

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 28.
COMMERCIAL INSTRUMENTS AND
TRANSACTIONS.

CHAPTER 33.
INTEREST AND USURY.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 33. INTEREST AND USURY.

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CHAPTER 33. INTEREST AND USURY.

§ 28-3301. RATE OF INTEREST EXPRESSED IN CONTRACT.

(a) Except as otherwise provided in this section, section 28-3308, and chapter 36 of this subtitle, the parties to an instrument in writing for the payment of money at a future time may contract therein for the payment of interest on the principal amount thereof at a rate not exceeding 24% per annum.

(b) It shall be lawful to contract for a rate of interest not exceeding 24% per annum on a loan or financial transaction which is secured by: (1) a first purchase mortgage or first purchase deed of trust on residential real property; (2) a first purchase security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; or (3) the assignment by way of a first security of the borrower's interest in the proprietary lease or first right of tenancy in property covered by such organization. The first sentence of this subsection shall apply only to a loan or financial transaction which is both contracted for and consummated after the effective date of the Interest Rate Ceiling Amendment Act of 1983 and for which no written commitment to make the loan or financial transaction at a lower rate of interest was issued by the lender to the borrower prior to the effective date of the Interest Rate Ceiling Amendment Act of 1983.

(c) It shall be lawful to contract for a rate of interest not exceeding 24% per annum on a loan or financial transaction which is secured directly or indirectly by: (1) a mortgage or deed of trust, other than a first purchase mortgage or first purchase deed of trust, on residential real property; (2) a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; or (3) the assignment by way of a security, other than a first security interest, of the borrower's interest in the proprietary lease or first right of tenancy in property covered by such organization. The first sentence of this subsection shall apply only to a loan or financial transaction which is both contracted for and consummated after the effective date of the Interest Rate Ceiling Amendment Act of 1983 and for which no written commitment to make the loan or financial transaction at a lower rate of interest was issued by the lender to the borrower prior to the effective date of the Interest Rate Ceiling Amendment Act of 1983.

(d) Notwithstanding any other provision of this chapter:

(1) any loan, except a loan which is secured directly or indirectly by a mortgage or deed of trust on residential real property, or by a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or by the assignment by the way of a security of the borrower's interest in the proprietary lease or right of tenancy in property covered by a cooperative housing organization and the residential real property or cooperative is the place of residence of the borrower, where the borrower receives the use of an amount in excess of \$2,500 shall not be subject to the provisions of this chapter and it shall be lawful to contract for, or receive, any rate of interest thereon if any of the following conditions are satisfied:

(A) the borrower is a not for profit corporation, whether organized under the laws of the United States, the District of Columbia, or any other jurisdiction; or

(B) the borrower is an individual, group of individuals, corporation, unincorporated association, partnership, or other entity, and the loan is made for the purpose of acquiring or carrying on a business, professional, or commercial activity; or

(C) the borrower is an individual, a group of individuals, corporation, unincorporated association, partnership, or any other entity, and the loan is made for the purpose of acquiring any real or personal property as an investment or for carrying on an investment activity; or

(D) the borrower is a religious society, formed under, or subject to, Chapter 4 of Title 29, and the loan is made for the purpose of acquiring or making an improvement on any real or personal property for purposes other than commercial or investment activities.

(2) any loan where the borrower receives the use of an amount in excess of \$1,000 which is secured directly or indirectly by a mortgage or deed of trust on residential real property, or by a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or by the assignment by the way of a security of the borrower's interest in the proprietary lease or right of tenancy in property covered by a cooperative housing

organization and the residential real property or cooperative is the place of residence of the borrower, shall only be subject to the provisions of D.C. Official Code, sections 28-3301(f), 28-3310, 28-3311, 28-3312, 28-3313, and 28-3314, and it shall be lawful to contract for any rate of interest thereon if any of the conditions set forth in D.C. Official Code, section 28-3301(d)(1)(A), (B), (C), or (D) are satisfied.

(3) a lender shall not require a borrower to make any sworn statement or characterization that the loan meets the requirements of subsections (d)(1)(A), (B), (C), or (D) of this section if such statement or characterization is not true. Nothing contained in this subsection shall be construed to limit a lender's right to request information from the borrower which enables a lender to make a determination that the loan meets the requirements of subsections (d)(1)(A), (B), (C), or (D).

(e)(1) "Point" means a fee, premium, bonus, loan origination fee, service charge, or any other charge equal to 1% or less of the principal amount of a loan which is charged by the lender at or before the time the loan is made as additional compensation for the loan. The term "point" shall not include any increase in the purchase price of the residential real property or the first purchase security interest in stock, or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or the borrower's interest in a proprietary lease or first right of tenancy in the property covered by such organization which is charged by the seller (i) to recover the cost of compensation to a lender for agreeing to make a loan to the borrower which results in a reduction in the effective rate of interest charged to the borrower or (ii) in the case of a first purchase mortgage or first purchase deed of trust, to recover the cost to the seller of his agreement to reduce the effective rate of interest on the first purchase mortgage or first purchase deed of trust or (iii) any monies deposited by a borrower in a savings account to be applied to subsidize scheduled periodic payments on the loan or financial transaction.

(2) A lender may not charge a borrower more than 1 point unless the borrower agrees to pay additional points to a lender for the sole purpose of qualifying for and obtaining a loan or financial transaction at a lower rate of interest than would otherwise have been offered. The first sentence of this paragraph shall not apply to any loan or financial transaction which is described in subsection (d) or to any loan which is described in section 501(a)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980, approved March 31, 1980 (96 Stat. 161; 12 U.S.C. § 1735f-7, note).

(f) A loan or financial transaction which is secured by a mortgage or deed of trust on residential real property, or a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization, or the assignment by the way of security of the borrower's interest in the proprietary lease or right of tenancy in property covered by such organization shall meet all of the following requirements:

(1) the loan or financial transaction may be prepaid by the borrower at no penalty at any time following the expiration of 3 years from the execution of the loan or financial transaction. Within 3 years from the execution of the loan or financial transaction, no prepayment charge or penalty shall be contracted for or received which exceeds an amount equal to 2 months advance interest on the aggregate amount of all prepayments in excess of 1/3 of the amount of the original loan or financial transaction made in any 12 month period.

(2) any borrower who, on the date of execution of the loan or financial transaction, has made a downpayment equaling 20% or more of the total purchase price of the property or who has an equity interest in the property equal to or greater than 20% of the fair market value of the property shall not be required by the term of the loan to make advance payments of the real estate taxes or casualty insurance premiums to enable the lender to have funds on hand for disbursement for payment of such taxes or insurance premiums and such borrower shall be furnished with a separate statement, in writing, which clearly and conspicuously sets forth his right to pay such taxes and insurance premiums directly. Nothing contained in this paragraph shall be construed to prohibit the lender from obtaining, during any period during which the loan is in default and in consideration for the lender not exercising some or all of the remedies to which it is entitled, a written agreement from the borrower to make such advance payments to enable the lender to have funds on hand for disbursement for payment of such taxes or insurance premiums.

(3) prior to the execution of the loan or financial transaction, the lender shall furnish the borrower a separate statement, in writing, which complies with the disclosure provisions of the Truth-In-Lending Act, as heretofore and hereafter amended, effective May 29, 1968 (82 Stat. 146; 15 U.S.C. § 1601 et seq.), and the regulations and interpretations thereunder and, where applicable, a separate statement, in writing, which complies with the disclosure provisions of the Alternative Mortgage Transaction Parity Act of 1982, approved October 15, 1982 (96 Stat. 1545; 12 U.S.C. § 3801 et seq.), and the regulations and interpretations thereunder.

(g) The provisions of this chapter shall not apply to any international banking facility time deposit or international banking facility loan, but shall be governed solely by regulations promulgated by the Board of Governors of the Federal Reserve System. For purposes of this subsection the terms "international banking facility time deposit" and "international banking facility loan" shall have the same meaning as defined in part 204.8(a)(2) and (3), respectively, of Federal Reserve System Regulation D (12 CFR 204.8(a)(2) and (3)) (1983).

(h) Except as otherwise provided in this section, the provisions of this chapter shall apply to consumer

credit transactions, including modifications (including refinancing, consolidations, and deferrals), occurring in the District of Columbia. For the purposes of this chapter, a consumer credit transaction occurs in the District of Columbia if:

(1) A written agreement evidencing the obligation or offer of the consumer is received by the creditor in the District of Columbia; or

(2) A consumer who is a resident of the District of Columbia enters into the transaction with a creditor who has solicited or advertised in the District of Columbia by any means, including mail, brochure, telephone, print, radio, television, internet, or any other electronic means.

(i) For the purposes of this chapter, the term "consumer" shall have the same meaning as in § 28-3901(a)(2).

(Aug. 30, 1964, 78 Stat. 675, Pub. L. 88-509, § 1; Dec. 17, 1971, 85 Stat. 665, Pub. L. 92-200, § 1; Nov. 20, 1979, D.C. Law 3-38, § 2, 26 DCR 2183; July 1, 1980, D.C. Law 3-73, § 2, 27 DCR 2270; Sept. 17, 1982, D.C. Law 4-150, § 302, 29 DCR 3377; Mar. 14, 1984, D.C. Law 5-62, § 2, 31 DCR 114; Apr. 23, 1985, D.C. Law 6-2, § 2, 32 DCR 1477; June 4, 1985, D.C. Law 6-5, § 2, 32 DCR 2084; Nov. 24, 2007, D.C. Law 17-42, § 3(a), 54 DCR 9988; July 2, 2011, D.C. Law 18-378, § 3(i)(2), 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3301.

1973 Ed., § 28-3301.

Effect of Amendments

D.C. Law 17-42, in subsec. (d)(1), substituted "an amount in excess of \$2,500" for "an amount in excess of \$1,000"; and added subsecs. (h) and (i).

D.C. Law 18-378, in subsec. (d)(1)(D), substituted ", formed under, or subject to, Chapter 4 of Title 29 " for ", as referred to in sections 29-901 through 29-916" .

Legislative History of Laws

Law 3-38, the "Interest Rate Modification Act of 1979," was introduced in Council and assigned Bill No. 3-172, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 23, 1979 and November 11, 1979, respectively. Signed by the Mayor on November 11, 1979, it was assigned Act No. 3-119 and transmitted to both Houses of Congress for its review.

Law 3-73, the "Cooperative Loan Interest Rate Modification Act of 1980," was introduced in Council and assigned Bill No. 3-223, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first and second readings on March 4, 1980, April 1, 1980 and April 22, 1980, respectively. Signed by the Mayor on May 14, 1980, it was assigned Act No. 3-182 and transmitted to both Houses of Congress for its review.

Law 4-150, the "International Banking Facilities Tax, District of Columbia Redevelopment Act of 1945 Amendment, and Cable Television Communications Act of 1981 Technical Clarification Amendment Act of 1982," was introduced in Council and assigned Bill No. 4-360, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 22, 1982 and July 6, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-221 and transmitted to both Houses of Congress for its review.

Law 5-62, the "Interest Rate Ceiling Amendment Act of 1983," was introduced in Council and assigned Bill No. 5-193, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 15, 1983, and December 6, 1983, respectively. Signed by the Mayor on December 23, 1983, it was assigned Act No. 5-93 and transmitted to both Houses of Congress for its review.

Law 6-2, the "Interest Rate Ceiling Amendment Act of 1983 Clarification Act of 1985 Temporary Act of 1985," was introduced in Council and assigned Bill No. 6-76. The Bill was adopted on first and second readings on January 16, 1985, and February 12, 1985, respectively. Signed by the Mayor on February 28, 1985, it was assigned Act No. 6-12 and transmitted to both Houses of Congress for its review.

Law 6-5, the "Interest Rate Ceiling Amendment Clarification Act of 1985," was introduced in Council and assigned Bill No. 6-82, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 12, 1985, and March 26, 1985, respectively. Signed by the Mayor on April 10, 1985, it was assigned Act No. 6-17 and transmitted to both Houses of Congress for its review.

Law 17-42, the "Payday Loan Consumer Protection Amendment Act of 2007", was introduced in Council and assigned Bill No. 17-132 which was referred to the Committee on Public Service and Consumer Affairs. The Bill was adopted on first and second readings on July 10, 2007, and September 18, 2007, respectively. Signed by the Mayor on October 3, 2007, it was assigned Act No. 17-115 and transmitted to both Houses of Congress for its review. D.C. Law 17-42 became effective on November 24, 2007.

Law 18-378, the "District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of

2009", was introduced in Council and assigned Bill No. 18-500, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

References in Text

The "Interest Rate Ceiling Amendment Act of 1983", referred to in the last sentences of subsections (b) and (c), is D.C. Law 5-62. The effective date of that Act is March 14, 1984.

Miscellaneous Notes

Section 7092 of D.C. Law 17-219 repealed section 4 of D.C. Law 17-42.

§ 28-3302. RATE OF INTEREST NOT EXPRESSED AND ON JUDGMENTS.

(a) The rate of interest in the District upon the loan or forbearance of money, goods, or things in action in the absence of expressed contract, is 6% per annum.

(b) Interest, when authorized by law, on judgments or decrees against the District of Columbia, or its officers, or its employees acting within the scope of their employment, is at the rate of not exceeding 4% per annum.

(c) The rate of interest on judgments and decrees, where the judgment or decree is not against the District of Columbia, or its officers, or its employees acting within the scope of their employment or where the rate of interest is not fixed by contract, shall be 70% of the rate of interest set by the Secretary of the Treasury pursuant to section 6621 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2744; 26 U.S.C. § 6621), for underpayments of tax to the Internal Revenue Service, rounded to the nearest full percent, or if exactly 1/2 of 1%, increased to the next highest full percent; provided, that a court of competent jurisdiction may lower the rate of interest under this subsection for good cause shown or upon a showing that the judgment debtor in good faith is unable to pay the judgment. In the case of the judgments entered prior to the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, that are not satisfied until after the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, the rate of interest thereon shall be the rate of interest prescribed in this subsection from the effective date of the Consumer Credit Interest Rate Amendment Act of 1981, until the date of satisfaction.

(Aug. 30, 1964, 78 Stat. 765, Pub. L. 88-509, § 1; Mar. 10, 1982, D.C. Law 4-70, § 2, 28 DCR 5236; June 4, 1982, D.C. Law 4-112, § 9, 29 DCR 1687; Dec. 16, 1987, D.C. Law 7-61, § 2, 34 DCR 7089; Mar. 9, 1988, D.C. Law 7-82, § 2, 34 DCR 8117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3302.

1973 Ed., § 28-3302.

Legislative History of Laws

Law 4-70, the "Consumer Credit Interest Rate Amendment Act of 1981," was introduced in Council and assigned Bill No. 4-138, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981, and November 10, 1981, respectively. Signed by the Mayor on December 2, 1981, it was assigned Act No. 4-117 and transmitted to both Houses of Congress for its review.

Law 4-112, the "Nonprofit Housing Developments' Water and Sanitary Sewer Service Rate Charges Reduction and the Consumer Credit Interest Rate Amendments Clarification Act of 1982," was introduced in Council and assigned Bill No. 4- 193, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 9, 1982, and March 23, 1982, respectively. Signed by the Mayor on April 12, 1982, it was assigned Act No. 4-175 and transmitted to both Houses of Congress for its review.

Law 7-61, the "Rate of Interest on Judgments and Decrees Temporary Act of 1987," was introduced in Council and assigned Bill No. 7-313. The Bill was adopted on first and second readings on September 29, 1987, and October 13, 1987, respectively. Signed by the Mayor on October 26, 1987, it was assigned Act No. 7-94 and transmitted to both Houses of Congress for its review.

Law 7-82, the "Rate of Interest on Judgments and Decrees Act of 1987," was introduced in Council and assigned Bill No. 7-269, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 10, 1987, and November 24, 1987, respectively. Signed by the Mayor on December 10, 1987, it was assigned Act No. 7-117 and transmitted to both Houses of Congress for its review.

References in Text

The "Consumer Credit Interest Rate Amendment Act of 1981", referred to throughout subsection (c), is D.C. Law 4-70.

§ 28-3303. USURY DEFINED.

If a person or corporation contracts in the District,

- (1) verbally, to pay a greater rate of interest than 6% per annum, or
- (2) in writing, to pay a greater rate than is permitted under section 28- 3301, 28-3308, under Chapter 36 of this subtitle, or under § 26-301 et seq., the creditor shall forfeit the whole of the interest so contracted to be received.

This section does not affect sections 26-901 to 26-912.

(Aug. 30, 1964, 78 Stat. 675, Pub.L. 88-509, § 1; Dec. 17, 1971, 85 Stat. 665, Pub.L. 92-200, § 2; May 12, 1998, D.C. Law 12-111, § 25(a), 45 DCR 1782.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3303.

1973 Ed., § 28-3303.

Legislative History of Laws

Law 12-111, the "Check Cashers Act of 1998," was introduced in Council and assigned Bill No. 12-338, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on January 6, 1998, and February 3, 1998, respectively. Signed by the Mayor on February 24, 1998, it was assigned Act No. 12-300 and transmitted to both Houses of Congress for its review. Law 12-111 became effective on May 12, 1998.

References in Text

Sections 26-901 to 26-912, referred to in the last paragraph of this section, refer to the Act of Feb. 4, 1913, as amended, and as translated to the 2001 edition. D.C. Law 18-378 amended and enacted into law Title 29.

§ 28-3304. ACTION TO RECOVER USURY PAID.

If a person or corporation in the District directly or indirectly takes or receives a greater amount of interest than is declared by this chapter to be lawful, whether in advance or not, the person or corporation paying the same may within one year after the date of payment sue for and recover the amount of the unlawful interest so paid.

(Aug. 30, 1964, 78 Stat. 676, Pub. L. 88-509, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3304.

1973 Ed., § 28-3304.

§ 28-3305. UNLAWFUL INTEREST CREDITED ON PRINCIPAL DEBT.

In an action upon a contract for the payment of money with interest at a rate forbidden by law, any payment of interest that may have been made on account of the contract is deemed to be payment made on account of the principal debt; and judgment shall be rendered for no more than the balance found due after deducting and properly crediting the interest so paid. A bona fide indorsee of negotiable paper purchased before due is not affected by any usury exacted by a former holder of the paper unless he had notice of the usury before his purchase.

(Aug. 30, 1964, 78 Stat. 676, Pub. L. 88-509, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3305.

1973 Ed., § 28-3305.

§ 28-3306. PARTIES COMPELLED TO TESTIFY.

When in an action to recover a debt the defendant claims that payment of unlawful interest on the debt has been made to the plaintiff or those under whom he claims, which the defendant is entitled to have credited on the principal of the debt, the plaintiff or the party who received the unlawful interest may be examined as a witness to prove the payment, and may not be excused from testifying in relation thereto. A creditor who is made defendant in a proceeding for discovery as to payments of unlawful interest made to him may not be excused from answering.

(Aug. 30, 1964, 78 Stat. 676, Pub. L. 88-509, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3306.

1973 Ed., § 28-3306.

§ 28-3307. COUNCIL OF THE DISTRICT OF COLUMBIA AUTHORIZED TO EXEMPT CERTAIN MORTGAGES AND LOANS.

The Council of the District of Columbia is authorized from time to time to provide by regulation for the exemption from the provisions of this chapter of any mortgage or loan insured or guaranteed under the National Housing Act or Chapter 37 of Title 38, United States Code, the interest rate of which is subject to regulation by an officer or agency of the Federal Government. The Council is further authorized to amend or repeal any such regulation at any time, but no such amendment or repeal shall affect any such loan or mortgage lawfully made or committed to be made while such exemption is in effect.

(Aug. 20, 1970, 84 Stat. 828, Pub. L. 91-385, § 2(a); Apr. 9, 1997, D.C. Law 11-255, § 27(d), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3307.

1973 Ed., § 28-3307.

Legislative History of Laws

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

References in Text

The National Housing Act, referred to in the first sentence of this section, is codified in 12 U.S.C. § 1701 et seq.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 28-3308. FINANCE CHARGE ON DIRECT INSTALLMENT LOANS.

(a) On a loan (other than a loan directly secured on real estate or a direct motor vehicle installment loan covered by Chapter 36 of this subtitle) to be repaid in equal or substantially equal monthly or other periodic installments, including a loan obtained by using a check, credit card, or other device to access a line of credit, any federally insured bank or savings and loan association doing business in the District of Columbia may contract for and receive interest at the rate permitted under this chapter or, in lieu of such interest, a finance charge, which if expressed as an annual percentage rate, does not exceed a rate of 24% per annum on the unpaid balances of the principal. This section does not limit or restrict the manner

of contracting for the finance charge, whether by way of discount, add-on, or simple interest, so long as the annual percentage rate of the finance charge does not exceed that permitted by this section.

(b) If such installment loan is precomputed,

(1) the finance charge may be calculated on the assumption that all scheduled payments will be made when due, and

(2) except as provided in subsection (c), upon prepayment in full of the unpaid balance of a precomputed direct installment loan, refinancing, or consolidation, an amount not less than the unearned portion of the finance charge calculated according to this section shall be rebated to the debtor. If the rebate otherwise required is less than \$1, no rebate need be made.

(c) Upon prepayment in full of such direct installment loan other than a refinancing or consolidation, whether or not precomputed, the lender may collect or retain a minimum charge within the limits stated in this section if the finance charge earned at the time of prepayment is less than any minimum charge contracted for. The minimum charge may not exceed the smaller of the following: (1) the amount of the finance charge contracted for, or (2) \$5 in a transaction which had a principal of \$75 or less, or \$7.50 in a transaction which had a principal of more than \$75.

(d) The unearned portion of the finance charge is a fraction of the finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which the prepayment occurs, and the denominator is the sum of all periodic balances under either the related loan agreement or, if the balance owing resulted from a refinancing or a consolidation, under the related refinancing agreement or consolidation agreement.

(e) As used in this section, "finance charge", and "annual percentage rate" shall have the respective meanings under the provisions of the Truth-in-Lending Act (82 Stat. 146 et seq.; 15 U.S.C. § 1601 et seq.) and the regulations and interpretations thereunder; and "federally insured bank or savings and loan association" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an "insured institution" as defined in section 401 of the National Housing Act.

(Dec. 17, 1971, 85 Stat. 665, Pub. L. 92-200, § 3; Nov. 20, 1979, D.C. Law 3-38, § 3, 26 DCR 2183; Mar. 10, 1982, D.C. Law 4-70, § 3, 28 DCR 5236; Mar. 14, 1984, D.C. Law 5-62, § 3, 31 DCR 114; Apr. 9, 1997, D.C. Law 11-255, § 27(e), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3308.

1973 Ed., § 28-3308.

Legislative History of Laws

Law 3-38, the "Interest Rate Modification Act of 1979," was introduced in Council and assigned Bill No. 3-172, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on October 23, 1979 and November 11, 1979, respectively. Signed by the Mayor on November 11, 1979, it was assigned Act No. 3-119 and transmitted to both Houses of Congress for its review.

Law 4-70, the "Consumer Credit Interest Rate Amendments Act of 1981," was introduced in Council and assigned Bill No. 4-138, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981, and November 10, 1981, respectively. Signed by the Mayor on December 2, 1981, it was assigned Act No. 4-117 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 5-62, see Historical and Statutory Notes following § 28-3301.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 28-3307.

References in Text

Section 3 of the Federal Deposit Insurance Act and section 401 of the National Housing Act, both referred to in subsection (e) of this section, are codified in 12 U.S.C. §§ 1813 and 1724, respectively. 12 U.S.C. 1724 was repealed by Pub. L. 101-73, title IV, § 407, August 9, 1989, 103 Stat. 363.

§ 28-3309. COUNCIL OF THE DISTRICT OF COLUMBIA AUTHORIZED TO EXEMPT CERTAIN LOANS, AND TO CHANGE RATES OF INTEREST.

The Council of the District of Columbia is authorized from time to time to provide by regulation for (1) the exemption from the provisions of this chapter of any loan or financial transaction, and (2) the change of any interest rate specified in this chapter. The Council is further authorized to amend or repeal any such regulation at any time, but no such amendment or repeal relating to any exemption made under authority of this section shall affect any such loan or financial transaction lawfully made or entered into while such exemption is in effect.

(Dec. 29, 1973, 87 Stat. 945, Pub. L. 93-229, § 1(a); Apr. 9, 1997, D.C. Law 11-255, § 27(f), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3309.

1973 Ed., § 28-3309.

Legislative History of Laws

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 28-3307.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of the Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 28-3310. CONSUMER PROTECTIONS.

(a)(1) A lender who receives scheduled periodic payments on more than 5 loans or financial transactions in a calendar year shall furnish to the borrower, upon request, but not more than 2 times a year, a statement, in writing stating the amount of:

(A) payments credited to reducing the principal;

(B) payments credited to interest;

(C) the remaining unpaid principal balance;

(2) A lender who receives scheduled periodic payments on more than 5 loans or financial transactions in a calendar year shall furnish to the borrower, at least 6 months and not more than 12 months prior to maturity of the loan or financial transaction, or, if the loan or financial transaction is for a period of less than 1 year, halfway through the loan period, a statement, in writing, stating the following:

(A) in the case of a loan or financial transaction which contains a schedule of payments under which each payment is not equal to, or substantially equal to, the other payments or if the intervals between payments are not substantially equal, the date or event upon which maturity occurs, and the projected principal loan balance that will be due at maturity of the loan or financial transaction; and

(B) in the case of a loan or financial transaction where the interest rate is not fixed for the term of the loan, the projected principal loan balance that will be due at maturity, assuming no change in the interest rate, and the conditions under which the interest rate may change and what limits or restrictions, if any, apply to changes in the interest rate.

(b) No delinquent or late charge shall be contracted for or received which does not meet all of the following requirements:

(1) the delinquency shall have continued for at least 10 calendar days;

(2) a delinquent or late charge shall not have already been charged for the same delinquent or late periodic installment; and

(3) the delinquent or late charge shall not exceed 5% of the total amount of the delinquent or late periodic installment of principal and interest.

(Mar. 14, 1984, D.C. Law 5-62, § 4, 31 DCR 114.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3310.

Legislative History of Laws

For legislative history of D.C. Law 5-62, see Historical and Statutory Notes following § 28-3301.

§ 28-3311. DEFINITION OF INTEREST.

(a) For the purposes of this chapter, the word "interest" means any compensation directly or indirectly imposed by a lender for the extension of credit for the use or forbearance of money, including any loan fee, origination fee, service and carrying charge, investigator's fee, and any amount payable as a discount under section 28-3301(e)(1), or point, or otherwise payable for services. The following charges shall not be considered interest:

- (1) fees and charges collected at the direction of and actually paid to a government or governmental agency;
- (2) a service charge for investigation and continued servicing of collateral for a commercial loan secured by inventory or accounts receivable and any compensating balance accounts required by a lender for a commercial loan;
- (3) reasonable charges by the lender's attorney or other agent for service rendered in connection with collateral appraisals and the preparation, closing, or disbursement of the loan, but only if the charges are an actual expense of the lender;
- (4) premiums for credit life, accident, health, or loss-of-income insurance, but only if the insurance coverage is in fact not required by the lender and this fact is clearly and conspicuously disclosed; that the borrower signs or initials an affirmative written request for the insurance after receiving the disclosures specified in this paragraph; and that the terms of and premiums for the insurance coverage are disclosed;
- (5) premiums for insurance against loss of or damage to the property, or against liability arising out of the ownership or use of the property, but only if the lender does not in fact require that the insurance be purchased through a particular broker, agent or insurance company; that the insurance coverage may be obtained from a broker, agent or insurance company of borrower's choice, subject to approval by the lender, and this fact is clearly and conspicuously disclosed; and that if the insurance coverage is obtained from or through the lender, the term of and premiums for the insurance coverage are clearly and conspicuously disclosed;
- (6) a service charge made by a broker or dealer dealing in investment securities if money is advanced on the security of pledged investment securities and if services are rendered in the collection, crediting, and disbursement of income on the investment securities and in the furnishing of income tax and other information in connection with that income;
- (7) reasonable charges for investigation and reporting in regard to the credit rating or credit history of the borrower, but only if such charges are an actual expense of the lender; and
- (8) advance payments of real estate taxes or casualty insurance premiums made in accordance with section 28-3301(f)(2).

(b) The rate of interest on any loan or financial transaction shall be calculated in compliance with the provisions of the Truth-in-Lending Act, as heretofore and hereafter amended, effective May 29, 1968 (82 Stat. 146; 15 U.S.C. 1601 et seq.), and the regulations and interpretations thereunder.

(Mar. 14, 1984, D.C. Law 5-62, § 4, 31 DCR 114.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3311.

Legislative History of Laws

For legislative history of D.C. Law 5-62, see Historical and Statutory Notes following § 28-3301.

§ 28-3312. UNLAWFUL PRACTICES.

It shall be a violation of this chapter for any lender to:

- (1) misrepresent as to a material fact;
- (2) fail to state a material fact;
- (3) disparage the services or business of another by false or misleading representations of material facts;
- (4) advertise or offer services without the intent to provide them or without the intent to provide them as advertised or offered;
- (5) include in the loan or financial transaction agreement an acceleration clause under which any part or all of the unpaid balance of the loan or financial transaction not yet matured may be declared due and payable for any reason other than due to default by the borrower in the payment or in accordance with another term of the agreement; or
- (6) include in the loan or financial transaction agreement any provision by which the borrower waives

any right accruing to him under the provisions of this chapter.

(Mar. 14, 1984, D.C. Law 5-62, § 4, 31 DCR 114; Apr. 9, 1997, D.C. Law 11-255, § 27(g), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3312.

Legislative History of Laws

For legislative history of D.C. Law 5-62, see Historical and Statutory Notes following § 28-3301.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 28-3307.

§ 28-3313. PENALTIES.

Any lender who wilfully violates any provision of this chapter shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

(Mar. 14, 1984, D.C. Law 5-62, § 4, 31 DCR 114.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3313.

Legislative History of Laws

For legislative history of D.C. Law 5-62, see Historical and Statutory Notes following § 28-3301.

§ 28-3314. RIGHT OF ACTION.

Any borrower who suffers a violation of any provision of this chapter by any lender may bring an action in the Superior Court of the District of Columbia to recover, or obtain, or enforce any of the following:

- (1) reasonable attorney's fees;
- (2) actual and punitive damages; or
- (3) any other relief which the court deems proper.

(Mar. 14, 1984, D.C. Law 5-62, § 4, 31 DCR 114; Apr. 9, 1997, D.C. Law 11-255, § 27(h), 44 DCR 1271.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 28-3314.

Legislative History of Laws

For legislative history of D.C. Law 5-62, see Historical and Statutory Notes following § 28-3301.

For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 28-3307.

§ 28-3315. EXEMPTION OF INSTITUTIONS OF HIGHER LEARNING FROM USURY LAW.

Any institution of higher education located in the District of Columbia and described in the first sentence of section 101(a) of the Higher Education Amendments, approved October 7, 1998 (112 Stat. 1385; 20 U.S.C. § 1001(a)) (other than District of Columbia Teachers' College, Federal City College, Gallaudet College, and Howard University) may borrow money at such rates of interest as the institution may determine, without regard to the restrictions of any usury law applicable in the District of Columbia, and shall not plead any statutes against usury in any action.

(July 2, 2011, D.C. Law 18-378, § 3(i)(3), 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

2001 Ed., § 29-631.

1981 Ed., § 29-820.

1973 Ed., § 29-421.

Legislative History of Laws

For history of Law 18-378, see notes under § 28-3301.