprocity under similar circumstances to licensed collection agents of this state.

3. The application is accompanied by the fees and financial and bonding requirements set forth in this chapter.

#### Credits

Amended by Laws 1978, Ch. 123, § 7, eff. July 1, 1978; Laws 2000, Ch. 7, § 4.

### **§ 32-1025. Annual renewal of license; suspension; expiration**

A. Except as provided in § 32-4301, a person desiring to secure renewal of a collection agency license shall file a financial statement, make a renewal application to the department and pay the fees prescribed in § 6-126 not later than January 1 of each year on forms prescribed by the superintendent setting forth verified information to assist the superintendent in determining whether or not the applicant is in default of or in violation of the terms of this chapter and whether the applicant is still meeting the requirements of this chapter. If the renewal applicant is unable to make a financial statement at the time of filing the application, the applicant may make a written request for an extension of time to file such financial report, and if the extension is granted the applicant shall file a financial statement no later than March 1.

B. Licenses that are not renewed on or before January 1 are suspended. A licensee may renew a suspended license by submitting to the department the fees prescribed in § 6-126 along with a renewal application and any applicable late fee, as may be determined by the superintendent by rule, before January 31. Licenses that are not renewed on or before January 31 expire.

#### Credits

Amended by Laws 1969, Ch. 136, § 5; Laws 1978, Ch. 123, § 8, eff. July 1, 1978; Laws 1987, Ch. 221, § 14; Laws 2008, Ch. 183, § 13; Laws 2014, Ch. 84, § 1.

### **§ 32-1026. Issuance of licenses**

A. On receipt of an original application accompanied by the fees prescribed in § 6-126 and the financial statement and bond required by this chapter, the superintendent shall investigate the qualifications of the applicant and, if he meets the qualifications of this chapter, shall approve the application. If the application is approved, the license shall be promptly issued to the applicant.

B. A license issued under the provisions of this chapter shall not be transferable or assignable and control of a license may not be acquired through a stock purchase or other device without the prior written consent of the superintendent. Consent shall not be given if the superintendent finds that the acquiring person does not meet the qualifications of this chapter. For purposes of this subsection, “control” means the power to vote more than twenty per cent of the outstanding voting shares of a licensed corporation, partnership, association or trust.

#### Credits

Amended by Laws 1978, Ch. 123, § 9, eff. July 1, 1978; Laws 1987, Ch. 221, § 15; Laws 1991, Ch. 188, § 57.



### **§ 32-1027. Issuance of provisional license for limited purposes**

In the event of the death of an individual licensee, dissolution of a licensee partnership by death or operation of law, or termination of employment of the active manager if the licensee is a firm, partnership, association or corporation, if it is shown that the financial and bonding requirements of this chapter have been met, the superintendent shall issue without fee a provisional license to the personal representative of the deceased or his appointee, to the surviving partners, or to the firm, association or corporation, as the case may be, which shall be valid for the following purposes only and expire at the following times:

1. A provisional license issued to a personal representative or his appointee shall expire one year from the date of issuance and shall not be subject to renewal. Authority of the provisional licensee shall be limited to those activities deemed necessary to wind up the business of the former licensee.
2. Other provisional licenses shall expire three months from the date of issuance unless the provisional licensee within such period can qualify for a full license.

#### Credits

Amended by Laws 1978, Ch. 123, § 10, eff. July 1, 1978.

### **§ 32-1028. Fees**

Every original or renewal application shall be accompanied by the fees prescribed in § 6-126.

#### Credits

Amended by Laws 1969, Ch. 136, § 6; Laws 1990, Ch. 215, § 6.

### **§ 6-601. Definitions**

In this chapter, unless the context otherwise requires:

1. “Actuarial method” means the method of allocating each payment between finance charges and principal pursuant to which the payment is applied first to finance charges computed on the unpaid balance of principal for the time the balance is outstanding, and the remainder of the payment is subtracted from the unpaid principal amount.
2. “Amount financed” means the amount of credit extended to a consumer on a consumer loan determined in accordance with the truth in lending act.
3. “Annual percentage rate” means the measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made, determined in accordance with the truth in lending act.
4. “Consumer” means an individual who obtains a consumer lender loan for personal, family or household purposes.

5. "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.
6. "Consumer lender loans" means consumer loans, consumer revolving loans and home equity revolving loans.
7. "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.
8. "Consumer loan rate" means the periodic rate of finance charges that applies to the outstanding principal balance of a consumer loan and that remains unpaid. Consumer loan rate does not include any prepaid finance charges pursuant to § 6-632, subsection E or any fees pursuant to § 6-635.
9. "Consumer revolving loan" means an open end revolving loan that is established pursuant to an agreement with an agreed on credit limit that does not exceed ten thousand dollars, that the consumer may pay in full at any time but has the privilege of paying in installments and that contemplates or provides that advances may be obtained from time to time by the consumer, through checks, drafts, items, credit access devices, orders for the payment of money, evidences of debt or similar means, whether or not negotiable.
10. "Educational loan" means any loan or other aid or assistance for the purpose of furthering the education of a consumer or a relative of a consumer at an accredited or approved university, college, community college, junior college, technical, vocational or professional school, or similar institution.
11. "Finance charge" means the amount payable by a consumer incident to or as a condition of the extension of a consumer lender loan but does not include other fees allowed pursuant to § 6-635.
12. "Home equity revolving loan" means an open end revolving loan that is made pursuant to an agreement with an agreed on credit limit that is not more than ten thousand dollars, that is secured by the consumer's principal residence and that provides that advances may be obtained from time to time by the consumer through checks, drafts, items, credit access devices, orders for the payment of money, evidences of debt or similar means, whether or not negotiable.
13. "License" means a license issued under the authority of this chapter to make consumer lender loans in accordance with this chapter.
14. "Licensee" means a person licensed pursuant to this chapter.

15. "Precomputed consumer loan" means a consumer loan that is payable in substantially equal, consecutive monthly installments that are applied to the unpaid balance of the principal and precomputed finance charges combined, subject to provisions for refund or credit in the event of prepayment and for deferral or default charges in the event of deferral or default.
16. "Regularly engaged in the business" means either:
  - (a) Advertising to or any other solicitation of a resident of this state that offers a consumer loan and that occurs within this state.
  - (b) Making three or more consumer loans within a calendar year to residents of this state.
17. "Truth in lending act" means title I of the consumer credit protection act (15 United States Code §§ 1601 through 1666j), as amended, and the regulations promulgated under that act (12 Code of Federal Regulations part 226), as amended.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1998, Ch. 192, § 2; Laws 2000, Ch. 255, § 2.

#### **§ 6-602. Exemptions**

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.
2. A person who is licensed as a pawnbroker pursuant to title 44, chapter 11, article 3<sup>1</sup> to the extent that the person's activities are governed by that article.
3. A person who is not regularly engaged in the business of making consumer lender loans.
4. A person who is licensed pursuant to chapter 9 of this title<sup>2</sup> to the extent that the person's activities are governed by that chapter.

B. The requirements of this chapter do not apply to:

1. Closed end loans of more than ten thousand dollars.
2. Advances on open end revolving loans that are not secured by the consumer's principal residence with an agreed on credit limit of more than ten thousand dollars, regardless of the amount of any advances on these revolving loans.

3. Advances on open end revolving loans that are secured by the consumer's principal residence with an agreed on credit limit of more than ten thousand dollars, regardless of the amount of any advances on these revolving loans.
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.
5. Educational loans that are either:
  - (a) Made, insured or guaranteed pursuant to a program authorized by the United States, this state or any other state.
  - (b) Made by a nonprofit organization that is exempt from taxation under § 501(c)(3) of the internal revenue code<sup>3</sup> to students who attend postsecondary educational institutions in this state.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1998, Ch. 17, § 1; Laws 2000, Ch. 255, § 3.

#### **§ 6-603. License; contents of application; fees; nontransferable**

- A. Unless exempt under § 6-602, a person, whether located in this state or in another state, shall not engage in the business of a consumer lender without first being licensed as a consumer lender by the superintendent.
- B. This chapter applies to any person who seeks to avoid its application by any device, subterfuge or pretense.
- C. Each applicant for a license shall submit an application in writing, under oath and in the form prescribed by the superintendent. The superintendent may require as part of an application any other information that the superintendent deems necessary.
- D. At the time of filing an application for a license, an applicant shall pay to the superintendent the fee prescribed in § 6-126.
- E. Before June 30 of each year, each licensee may obtain a renewal of a license by filing an application in the form prescribed by the superintendent and paying the fee prescribed in § 6-126.
- F. The superintendent may deny a license to a person if the superintendent finds that an applicant:
  1. Is insolvent as defined in § 47-1201.

2. Has failed to demonstrate the financial responsibility, experience, character and general fitness to command the confidence of the public and to warrant the belief that the business will be operated lawfully, honestly, fairly and efficiently within the purposes of this chapter.
3. Has failed to pay the license fee.
4. Has failed to have at least twenty-five thousand dollars in assets readily available for use in the conduct of the business of each licensed office and branch office.

G. A consumer lender license is not transferable or assignable, and no person may acquire control of a licensee through stock purchase or other device without the prior written consent of the superintendent. The superintendent may refuse consent if the superintendent finds that any of the grounds for denial of renewal, revocation or suspension of a license prescribed in § 6-605 are applicable to the acquiring person. For purposes of this subsection, “control” means the power to vote more than twenty per cent of the outstanding voting shares of a licensed corporation, limited liability company, partnership, association or trust.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 2000, Ch. 255, § 4.

#### **§ 6-604. Issuance of license; license year; requirements**

- A. If the superintendent finds no grounds for denial of a license, within one hundred twenty days after receiving a complete application, the superintendent shall grant the application and issue a license to the applicant.
- B. The license year for a licensee begins on July 1 and ends on June 30 of each year.
- C. All licenses issued remain in full force until surrendered, revoked or suspended.
- D. A license remains the property of this state. On termination at the request of the licensee or revocation by the superintendent, the licensee shall immediately deliver the license to the superintendent. Termination of the license does not affect any other liability of the licensee.
- E. The licensee shall designate the principal location of the licensed office within or outside this state. If a licensee wishes to maintain more than one office location the licensee shall first obtain a branch office license for each branch office from the superintendent. The licensee shall submit an application in the form prescribed by the superintendent and pay the fee prescribed in § 6-126 for each branch office license. If the superintendent determines that the applicant is qualified, the superintendent shall issue a branch office license indicating the address of the branch office.
- F. A licensee shall prominently display the consumer lender license in the office of the consumer lender and any branch office license in that branch office.

### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 2000, Ch. 255, § 5.

### **§ 6-605. Denial of renewal; suspension; revocation**

A. The superintendent may deny renewal of a license or suspend or revoke a license if the superintendent finds that a licensee:

1. Is insolvent as defined in § 47-1201.
2. Has shown that the licensee is not a person of honesty, truthfulness and good character.
3. Has failed to pay the annual renewal fees.
4. Has failed to file an annual report when due or within any extension of time granted by the superintendent for good cause.
5. Has failed to have or maintain at least twenty-five thousand dollars in assets used or readily available for use in the conduct of the business of each licensed office and branch office.
6. Either knowingly or without the exercise of due care to prevent a violation, has violated any provision of this title or any rule or order adopted or made pursuant to this title.
7. Has failed to operate the business of making consumer lender loans for a continuous period of twelve months or more, except that the superintendent, on good cause shown, may extend the time for operating that business for a single fixed period of not more than twelve months.

B. The superintendent may also deny renewal of a license or suspend or revoke a license if the superintendent finds that any fact or condition exists that, if it had existed at the time of the original application for the license, would have clearly warranted the superintendent to refuse to issue the license.

### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

### **§ 6-606. Business limited to licensed locations; restrictions**

A. Except as provided in subsection B of this section, no licensee may conduct the business of making consumer lender loans pursuant to this chapter under any name or at any place of business in this state other than the name and place stated in the licensee's consumer lender license or branch office license.

B. Subsection A of this section does not prohibit a licensee from:

1. Making consumer lender loans by mail or electronic means.
2. On request, making accommodations to consumers at any location requested by the consumer.
3. Conducting any administrative, loan servicing or record keeping activity at any other location not open to the public, if the superintendent is notified in advance of that activity.
4. Closing a consumer lender loan secured by real property at an office of a financial institution, title company, licensed escrow agent, licensed mortgage broker or licensed mortgage banker.
5. Giving a consumer an advance on a consumer revolving loan or home equity revolving loan from any location.

C. On approval by the superintendent, the licensee may conduct any of the activities listed in subsection B of this section outside of this state.

D. A licensee may change the location of its licensed office or licensed branch office by giving written notice to the superintendent, who shall amend the license accordingly.

E. All consumer lender loans that are made at the location of a licensed office or branch office are subject to the requirements of article 2 of this chapter, whether made by a licensee, any person otherwise exempt from this chapter pursuant to § 6-602 or any other person.

F. No licensee may conduct the business of making consumer lender loans pursuant to this chapter from within any licensed office or branch office in which any other business not licensed pursuant to this title is solicited or engaged in, or in association or conjunction with any other business not licensed pursuant to this title, without giving prior notice to the superintendent. If it appears to the superintendent that the other business is of such a nature or is being conducted in such a manner as to conceal an evasion of this chapter or is contrary to the public interest or otherwise being conducted in an unlawful manner, the superintendent may act pursuant to § 6-137 to restrict the licensee from conducting its business in conjunction with that other business. For the purposes of this subsection “public interest” means the laws of this state or of the United States or rules adopted by the superintendent.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

#### **§ 6-607. Books; accounts; records; access**

A. A licensee shall maintain books, accounts and records that enable the superintendent to determine whether the licensee is in compliance with this chapter.

B. A licensee shall preserve its books, accounts and records of consumer lender loans for at least two years after making the final entry for any consumer lender loan. A licensee that uses an electronic record keeping system is not required to keep a written copy of the accounts and records if the licensee is able to generate all of the information required by this section in a timely manner for examination or other purposes.

C. Every licensee shall observe generally accepted accounting principles and practices.

D. A licensee shall make any books, accounts and records that are kept outside of this state available to the superintendent in this state not more than three business days after demand is made by the superintendent, or the superintendent may choose to perform the examination or investigation at the office of the licensee located outside this state.

E. For the purposes of this chapter, the superintendent or the superintendent's duly authorized representatives shall have access during normal business hours to the offices and places of business, files, safes and vaults of all licensees regarding that business or the subject matter of any examination, investigation or hearing.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

### **§ 6-608. Annual report of licensee; civil penalty for failure to file**

A. On or before October 1 of each year, the licensee shall file a report under oath and in the form prescribed by the superintendent concerning the business and operations during the twelve month period ending the preceding June 30. On good cause shown by a licensee, the superintendent may extend the time for filing the report for a period of not more than sixty days.

B. If a licensee fails to file the annual report, the superintendent or any person designated by the superintendent may examine the books, accounts and records of the licensee, prepare the annual report and charge the licensee an examination fee as prescribed in § 6-125.

C. If a licensee fails to file the annual report within the specified time, the superintendent may assess a civil penalty for the failure to file the annual report unless an extension of time is granted by the superintendent in writing before the due date of the annual report. The superintendent shall not assess a penalty of more than five dollars per day. The licensee shall pay the penalty to the superintendent within thirty days of the assessment.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

### **§ 6-609. Reporting rates; change in rates; quarterly report of superintendent**

A. At the time of making its annual report to the superintendent, each licensee shall report the licensee's standard annual percentage rate or range of annual percentage rates in effect at that time on the following types of loans:



1. A five hundred dollar unsecured consumer loan, payable in twelve equal monthly installments.
2. A two thousand five hundred dollar consumer loan secured by a motor vehicle, payable in thirty-six equal monthly installments.
3. A nine thousand dollar consumer loan secured in full by real property, payable in one hundred twenty equal monthly installments.
4. A consumer revolving loan with an agreed on credit limit of three thousand dollars.
5. A home equity revolving loan with an agreed on credit limit of fifteen thousand dollars.

B. The amount of each of the consumer loans described in subsection A refers to the amount financed as computed in accordance with the truth in lending act. The licensee shall also report the range of the percentage amount of any prepaid finance charges charged in connection with a home equity revolving loan described in subsection A, paragraph 5.

C. Within thirty days after effectuating a change in the standard rate of charge for any of the types of loans described in subsection A, the licensee shall report that change to the superintendent.

D. On at least a quarterly basis the superintendent shall compile a report of the standard annual percentage rate or range of annual percentage rates of each licensee for the types of loans described in subsection A. The superintendent shall disseminate this report in a manner deemed appropriate by the superintendent, and the superintendent shall make the report available to the public for inspection and copying.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

#### **§ 6-610. Effect of revocation, suspension or surrender on preexisting contract; impairment of contracts**

A. The revocation, suspension or surrender of a consumer lender license does not impair or affect:

1. The obligation of any preexisting consumer lender loan between the consumer lender and any consumer.
2. The ability or right of the consumer lender to service existing consumer lender loans from outside this state.

B. If this chapter or any part of this chapter is modified, amended or repealed, resulting in a cancellation or alteration of any consumer lender license or right of a licensee under this chapter, that cancellation or alteration does not impair or affect the obligation of any preexisting contract between a consumer lender and any consumer.

Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

**§ 6-611. Prohibited acts**

A licensee shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a consumer lender loan. To the extent applicable, all advertising shall comply with the advertising requirements of the truth in lending act.

Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 2014, Ch. 96, § 1; Laws 2016, Ch. 63, § 1.

**§ 6-612. Rules**

The superintendent may adopt rules that are necessary to regulate the proper conduct of a licensee.

Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

**§ 6-613. Restrictions; voidable loans**

A. Except as the result of an accidental or bona fide error, if the licensee charges, contracts for or receives any amount in excess of the finance charges and other fees permitted by this chapter the following restrictions apply:

1. If the original principal amount of a consumer loan is five thousand dollars or less, that consumer loan is voidable and the licensee has no right to collect or receive any principal, finance charges or other fees in connection with that consumer loan.
2. If the original principal amount of a consumer loan is more than five thousand dollars, the licensee has no right to collect or receive any finance charges in connection with that consumer loan.

3. If the aggregate amount of advances borrowed on a consumer revolving loan or home equity revolving loan is five thousand dollars or less, that consumer revolving loan or home equity revolving loan is voidable and the licensee has no right to collect or receive any principal, finance charges or other fees in connection with that consumer revolving loan or home equity revolving loan.

4. If the aggregate amount of advances borrowed on a consumer revolving loan or home equity revolving loan is more than five thousand dollars, the licensee has no right to collect or receive any finance charges in connection with that consumer revolving loan or home equity revolving loan.

B. Any consumer lender loan that is made by a person who is required to be licensed pursuant to this chapter but who is not licensed is void, and the person making that consumer lender loan has no right to collect, receive or retain any principal, finance charges or other fees in connection with that consumer lender loan.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

### **§ 6-614. Noncompliance**

Except as provided in § 6-613, a failure to comply with this chapter does not affect the validity or enforceability of any consumer lender loan or any security interest or lien on personal or real property.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

### **§ 6-615. Foreign loans; reciprocity**

If a consumer lender loan subject to this chapter is made at a location outside this state to a consumer who is a resident of this state at the time that the consumer lender loan is made and the annual percentage rate of finance charges and other fees charged, contracted for or received are greater than permitted by this chapter, that consumer lender loan is enforceable in this state only to the extent of the finance charges and other fees permitted by this chapter. This section does not apply to consumer lender loans that are solicited in this state from outside this state and that are subject to this chapter.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1997.

### **§ 6-631. Disclosures; penalty**

A. To the extent applicable, a licensee shall comply with the disclosure requirements of the truth in lending act.

B. Each note or agreement evidencing a consumer lender loan shall contain the following disclosure statement in at least ten point type that is in English and in Spanish and in close proximity to the consumer's signature line:

Notice: You may request that the initial disclosures prescribed in the truth in lending act (15 United States Code §§ 1601 through 1666j) be provided in Spanish before signing any loan documents.

C. A licensee shall continuously and conspicuously display a sign printed in at least twelve point bold type containing the notice prescribed by subsection B and the following notice at each desk in each licensed office or branch office at which consumer lender loans are usually and normally closed:

Notice: Before signing any loan documents or otherwise committing to a loan, you may take copies of those documents away from the consumer lender's place of business for review.

D. A licensee shall give to the consumer a receipt or another written record of the amount of any payment made in currency on any consumer lender loan, either at the time the payment is made or within ten days after the payment is made, or the licensee may reflect the payment on the periodic statement sent to the consumer for the billing period that includes the date of that payment.

E. A licensee shall mail periodic statements for consumer revolving loans and home equity revolving loans to the consumer within fourteen days after the end of each monthly billing cycle period. A billing cycle period is considered monthly if the closing date of the billing cycle period is the same day each month or does not vary by more than four days from that day.

F. If the licensee fails to make the disclosure statement prescribed in subsection B, the superintendent shall assess the licensee a one-time penalty of up to three hundred dollars for every violation.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

#### **§ 6-632. Finance charges**

A. A licensee may contract for and receive finance charges on consumer loans that are not more than the following amounts:

1. On a consumer loan in an original principal amount of three thousand dollars or less, a consumer loan rate of thirty-six per cent.
2. On a consumer loan in an original principal amount of more than three thousand dollars, either:

(a) A consumer loan rate of thirty-six per cent on the initial three thousand dollars of the original principal amount, and a consumer loan rate of twenty-four per cent on that part of the principal amount greater than three thousand dollars.

(b) The single blended consumer loan rate that results from the total amount of finance charges that the licensee would receive through the scheduled maturity of the consumer loan at the consumer loan rates that otherwise would be applicable pursuant to subdivision (a) of this paragraph to the different portions of the unpaid principal balance, assuming that the consumer loan will be paid according to its agreed terms.

B. A licensee may contract for and receive periodic finance charges on consumer revolving loans and home equity revolving loans that are not more than the following amounts:

1. On consumer revolving loans with credit limits of three thousand dollars or less, a periodic rate corresponding to an annual percentage rate of thirty-six per cent on the outstanding balance each monthly billing cycle.

2. On consumer revolving loans with credit limits of more than three thousand dollars and home equity revolving loans, either:

(a) A periodic rate corresponding to an annual percentage rate of thirty-six per cent on that portion of the outstanding balance each monthly billing cycle that is not more than three thousand dollars and a periodic rate corresponding to an annual percentage rate of twenty-four per cent on that portion of the outstanding balance each monthly billing cycle that is more than three thousand dollars.

(b) A periodic rate corresponding to the single blended annual percentage rate that would result in a periodic finance charge during a monthly billing cycle that is not more than the finance charges that result from the application of the multiple periodic rates authorized by subdivision (a) of this paragraph.

C. A licensee may charge a fixed or variable rate of periodic finance charges on a consumer revolving loan or a home equity revolving loan, as provided by the agreement that establishes the consumer revolving loan or home equity revolving loan. The licensee shall not base a variable rate of periodic finance charges on an index that is under the control of the licensee. Unless the consumer can readily verify the index on which an adjustment in the rate of periodic finance charges is based, the licensee shall provide conspicuous notice of the rate adjustment at least one monthly billing cycle before the effective date of the rate adjustment. The licensee may include a rate adjustment notice on or with a periodic statement to the consumer. The corresponding annual percentage rate of periodic finance charges may not increase or decrease more than three percentage points in any period of twelve consecutive months, and the corresponding annual percentage rate of periodic finance charges may not increase or decrease more than seven percentage points above or below the initial annual percentage rate of periodic finance charges at the time the consumer revolving loan or home equity revolving loan is established.

D. Except as permitted by subsection E of this section, prepaid finance charges commonly referred to as points are prohibited.

E. In addition to the finance charges authorized in subsections A, B and C of this section, a licensee may contract for and receive, and collect finance charges on, nonrefundable prepaid finance charges or fees commonly referred to as points in an amount of not more than:

1. Four per cent of the original principal amount of a consumer loan of at least five thousand dollars secured by the consumer's principal residence.
2. Four per cent of the agreed on credit limit of a home equity revolving loan.

F. If a consumer loan, consumer revolving loan or home equity revolving loan is in existence before the effective date of this amendment to this section and is modified or restructured after the effective date of this amendment to this section and the total new cash advances do not exceed one hundred dollars, a licensee may not contract for and receive periodic finance charges at an annual percentage rate that is higher than the annual percentage rate that existed before the effective date of this amendment to this section.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1998, Ch. 192, § 3; Laws 2014, Ch. 96, § 2.

### **§ 6-633. Computation of finance charges**

A. A licensee shall compute and measure finance charges on consumer loans on unpaid balances outstanding from time to time. A licensee may also precompute finance charges on consumer loans on scheduled unpaid principal balances as provided in § 6-634. For the purposes of computing finance charges on consumer loans that are not precomputed, a licensee may calculate the finance charges on an annual basis of twelve months of thirty days each month or on a daily basis if a day is counted either as  $\frac{1}{360}$  th,  $\frac{1}{365}$  th or  $\frac{1}{366}$  th of a year, as the licensee and consumer may agree in writing.

B. A licensee shall compute periodic finance charges on consumer revolving loans or home equity revolving loans on the unpaid balance of the consumer revolving loan or home equity revolving loan by either of the following methods:

1. By multiplying the daily periodic rate by the actual unpaid balance of the consumer revolving loan or home equity revolving loan each day during the billing cycle period. The daily periodic rate shall be determined by dividing the annual percentage rate by three hundred sixty-five.
2. By multiplying the monthly periodic rate by the average daily balance of the consumer revolving loan or home equity revolving loan during the billing cycle. The average daily balance is the sum of the unpaid balances of the consumer revolving loan or home equity revolving loan each day during the billing cycle period divided by the number of days in

the billing cycle period. The monthly periodic rate is determined by dividing the annual percentage rate by twelve. The unpaid balance on any day is determined by adding to any balance unpaid as of the beginning of that day all advances and allowed additional fees and deducting all payments and other credits to the consumer revolving loan or home equity revolving loan that day.

C. A licensee may compute finance charges only on the unpaid principal balance, allowed additional fees and prepaid finance charges. A licensee shall not compound finance charges. Precomputation of the finance charges on a consumer loan does not constitute compounding of finance charges.

D. If part or all of the principal of a consumer loan is the unpaid principal balance of a prior precomputed consumer loan, the principal amount payable under such consumer loan may include any unpaid finance charges on the prior loan that have accrued within sixty days before the making of that consumer loan.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997.

#### **§ 6-634. Precomputation of consumer loan**

A. A precomputed consumer loan shall require repayment in substantially equal consecutive monthly installments of principal and finance charges combined. The first installment of a precomputed consumer loan is due not less than fifteen days but not more than forty-five days after the precomputed consumer loan is made. The licensee may precompute finance charges at the agreed consumer loan rate on scheduled unpaid principal balances and add those charges to the principal amount of the precomputed consumer loan. The licensee shall calculate the finance charges on precomputed loans on an annual basis of twelve months of thirty days per month. All computations are based on the assumption that all payments are made as scheduled. The licensee may round the consumer loan rate to the nearest one-quarter of one per cent.

B. If a precomputed consumer loan is prepaid in full, the licensee shall provide the consumer with a refund or credit of the precomputed finance charges that apply to all of the fully unexpired months of the precomputed consumer loan as originally scheduled, or if deferred, as deferred, and that follow the installment date nearest to the date of the prepayment. For this purpose the applicable finance charge is the total of those finance charges that would have been made for each unexpired month by applying scheduled payments to unpaid balances of principal according to the actuarial method at that single consumer loan rate that would result in the original amount of precomputed finance charges on the consumer loan, assuming finance charges had not been precomputed at the agreed to consumer loan rate but had been computed by the actuarial method at the agreed to single consumer loan rate from the inception of the consumer loan.

C. The licensee may agree to defer payment of all wholly unpaid installments for one or more full months and extend the due date of each installment and the maturity of the precomputed consumer loan for the same amount of time. The deferment period is the month or months in which the consumer makes no scheduled payment or in which no payment is required by reason

of the deferment. If a deferment is made, the licensee may charge and collect a deferral fee that is not more than the agreed to consumer loan rate applied to the amount or amounts deferred for the period of deferral without regard to differences in the lengths of months, but applied proportionately for a part of a month by counting each day as one-thirtieth of a month. The licensee may collect a deferral fee at the time the licensee assesses the deferral fee or at any time after the assessment. No rebate of deferral fees is required unless prepayment occurs before the due date of the first deferred installment.

D. If the maturity of a precomputed consumer loan is accelerated, the licensee shall reduce the outstanding balance of that precomputed consumer loan by the refund or credit of precomputed finance charges that the consumer would be entitled to receive pursuant to subsection B on prepayment in full on the date of acceleration. After application of that refund or credit, the licensee may charge and receive finance charges at the agreed to consumer loan rate computed on the unpaid balances of the consumer loan for the actual time outstanding from the installment date nearest the date of acceleration until paid in full.

E. The note or agreement evidencing a precomputed consumer loan may provide that the licensee, with or without accelerating maturity, may recompute the entire consumer loan on a per cent per month basis or may reduce the outstanding balance as of any installment date by the refund or credit of precomputed finance charges that the consumer would be entitled to receive pursuant to subsection B on prepayment in full on the installment date. After recomputing the loan or applying the refund or credit of precomputed finance charges, the licensee may charge and receive finance charges at the agreed to consumer loan rate computed on unpaid balances of the consumer loan for the actual time outstanding from the installment date until the consumer loan is paid in full.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1998, Ch. 192, § 4.

#### **§ 6-635. Other allowable fees; annual reporting**

A. In addition to the finance charges authorized by § 6-632, a licensee may contract for and receive, and collect finance charges on, the following fees:

1. A delinquency charge in an amount equal to five per cent of the amount of any installment not paid in full within seven days after its due date.
2. The actual costs of charges that are paid to a third party who is not an employee of the licensee and that are incurred in making consumer lender loans secured in whole or in part by real property, including the charges for a preliminary title search, title examination and report, title insurance premiums, property survey and appraisal fees.



3. Lawful fees for the acknowledging, filing and recording, continuing or releasing in any public office of any instrument or financing statement evidencing or perfecting a lien or security interest in real or personal property securing a consumer lender loan or the premiums paid for insurance in lieu of filing or recording that shall not exceed the filing or recording fee.

4. A loan origination fee of not more than five per cent of a closed end consumer loan or the agreed credit limit of a consumer revolving loan but in no event in an amount that is more than one hundred fifty dollars. A licensee shall not charge a loan origination fee:

(a) For the refinancing of a closed end consumer loan or the renegotiating of an agreed credit limit of a consumer revolving loan if the refinancing or renegotiating occurs within one year of the collection of a prior loan origination fee.

(b) If the licensee charges prepaid finance charges pursuant to § 6-632, subsection E, paragraph 1.

5. Deferral fees authorized in § 6-634 for precomputed consumer loans.

6. Insurance premiums as provided in § 6-636.

7. Court costs.

8. Reasonable attorney fees if the consumer lender loan is referred for collection to an attorney other than a salaried employee of the licensee.

9. Costs, expenses and fees authorized in § 33-813, subsection B for reinstatement of a deed of trust encumbering real property that secures a consumer lender loan.

10. Costs and expenses of exercising the power of sale in a deed of trust encumbering real property that secures a consumer lender loan and costs and expenses of a sale that are included in a credit bid or that are applied from the proceeds of a trustee's sale pursuant to § 33-812, including the payment of trustee fees and reasonable attorney fees actually incurred.

11. Costs and expenses of retaking, holding, preparing for sale and selling any personal property in accordance with title 47, chapter 9, article 6.<sup>1</sup>

B. If a licensee receives a check, draft, negotiable order of withdrawal or similar instrument drawn on a depository institution that is offered by a consumer in full or partial payment on a consumer lender loan and the instrument is not paid or is dishonored by the depository institution, the licensee may charge and collect from the consumer a dishonored check service fee pursuant to § 44-6852.

C. In addition to the finance charges and fees provided in this article, the licensee shall not directly or indirectly charge, contract for or receive any further or other amount in connection with a consumer lender loan.

D. In conjunction with the reporting requirements prescribed in § 6-609, on or before October 1 each year, a licensee shall report to the superintendent the number of closed end consumer loans and consumer revolving loans under one thousand dollars made in the prior two years.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1998, Ch. 192, § 5; Laws 1999, Ch. 203, § 1, eff. July 1, 2001; Laws 2001, Ch. 155, § 1; Laws 2014, Ch. 96, § 3.

### **§ 6-636. Insurance securing loan; cancellation; notice**

A. The following types of insurance may be sold to the consumer in connection with a consumer lender loan and the consumer may contract for:

1. Property insurance covering any property securing a consumer lender loan.
2. Life insurance insuring the life of one or more consumers obligated on a consumer lender loan.
3. Credit disability insurance that provides indemnity for payments due on a consumer lender loan while any covered consumer has a disability.
4. Credit involuntary unemployment insurance that provides indemnity for payments due on a consumer lender loan while one or more consumers are involuntarily unemployed.
5. Accidental death and dismemberment insurance providing a benefit if death occurs as a result of an accident or if dismemberment occurs.
6. Disability income protection insurance providing a benefit if a total disability occurs during the term of insurance.

B. Any insurance purchased by a consumer from or through a licensee, except insurance on property securing a consumer lender loan, is optional, and a licensee shall not refuse to make a consumer lender loan based on the consumer's refusal to purchase the insurance. The consumer may cancel any insurance purchased in connection with a consumer lender loan for any reason at any time within thirty days after the consumer lender loan is made and shall mail or deliver a written notice of the cancellation to the licensee's place of business. If the consumer cancels the insurance pursuant to this subsection, the consumer is entitled to a full refund of any premiums paid for the insurance. Before executing the note or agreement evidencing a consumer lender loan that includes a premium for insurance, the licensee shall give the consumer the disclosures required to exclude those insurance premiums from the finance charge in accordance with the truth in lending act.

C. At the time the insurance is sold the licensee shall mail or deliver a written receipt or binder to the consumer. Within thirty days after mailing or delivering the written receipt or binder, the licensee shall deliver to the consumer, or if more than one, to any one of them, a policy or certificate of insurance covering any insurance purchased by or through the licensee or any employee or affiliate of the licensee in connection with the consumer lender loan that sets forth the amount of any premium that the consumer has paid or is obligated to pay, the amount of insurance, the term of insurance and a description of the coverage. The policy or certificate may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

D. All property insurance sold pursuant to this section shall bear a reasonable bona fide relation to the existing hazard or risk of loss and shall be written by an agent licensed in this state and by an insurance company authorized to conduct property insurance business in this state. A licensee shall not require the purchase of property insurance from the licensee or any employee, affiliate or associate of the licensee as a condition precedent to the making of a consumer lender loan. The licensee may otherwise designate the company in which the insurance shall be placed as long as the insurance company is authorized to conduct business in this state.

E. Property insurance, if sold by a licensee in connection with a consumer loan, is at the option of the consumer in an amount not exceeding the greater of the reasonable value of the property insured as designated in writing by the consumer or the approximate amount of the consumer loan and shall be for a term not exceeding the approximate term of the consumer loan. However, the amount of this property insurance may not exceed the designated value of the property insured.

F. If a licensee sells property insurance in connection with a consumer revolving loan or a home equity revolving loan, the amount of the property insurance shall not exceed the greater of the reasonable value of the property insured as designated in writing by the consumer or the agreed on credit limit. However, the amount of property insurance shall not exceed the designated value of the insured property. The licensee may sell property insurance for renewable terms of not more than two years. Alternatively, the amount of property insurance may be equal to the balance outstanding on a consumer revolving loan or a home equity revolving loan from time to time with the premiums calculated on the basis of the actual daily unpaid balance or the average daily balance of the account during each billing cycle period. Premiums for property insurance may be charged as an advance on a consumer revolving loan or a home equity revolving loan.

G. If the licensee sells the consumer property insurance for a renewable term, the licensee shall mail a notice to the consumer at least thirty days before the renewal date that states all of the following:

1. The consumer's property insurance is about to expire.
2. The consumer may obtain property insurance from any source chosen by the consumer subject to the licensee's right to reasonably reject the insurer chosen by the consumer by providing written notice to the consumer of those reasons for rejection.

3. The term, coverage and premium for the renewal of property insurance.
4. The property insurance will be renewed on expiration unless the consumer provides the licensee before the expiration date with evidence that the consumer has obtained other property insurance.

H. Notwithstanding any other provision of this chapter, any advantage, commission, dividend, gain or identifiable charge for insurance authorized by this section, or otherwise, to the licensee or any employee or affiliate of the licensee from that insurance or its sale is not an additional finance charge or other allowed fee in connection with the consumer lender loan. If the licensee provides a new consumer lender loan or renews a contract of a consumer lender loan and the licensee sells the consumer new insurance, the licensee shall apply the insurance provided for in this section to the new loan or renewal, or the licensee shall cancel the prior insurance and provide the consumer with a refund or credit of the unearned premium or identifiable charge before selling the new insurance to the consumer.

I. The licensee shall determine the refund of unearned premiums for credit life insurance and credit disability insurance on prepayment in full according to title 20, chapter 6, article 10.<sup>1</sup>

J. Except as otherwise specifically provided in this chapter, insurance transactions pursuant to this chapter are subject in all respects to the applicable laws pertaining to that insurance pursuant to title 20<sup>2</sup> and to the applicable rules adopted pursuant to title 20.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1998, Ch. 192, § 6; Laws 2014, Ch. 215, § 2; Laws 2016, Ch. 63, § 2.

#### **§ 6-637. Term; payments**

A. The scheduled term of a consumer loan shall not be longer than the following:

1. Twenty-four months and fifteen days from the date of making a consumer loan of one thousand dollars or less.
2. Thirty-six months and fifteen days from the date of making a consumer loan of more than one thousand dollars but not more than two thousand five hundred dollars.
3. Forty-eight months and fifteen days from the date of making a consumer loan of more than two thousand five hundred dollars but not more than four thousand dollars.
4. Sixty months and fifteen days from the date of making a consumer loan of more than four thousand dollars but not more than six thousand dollars.
5. Any agreed on time period for a consumer loan of more than six thousand dollars.

B. The note evidencing a consumer loan shall provide for the scheduled repayment of principal and finance charges in approximately equal periodic installments.

C. Pursuant to the provisions of 12 United States Code § 3804, subsections A and B of this section shall not be superseded by the provisions of 12 United States Code § 3803.

D. Balloon payments, prepayment penalties, call options and other contract provisions that permit a consumer lender to accelerate payment of a consumer revolving loan or home equity revolving loan for any reason other than the consumer's default as provided in the agreement evidencing the consumer revolving loan or home equity revolving loan are prohibited, except that a licensee may include a call option to be exercised at least fifteen years after the date of the agreement. If the licensee exercises this call option and the consumer revolving loan or home equity revolving loan is not in default, the licensee shall amortize the amount due on the account over at least sixty monthly installments.

E. Except as provided in subsection D of this section, an agreement evidencing a consumer revolving loan or home equity revolving loan shall provide that on termination of the right to obtain advances the outstanding principal balance and finance charges at the time of termination of the right to obtain advances are repayable in installments if a consumer is not in default as provided in the agreement. These installments shall provide for the scheduled repayment of principal and finance charges in approximately equal periodic installments except as a result of an adjustment in the index on which a variable rate of periodic finance charges is based. These installments are payable within the following time limits:

1. Twenty-four months and fifteen days from the date of termination of the right to obtain advances for an outstanding principal balance on that date of one thousand dollars or less.
2. Thirty-six months and fifteen days from the date of termination of the right to obtain advances for an outstanding principal balance on that date that is more than one thousand dollars but not more than two thousand five hundred dollars.
3. Forty-eight months and fifteen days from the date of termination of the right to obtain advances for an outstanding principal balance on that date that is more than two thousand five hundred dollars but not more than four thousand dollars.
4. Sixty months and fifteen days from the date of termination of the right to obtain advances for an outstanding principal balance on that date that is more than four thousand dollars but not more than six thousand dollars.
5. Any agreed on time period for an outstanding principal balance that is more than six thousand dollars on the date of termination of the right to obtain advances.

F. A licensee shall permit a consumer to prepay any scheduled installment or additional amount due on any consumer lender loan in advance at any time during the licensee's regular business hours, but the licensee may apply that prepayment first to all finance charges accrued through the date of that prepayment.

G. On payment in full or renewal of a consumer lender loan, the licensee shall provide written notice of payment and release to the consumer, or if more than one consumer is obligated on the consumer lender loan, to any one of the consumers. The notice of payment and release shall include the date of the original note or agreement evidencing the consumer lender loan and the date of payment in full. In lieu of the notice of payment and release, the licensee may return the original note or agreement evidencing the consumer lender loan marked paid or renewed, as applicable. The licensee shall release any lien or security interest on property securing a consumer lender loan that is paid in full as provided in § 33-707 for real property and § 47-9513 for personal property. This subsection does not apply to a consumer revolving loan or home equity revolving loan on which there is no unpaid balance if the consumer's right to receive advances on the account continues in effect.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 1999, Ch. 203, § 2, eff. July 1, 2001.

#### **§ 6-638. Other insurance**

A. A licensee who is licensed to sell life insurance pursuant to title 20<sup>1</sup> may sell and include in the principal amount of a consumer lender loan the cost of the premium for life insurance that is not for credit if all of the following apply:

1. The insurance policy or certificate is approved by the director of the department of insurance.
2. The purchase of the insurance is not a condition of the consumer lender loan.
3. The consumer signs an application for the insurance that is separate from the consumer lender loan application.
4. The licensee does not offer or discuss with the consumer the option of life insurance until after the consumer lender loan application is completed and the consumer lender loan is approved.

B. A licensee who is licensed to sell disability insurance pursuant to title 20 may sell and include in the principal amount of the consumer lender loan the cost of the premium for accidental death and dismemberment insurance or disability income protection insurance, or both, if all of the following apply:

1. The insurance policy or certificate is approved by the director of the department of insurance.
2. The purchase of the insurance is not a condition of the consumer lender loan.
3. The consumer signs an application for the insurance that is separate from the consumer lender loan application.

4. The licensee does not offer or discuss with the consumer the option of accidental death and dismemberment insurance or disability income protection insurance until after the consumer lender loan application is completed and the consumer lender loan is approved.

C. Any insurance purchased by the consumer pursuant to this section is optional and the licensee shall disclose in writing to the consumer that the insurance is optional.

D. The consumer may cancel the insurance for any reason at any time within thirty days after the date of purchase and the consumer shall receive a full refund of the premium within five days of the date of cancellation. If the consumer cancels the insurance after thirty days from the date of purchase, the consumer shall receive a refund of the unearned premium in accordance with the insurance policy. In the event the consumer cancels the insurance, the licensee shall give the consumer the amount of any refund of premium or shall credit the consumer's lender loan at the option of the consumer.

For the purposes of this subsection, the date of cancellation is defined as the date the licensee receives the receipt for the notice of cancellation for the insurance policy.

E. If the consumer decides to cancel the policy, the consumer shall either:

1. Return the policy to the insurer or to the licensee at the licensee's place of business.
2. Provide written notice of cancellation to the insurer or to the licensee at the licensee's place of business.

F. The licensee shall give the consumer a written copy of the provisions of this section.

#### Credits

Added by Laws 1997, Ch. 248, § 2, eff. Oct. 1, 1997. Amended by Laws 2016, Ch. 63, § 3.

#### **§ 6-639. Loans from theft or fraud; consumer not responsible; correction of credit information**

A licensee may not hold a person responsible for any loan amount that is incurred as a result of a violation of § 13-2008, 13-2009, 13-2010 or 13-2310. Within thirty days after a licensee is aware that a loan is a result of a violation of § 13-2008, 13-2009, 13-2010 or 13-2310, the licensee shall immediately correct any derogatory credit information that is reported to a consumer reporting agency as defined in § 44-1691 and that is the result of the violation.

#### Credits

Added by Laws 2014, Ch. 96, § 4.