

W.S.A. 138.04

138.04. Legal rate

The rate of interest upon the loan or forbearance of any money, goods or things in action shall be \$5 upon the \$100 for one year and according to that rate for a greater or less sum or for a longer or a shorter time; but parties may contract for the payment and receipt of a rate of interest not exceeding the rate allowed in [ss. 138.041](#) to [138.056](#), [138.09](#) to [138.14](#), [218.0101](#) to [218.0163](#), or [422.201](#), in which case such rate shall be clearly expressed in writing.

W.S.A. 138.06

138.06. Effect of usury and penalties

- (1) All instruments, contracts or securities providing a rate of interest exceeding the rate allowed in [s. 138.05](#), [138.051](#) or [138.052](#) shall be valid and effectual to secure the repayment of the principal amount loaned in excess of \$2,000; but no interest may be recovered thereon except upon bottomry and respondentia bonds and contracts.
- (2) Any lender or agent of a lender who violates [s. 138.05](#), [138.051](#) or [138.052](#) may be fined not less than \$25 nor more than \$500, or imprisoned not more than 6 months, or both.
- (3) Any borrower who paid interest on a loan or forbearance at a rate greater than the rate allowed in [s. 138.05](#), [138.051](#) or [138.052](#) may personally or by personal representative recover in an action against the lender or personal representative the amount of interest, principal and charges paid on such loan or forbearance but not more than \$2,000 of principal, if the action is brought within the time provided by [s. 893.62](#).
- (4) Any borrower to whom a lender or agent of a lender fails to provide the statement required in [s. 138.05\(4\)](#) with respect to a loan or forbearance may by himself or herself or his or her personal representative recover in an action against the lender or the lender's personal representative an amount equal to all interest and charges paid upon such loan or forbearance but not less than \$50 plus reasonable attorney fees incurred in such action.
- (5) Notwithstanding subs. (1) to (4), if any violation of [s. 138.05](#), [138.051](#) or [138.052](#) is the result of an unintentional mistake which the lender or agent of the lender corrects upon demand, such unintentional violation shall not affect the enforceability of any provision of the loan contract as so corrected nor shall such violation subject the lender or the agent of the lender to any penalty or forfeiture specified in this section.
- (6) In connection with a sale of goods or services on credit or any forbearance arising therefrom prior to October 9, 1970, there shall be no allowance of penalties under this section for violation of [s. 138.05](#), except as to those transactions on which an action has been reduced to a final judgment as of May 12, 1972.
- (7) Notwithstanding sub. (6), a seller shall, with respect to a transaction described in sub. (6), refund or credit the amount of interest, to the extent it exceeds the rate permitted by [s. 138.05\(1\)\(a\)](#), which was charged in violation of [s. 138.05](#) and paid by a buyer since October 8, 1968, upon individual written demand therefor made on or before March 1, 1973, and signed by such

buyer. A seller who fails within a reasonable time after such demand to make such refund or credit of excess interest shall be liable in an individual action in an amount equal to 3 times the amount thereof, together with reasonable attorney fees.

(8) This section does not apply to a loan or forbearance made on or after November 1, 1981.

W.S.A. 138.10

138.10. Pawnbrokers

**(1) Definitions.** In this section:

(a) “Pawnbroker” includes any person who engages in the business of lending money on the deposit or pledge of personal property, other than choses in action, securities, or written evidences of indebtedness; or purchases personal property with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

(b) “Pawnbroking” means the business of a pawnbroker as defined in this section.

(c) “Pawn ticket” means the card, book, receipt or other record furnished to the pledgor at the time a loan is granted containing the terms of the contract for a loan.

(d) “Person” includes an individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any group of individuals however organized.

(e) “Pledge” means an article or articles deposited with a pawnbroker as security for a loan in the course of the pawnbroker's business as defined in par. (a).

(f) “Pledgor” means the person who obtains a loan from a pawnbroker and delivers a pledge into the possession of a pawnbroker, unless the person discloses that he or she is or was acting for another in which case a “pledgor” means the disclosed principal.

**(2) Maximum loan.** A pawnbroker's loan may not exceed \$150.

**(2m) Pawnbroking by licensed lenders.** The division of banking may promulgate rules regulating the conduct of pawnbroking by persons licensed under [s. 138.09](#) or [138.14](#).

**(4) Maximum interest or charges.** A pawnbroker shall not charge, contract for or receive interest in excess of 3 percent per month on any loan or balance thereon and such interest shall not be increased by charging commission, discount, storage or

other charge directly or indirectly, nor by compound interest; provided, however, that when the interest herein specified amounts to less than \$1 per month, the minimum charge shall be \$1 for the first month and 50 cents for each succeeding month during the loan period.

**(4m) When limit on maximum interest does not apply.** Subsection (4) does not apply to a pawnbroker's loan made after October 31, 1984 and before November 1, 1987.

**(5) Computation of interest or charges.** The interest and charges authorized by this section shall be computed at the rates specified on the actual principal balance of the loan due for the actual time which has elapsed from the date of the loan to the date of payment. For the purpose of calculation of interest and charges permitted under this section, a year shall be 12 calendar months, and a month shall be one calendar month, or any fractional part thereof. A calendar month shall be any period from a certain date in one month to the same date in the next succeeding month.

**(8) Sale of pledge.** Upon default in the payment of any loan, a pawnbroker may sell the pledge upon the conditions contained in this section.

(a) A pawnbroker may sell a pledge at private sale for an amount not less than that agreed to by the pledgor, which amount shall be stipulated on the pawn ticket and shall not be less than 125 percent of the amount of the loan. A pledge which cannot be sold at private sale at the minimum price agreed to by the pledgor must be sold at public auction, which sale shall be conducted in the manner provided by [s. 779.48\(1\)](#).

(b) No unredeemed pledge may be sold before the expiration of 90 days after the due date of the loan unless otherwise specifically authorized in writing by the pledgor. The authority to sell an unredeemed pledge prior to the expiration of 90 days after the due date of the loan must be given by the pledgor on a date subsequent to the due date of the loan.

(c) An unredeemed pledge must be sold within 12 months of the due date of a loan. No interest or charges permitted under this section may be collected on a loan after the expiration of 12 months of the due date of a loan, whether the loan is renewed or the loan is paid and the pledge redeemed.

**(9) Notice of sale.** A pawnbroker shall not sell any pledge unless due notice of such contemplated sale has been forwarded to the pledgor by registered mail to the address given by the pledgor at the time of obtaining the loan or to such new address of the pledgor, as shown on the pawnbroker's record. Notice of the contemplated sale of a pledge shall be mailed to the pledgor not less than 30 days prior to the date of sale. Such notice shall state total amount of principal, interest and charges due on the loan as of the date of the notice.

**(10) Disposition of proceeds.** The proceeds from the sale of a pledge shall be applied in the order specified, to the following purposes: Payment of the auctioneer's charges if sold at public auction, or commission for selling not to exceed 5 percent if sold at private sale; payment of principal of the loan; payment of the interest on the loan permitted under this section, and payment of the charges on the loan permitted under this section; payment of postage for mailing notice to the pledgor of the contemplated sale or notice of the surplus. The surplus, if any, shall be paid to the pledgor or such other person who would have been entitled to redeem the pledge had it not been sold.

**(11) Notice of surplus.** Notice of any surplus from the sale of a pledge shall be forwarded to the pledgor within 10 days of the date of sale by registered mail to the address given by the pledgor at the time of obtaining the loan or to such new address of the pledgor, of which the pawnbroker has received notice.

**(12) Reversion of surplus.** If a surplus remaining from the sale of a pledge is not paid or claimed within one year from the date of sale, such surplus shall revert to the pawnbroker. The pawnbroker shall not be required to pay any interest on an unpaid surplus.

**(13) Forfeiture.** A pawnbroker who charges, contracts for or receives interest or charges greater than permitted under this section shall forfeit both principal and interest, and shall return the pledge upon demand of the pledgor and surrender of the pawn ticket, without tender or payment of principal or interest.

**(14) Penalty.** Any pawnbroker who refuses to comply with sub. (13) shall be imprisoned in the county jail for not more than one year or fined not more than \$500.

**(15) Exception.** This section does not apply to any person that is licensed under [s. 138.09](#) or [138.14](#).