

56.131 MAXIMUM RATES AND CHARGES.

Subdivision 1. **Interest rates and charges.** (a) On any loan in a principal amount not exceeding \$100,000 or 15 percent of a Minnesota corporate licensee's capital stock and surplus as defined in section 53.015, if greater, a licensee may contract for and receive interest, finance charges, and other charges as provided in section 47.59.

(b) Loans may be interest-bearing or precomputed.

(c) Notwithstanding section 47.59 to the contrary, to compute time on interest-bearing and precomputed loans, including, but not limited to the calculation of interest, a day is considered 1/30 of a month when calculation is made for a fraction of a calendar month. A year is 12 calendar months. A calendar month is that period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date, to the last day of the following month. When a period of time includes a whole month and a fraction of a month, the fraction of a month is considered to follow the whole month.

In the alternative, for interest-bearing loans, a licensee may charge interest at the rate of 1/365 of the agreed annual rate for each actual day elapsed.

(d) With respect to interest-bearing loans and notwithstanding section 47.59:

(1) Interest must be computed on unpaid principal balances outstanding from time to time, for the time outstanding. Each payment must be applied first to the accumulated interest and the remainder of the payment applied to the unpaid principal balance; provided however, that if the amount of the payment is insufficient to pay the accumulated interest, the unpaid interest continues to accumulate to be paid from the proceeds of subsequent payments and is not added to the principal balance.

(2) Interest must not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the new loan contract may include any unpaid interest which has accrued. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in paragraph (e), clause (3). The resulting loan contract is deemed a new and separate loan transaction for all purposes.

(e) With respect to precomputed loans and notwithstanding section 47.59 to the contrary:

(1) Loans must be repayable in substantially equal and consecutive monthly installments of principal and interest combined, except that the first installment period may be more or less than one month by not more than 15 days, and the first installment payment amount may be larger than the remaining payments by the amount of interest charged for the extra days and must be reduced by the amount of interest for the number of days less than one month to the first installment payment; and monthly installment payment dates may be omitted to accommodate borrowers with seasonal income.

(2) Payments may be applied to the combined total of principal and precomputed interest until the loan is fully paid. Payments must be applied in the order in which they become due.

(3) If the maturity of the loan is accelerated for any reason and judgment is entered, the licensee shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

(4) Following the final installment as originally scheduled or deferred, the licensee, for any loan contract which has not previously been converted to interest-bearing under paragraph (g), may charge interest on any balance remaining unpaid, including unpaid default or deferment charges, at the single annual percentage rate permitted by this subdivision until fully paid.

(5) With respect to a loan secured by an interest in real estate, and having a maturity of more than 60 months, the original schedule of installment payments must fully amortize the principal and interest on the loan. The original schedule of installment payments for any other loan secured by an interest in real estate must provide for payment amounts that are sufficient to pay all interest scheduled to be due on the loan.

(f) A licensee may contract for and collect a delinquency charge as provided for in section 47.59, subdivision 6, paragraph (a), clause (4).

(g) A licensee may grant extensions, deferments, or conversions to interest-bearing as provided in section 47.59, subdivision 5.

Subd. 2. Additional charges. In addition to the charges provided for by this section and section 56.155, and notwithstanding section 47.59, subdivision 6, to the contrary, no further or other amount whatsoever, shall be directly or indirectly charged, contracted for, or received for the loan made, except actual out of pocket expenses of the licensee to realize on a security after default, and except for the following additional charges which may be included in the principal amount of the loan:

(a) lawful fees and taxes paid to any public officer to record, file, or release security;

(b) with respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section; provided the costs do not exceed one percent of the principal amount or \$400, whichever is greater:

(1) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;

(2) fees, if not paid to the licensee, an employee of the licensee, or a person related to the licensee, for preparation of a mortgage, settlement statement, or other documents, fees for notarizing mortgages and other documents, and appraisal fees;

(c) the premium for insurance in lieu of perfecting and releasing a security interest to the extent that the premium does not exceed the fees described in paragraph (a);

(d) discount points and appraisal fees may not be included in the principal amount of a loan secured by an interest in real estate when the loan is a refinancing for the purpose of bringing the refinanced loan current and is made within 24 months of the original date of the refinanced loan. For purposes of this paragraph, a refinancing is not considered to be for the purpose of bringing the refinanced loan current if new funds advanced to the customer, not including closing costs or delinquent installments, exceed \$1,000;

(e) the onetime loan administrative fee in section 47.59, subdivision 6, paragraph (d).

[See Note.]

Subd. 3. Splitting. No licensee shall induce or permit any borrower to split up or divide any loan or permit any person to become obligated under more than one contract of loan for the same

purpose or at the same time for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this section. However, if a person becomes obligated on a contract of loan as an accommodation party, a preceding or subsequent loan to that person is not a violation of this subdivision nor shall such loans be aggregated in determining the applicable rate of charge.

Subd. 4. Adjustment of dollar amounts. The dollar amounts in subdivisions 2 and 6, sections 56.12 and 56.125 shall change periodically, as provided in section 47.59, subdivision 3.

Subd. 5. Attorney's fees. No term of writing may provide for the payment by the debtor of attorney's fees, except for lawful fees to be paid to an attorney in connection with the foreclosure of a real estate mortgage.

Subd. 6. Discount points. A loan made under this section that is secured by real estate and that is in a principal amount of \$12,000 or more and has a maturity of 60 months or more may contain a provision permitting discount points, if the loan does not provide a loan yield in excess of the maximum rate of interest permitted by this section. Loan yield means the annual rate of return obtained by a licensee computed as the annual percentage rate is computed under federal Regulation Z. If the loan is prepaid in full, the licensee must make a refund to the borrower to the extent that the loan yield will exceed the maximum rate of interest provided by this section when the prepayment is taken into account. Discount points permitted by this subdivision and not collected but included in the principal amount must not be included in the amount on which credit insurance premiums are calculated and charged.

[See Note.]

History: 1981 c 258 s 11; 1Sp1981 c 4 art 4 s 12; 1982 c 473 s 25; 1982 c 547 s 6,7; 1983 c 250 s 27; 1983 c 252 s 10,11; 1984 c 473 s 7; 1Sp1985 c 1 s 19-21; 1986 c 444; 1989 c 166 s 26; 1989 c 217 s 19; 1990 c 464 s 2,3; 1992 c 587 art 1 s 25; 1993 c 257 s 38; 1995 c 202 art 1 s 22,23; art 3 s 17,18; 1996 c 414 art 1 s 27; art 2 s 9,10; 1997 c 157 s 50,51; 1999 c 151 s 33; 2000 c 427 s 9

NOTE: The dollar amounts in subdivisions 2 and 6 do not reflect the amounts as adjusted by the commissioner of commerce pursuant to subdivision 4. The current dollar amounts are published in the State Register, volume 34, page 1459, and within the department's Web site www.commerce.state.mn.us.