

A LARGER AND LONGER DEBT TRAP?

ANALYSIS OF STATES' APR CAPS FOR A \$10,000 5-YEAR INSTALLMENT LOAN

<http://bit.ly/2QOp6AG>

© Copyright 2018, National Consumer Law Center, Inc.

APPENDIX A

Comparison Between State APR Caps for \$10,000 Five-Year Loan and \$2,000 Two-Year Loan

Higher APR is noted in red.

STATE	APR CAP FOR \$10000 5-YEAR LOAN	APR CAP FOR \$2000 2-YEAR LOAN	STATE	APR CAP FOR \$10000 5-YEAR LOAN	APR CAP FOR \$2000 2-YEAR LOAN
AK	25%	31%	MT	36%	36%
AL	No cap*	No cap*	NC	27%	31%
AR	17%	17%	ND	No cap	No cap
AZ	30%	41%	NE	24%	30%
CA	No cap*	25%	NH	36%	36%
CO	21%	31%	NJ	30%	30%
CT	25%	36%	NM	No cap*	175%
DC	24%	25%	NV	40%	40%
DE	No cap	No cap	NY	25%	25%
FL	24%	31%	OH	No cap	35%
GA	60%	32%	OK	25%	27%
HI	24%	31%	OR	36%	36%
ID	No cap*	No cap*	PA	26%	24%
IL	36%	80%	RI	21%	29%
IN	25%	39%	SC	No cap*	No cap*
IA	32%	36%	SD	36%	36%
KS	23%	32%	TN	26%	41%
KY	24%	39%	TX	30%	35%
LA	27%	38%	UT	No cap*	No cap*
MA	20%	24%	VA	No cap	36%
ME	18%	30%	VT	18%	21%
MD	25%	30%	WA	27%	29%
MI	26%	30%	WI	No cap*	No cap*
MN	22%	31%	WV	27%	33%
MO	No cap	No cap	WY	23%	31%
MS	26%	59%			

*No cap except unconscionability

APPENDIX B

STATE-BY-STATE ANALYSES

This appendix summarizes the laws in each state and the District of Columbia that might apply to an unsecured \$10,000 five-year loan, the interest and loan fees allowed, and the resulting APRs. For explanation of the terms used in this appendix and the calculation methods, see National Consumer Law Center, *Consumer Credit Regulation Ch. 5* (2d ed. 2015), updated at www.nclc.org/library. These summaries deal only with the provisions of these statutes that apply to unsecured loans by non-bank lenders. They reflect amendments to the statutes effective up through October 2018. All APRs calculated for this report have been rounded to the nearest whole number. Any errors should be brought to the attention of the authors.

ALABAMA

The Alabama Small Loan Act applies only to loans of less than \$1500. Ala. Code §§ 5-18-4(a), 5-18-18. The Alabama Consumer Credit Act applies to loans of any amount. It caps interest and fees only for loans of \$2000 or less. The state has no interest rate or fee cap for a \$10,000 consumer installment loan, other than a prohibition of unconscionable loan terms. §§ 5-19-3(e), 5-19-16, 8-8-5.

ALASKA

The Alaska Small Loans Act applies to loans of up to \$25,000. Alaska Stat. §§ 06.20.010(a), 06.20.230(a). It allows 36% on the balance up to \$850, and 24% on the remainder over \$850 but not exceeding \$10,000, and any rate on remainder over \$10,000. § 06.20.230. Taking these blended rates into account, the APR for a \$10,000 5-year loan is 25%.

The Alaska Installment Loans Act applies to loans of up to \$10,000. § 45.45.080(b). It allows \$6 per \$100 per year, and appears to allow this to be a discount interest calculation. § 45.45.080(b). But it adds that the resulting simple interest rate cannot exceed 11.8%, so the Small Loans Act allows a higher APR.

ARIZONA

The Arizona Consumer Lenders Act applies to loans of less than \$10,000. Ariz. Rev. Stat. Ann. §§ 6-601(7), 6-602(B). It allows 36% on the first \$3000 and 24% on the remainder. § 6-632(A). It also allows a fee of 5% of the principal, capped at \$150. § 6-635(A)(4). § 6-632 states that the lender can collect finance charges on this fee. With these elements, a \$10,000 loan can have an APR of 30%.

A second statute, § 44-1205, allows the contract rate but applies only to loans of \$5,000 or less. In addition, it does not apply to loans subject to the Arizona Consumer Lenders Act. § 44-1205(A).

In 2018, Arizona enacted Ariz. Rev. Stat. Ann. §§ 41-5601 to 41-5612, establishing a “Regulatory Sandbox Program” under which businesses can apply to the attorney general for permission to test “innovative” loan products and other financial services without complying with licensure requirements. The statute requires any consumer loans made under this program to comply with §§ 6-114, 6-632, 6-635(a)-(c), and 6-637, which include the interest rate cap, the restrictions on fees, and a number of other consumer protections. § 41-5605(B)(3).

ARKANSAS

Amendment 89, § 3 of the Arkansas Constitution limits the interest rate on loans to 17%.

CALIFORNIA

The California Finance Lenders Law limits the interest and fees that can be charged for loans of less than \$2,500, but does not limit the interest or fees for loans above that amount. Cal. Fin. Code §§ 22203, 22303. However, the statute does prohibit unconscionable loan terms. §§ 1670.5, 22302.

COLORADO

The Colorado Consumer Credit Code applies to loans of up to \$75,000 (and to any loan secured by land). Colo. Rev. Stat. § 5-1-301(15). For a supervised loan, defined by § 5-1-301(47) as one with a rate of more than 12%, 36% is allowed on the first \$1,000, 21% on the amount between \$1,000 and \$3,000, and 15% on the remainder. Applying these split rates produces an APR of 20% for a \$10,000 5-year loan. In the alternative, the statute allows the lender to charge 21%. § 5-2-201(2). The statute also allows an alternate rate based on an acquisition charge of 10% of amount financed plus a monthly installment account charge, but this is allowed only for loans of \$1000 or less, so is irrelevant here. § 5-2-214. Colorado’s payday loan law, Colo. Rev. Stat. §§ 5-3.1-101 to 5-3.1-123, allows 45% interest plus a number of fees that add up to a maximum APR of about 175%, but does not apply to a loan of more than \$500.

CONNECTICUT

After recent amendments, Conn. Gen. Stat. § 36a-558(d) now provides that a small loan between \$5,000 and \$15,000 cannot carry an APR (defined by § 36a-555(2) to incorporate the TILA definition) greater than 25%. (It also provides that the APR cannot exceed 36% as defined by the Military Lending Act if the loan is under \$5,000.)

DELAWARE

Delaware’s Licensed Lenders Law, Del. Code Ann. tit. 5, §§ 2229, 2237, allows any interest rate agreed to by the parties. No provision in the statute limits the size of the loans to which it applies.

DISTRICT OF COLUMBIA

D.C. Code § 28-3301 allows an interest rate of 24% and appears to apply to a loan of any size. In addition, it is possible to read § 28-3301(e)(2) as allowing one point. A second licensing statute applies to loans of up to \$25,000, but exempts a variety of lenders. §§ 26-910, 26-912(a)(5). Without or without points, the maximum allowable APR for a \$10,000 loan, rounded to the nearest whole number, is 24%.

FLORIDA

The Florida Consumer Finance Act allows 30% on the first \$3000 of principal, 24% on the next \$1000, and 18% on the amount over \$4,000, plus a \$25 credit investigation fee. Fla. Stat. § 516.031(1), (3). This law applies to loans of \$25,000 or less. §§ 516.01(2), 516.031(1). Applying these split rates produces an APR of 24% for a \$10,000 5-year loan. In 2018, Florida amended § 560.404 to allow payday installment loans (“deferred presentment installment transactions”) at a 208% APR, but since the loan amount is limited to \$1000 this amendment does not affect the loans studied in this report.

GEORGIA

The Georgia Industrial Loan Act, which allows 10% per annum as a discount interest calculation plus a number of fees, applies only to loans of \$3000 or less. Ga. Code Ann. § 7-3-8. For loans not governed by the Industrial Loan Act, § 7-4-2(a)(1)(A) allows any rate set by contract, but subject to § 7-4-18, which caps this at 5% per month (60% per year). The fees allowed by §§ 7-3-14 and 7-3-15 do not apply to a loan greater than \$3000. §§ 7-3-14, 7-3-15.

HAWAII

For a precomputed loan with a term greater than 48 months, Hawaii’s Financial Service Loan Companies law allows a lender to charge a 24% APR, calculated according to the Truth in Lending Act. The statute also allows a discount interest calculation, using rates of 14% and 10½%, but only for loans of 48 months or less. Haw. Rev. Stat. § 412:9-302.

IDAHO

The Idaho Credit Code allows any rate agreed to by the parties, with no limit other than unconscionability. Idaho Code §§ 28-45-106, 28-42-201(1).

ILLINOIS

The Illinois Consumer Installment Loan Act, 205 Ill. Comp. Stat. Ann. § 670/15(a), provides that the APR cannot exceed 36%. § 670/15d(5) allows a \$25 document preparation fee “in addition to the charges authorized by this Act.” The statute does not include a definition of APR, but since the document preparation fee would be treated as part of the finance charge to compute the APR under Truth in Lending rules, a reasonable interpretation would be to require it to be included as part of the 36% interest. For a \$10,000

five-year loan the APR, rounded to the nearest whole number, is 36% regardless of how this \$25 fee is treated.

The Illinois payday installment loan law, 815 Ill. Comp. Stat. Ann. § 122/2-5, which allows much higher APRs, applies only to loans of 180 days or less (with a minimum of 112 days).

INDIANA

Indiana's Consumer Credit Code applies to loans of all sizes. For a supervised loan, defined by Ind. Code § 24-4.5-3-501 as one with a rate of more than 25%, the statute allows either 1) 36% actuarial on the first \$2,000 of principal, 21% on the next \$2,000, and 15% on the remainder; or 2) 25%. § 24-4.5-3-508(2). These amounts are to be adjusted for inflation, but 750 Ind. Admin. Code 1-1-1 shows no change as of July 1, 2018. The statute was amended in 2018 but in ways that do not affect the analysis of the APR allowed for a \$10,000 five-year loan. Applying the split rates to this loan produces an APR of 23%, less than the alternate 25% rate.

IOWA

Iowa's Regulated Loan Act applies to loans of up to \$50,000, which is adjusted for inflation. Iowa Code § 537.1301. It allows 36% on the first \$150, 24% on the remainder up to \$300, 18% on the remainder up to \$700, and 12% on the amount above \$700. But the regulator has adopted a rule for loans of \$10,000 or less, allowing 36% on the first \$3,000, 24% on the remainder up to \$8,400, and 18% on the remainder up to \$10,000. Iowa Admin. Code r. 187-15.13 (as amended effective July 1, 2017). The statute does not allow any fees on top of these interest rates. These split rates produce an APR of 29% on a \$10,000 loan.

A second Iowa statute, the Industrial Loan Law, Iowa Code §§ 536A.1 to 536A.32, applies to loans of up to \$50,000, which is adjusted for inflation. § 536A.3 (incorporating § 537.1301(15)). The statute allows 10% per hundred per year, which may be calculated as discount or add-on interest. § 536A.23(1)(a)(1). In addition, the lender may charge \$1 per \$50 of the note, up to \$120. § 536A.23(1)(b). These calculations produce an APR of 32%.

A third Iowa statute, the Iowa Consumer Credit Code, also applies to loans of up to \$50,000, which is adjusted for inflation. § 537.1301 (incorporating a threshold in the Truth in Lending Act). It allows an interest rate of 21% actuarial. § 537.2401(1). An application fee of the lesser of 10% of the amount financed or \$30 is allowed, but only if the lender is a bank, savings and loan association, credit union, or savings bank. § 537.2501(1)(j).

KANSAS

The Kansas Consumer Credit Code applies to loans of \$25,000 or less or loans secured by land. Kan. Stat. Ann. § 16a-1-301(17). It allows interest of 36% on the first \$860, and 21% on the remainder. § 16a-2-401(2). In addition, it allows a loan fee of the lesser of 2% of the amount financed or \$100. § 16a-2-401(6)(b). Taking the split interest rates and the loan fee into account, the maximum APR for a \$10,000 loan is 23%.

KENTUCKY

The Kentucky Consumer Loan Companies statute applies to loans of \$15,000 or less. Ky. Rev. Stat. Ann. §§ 286.4-420, 286.4-530(1). It allows interest of 36% if the loan is for \$3,000 or less, and 24% if the loan is for more than \$3,000. § 286.4-530(1). It also allows a credit investigation charge of \$1.50 for each \$50 or fraction of the principal on the first \$2,000. § 286.4-533(4). Putting all these elements together produces an APR of 24% on a \$10,000 5-year loan.

In addition, the Kentucky Industrial Loan Act, Ky. Rev. Stat. Ann. §§ 286.7-410 to -990, allows \$7 per \$100 add-on or discount interest for a loan of \$7500 or less. This would not apply to a \$10,000 loan, but § 286.7-460(4) also allows the rates allowed by § 286.3-215, which is \$8 per hundred add-on or discount, as long as the principal does not exceed \$10,000. However, the discount interest method cannot be used for a loan in which the consumer receives \$10,000, because then the principal would have to be stated as more than \$10,000. Regardless of which method of calculating the maximum amount of interest is used, the statute also allows the lender to charge \$1 for each \$50 or fraction thereof on the first \$800. § 286.3-215(2). Putting all this together, the maximum APR for a \$10,000 loan under this Act is 22%.

LOUISIANA

Louisiana's Consumer Credit Law allows 36% per year on the first \$1400 of the principal, 27% on the remainder up to \$4,000, 24% on amount exceeding \$4000 but not exceeding \$7,000, and 21% on the remainder. La. Rev. Stat. Ann. § 9:3519(A). In addition, § 9:3530 allows a \$50 nonrefundable origination fee, which is "not considered a loan finance charge," and a documentary charge of \$20. § 9:3530(A), (C). Treating both of these fees as part of the principal for purposes of determining the maximum amount of interest that can be charged, the APR for a \$10,000 loan is 27%.

MAINE

Under Maine's Consumer Credit Code, the interest rate is limited to 18% if the amount financed exceeds \$8000, and no fees are allowed. (For smaller loans, the statute allows 30% on the first \$2000, 24% on the next \$2000, and 18% on the remainder). Me. Rev. Stat. Ann. tit. 9-A, § 2-401(2). The statute applies to loans of up to \$50,000, which is adjusted for inflation. § 1-301(14).

MARYLAND

The Maryland Credit Grantor Closed-End Credit Provisions allow 24% simple interest. Md. Code Ann., Com. Law §§ 12-1003(a), 12-1005. This law also allows some additional charges but with many exceptions and provisos that make them inapplicable to unsecured consumer loans. Maryland's general usury law, Md. Code Ann., Com. Law § 12-103, allows 24% for unsecured loans or those secured by collateral other than real estate.

A second Maryland statute, the Maryland Consumer Loan Law—Credit Provisions, allows a variety of interest rate caps. Md. Code Ann., Com. Law § 12-306. Under

amendments effective on October 1, 2018, the statute allows 2.75% per month on the first \$1,000 and 2% on the rest, for loans of up to \$25,000. Applying these split rates to a \$10,000 five-year loan produces an APR of 25%.

MASSACHUSETTS

For loans of \$6,000 or less, a Massachusetts small loan law caps interest at 23% actuarial, plus a \$20 administrative fee. Mass. Gen. Laws ch. 140, §§ 96, 100; 209 Mass. Code Regs. § 26.01(a). The state's criminal usury law, Mass. Gen. Laws ch. 271, § 49(e), caps interest at 20% for lenders that are not subject to "control, regulation or examination" by a state agency, where the interest rate would not be regulated by any other law. Since a non-bank lender making a loan for more than \$6000 would not be subject to the small loan law, and its interest rate would not be regulated by that law, the criminal usury statute's 20% cap would apply.

MICHIGAN

The Michigan Regulatory Loan Act applies to all loan amounts and allows 25% interest. Mich. Comp. Laws § 493.13 (incorporating § 445.1854). In addition, it allows a loan processing fee of 5% of principal, up to \$250 (now adjusted to \$300 due to inflation) to be added to the principal for a closed-end loan. §§ 493.13(4), 445.1856(1)(a). Taking these two elements together, the maximum APR for a \$10,000 loan is a little bit above 26%. Michigan also has a Credit Reform Act, which also allows a 25% interest rate but allows a slightly lower processing fee, so would result in a lower maximum APR. §§ 445.1854, 445.1856(1)(a).

MINNESOTA

Minn. Stat. § 47.59 (Financial Institution Credit Extension Maximum Rates) applies to all loan amounts. It allows 1) 21.75% on the unpaid balance; or 2) 33% on the first \$1,200 and 19% on the remainder. The statute also allows a \$25 administrative fee, which may be included in the principal balance on which the finance charge is computed. But this fee is allowed only if loan amount is less than \$6,912 (this is the figure adjusted for inflation as of 2018), so cannot be charged for a \$10,000 loan. Applying the split rates to a \$10,000 five-year loan produces a maximum APR of 21.5%, a little less than the alternate rate of 21.75%, which we round up to 22% for purposes of this report. Minnesota's Consumer Short-Term Loans Act, § 47.601, applies only to loans of \$1,000 or less.

MISSISSIPPI

Mississippi's Small Loan Regulatory Law, which applies to loans of any amount, allows a split rate: 36% on the first \$1,000; 33% on the remainder up to \$2500; 24% on the amount between \$2,500 and \$5,000; and 14% on the amount over \$5,000. These rates can be increased when the federal discount rate is above a certain amount but that is not the case now. Miss. Code Ann. § 75-17-21. It also allows a fee of 4% of the total of payments or \$25, whichever is more, if the loan is for \$10,000 or less; otherwise the fee is \$500. § 75-17-21(3). Putting these elements together, the maximum APR for a \$10,000 loan under this statute is 26%.

Mississippi's Installment Loan Law, § 75-67-39, applies to all loan amounts, but allows a lower APR: 7%.

The Mississippi Consumer Alternate Installment Loan Act, §§ 75-67-175 to -185 applies only to loans of \$4,000 or less, and the Mississippi Credit Availability Act, §§ 75-67-601 to -637, applies only to loans for 12 months or less, so neither applies to a \$10,000 5-year loan.

MISSOURI

Missouri's Small Loan Act applies to loans of any size and allows any rate agreed to by the parties. Mo. Rev. Stat. § 408.100.

MONTANA

Montana's Consumer Loan Act applies to loans of any size. Mont. Code Ann. §§ 32-5-102(2)(a), 32-5-103(1). It caps the interest rate at 36% and does not allow any origination fees. § 32-5-301.

NEBRASKA

Nebraska allows a lender to charge 24% on the principal up to \$1,000, and 21% on the remainder. Neb. Rev. Stat. § 45-1024(1). It also allows a lender to charge an origination fee of 7% of the first \$2,000 of the original principal and 5% of the remainder, or \$500, whichever is less, which can be added to the principal. § 45-1024(5). (The same statutory provision also allows "reasonable expenses incurred in connection with the making, closing, disbursing...of loans," but the regulator has confirmed that these must fall within the \$500/7%/5% cap.) The statute applies to loans of up to \$25,000. § 45-1025(2). Putting the split rates and the fee together produces a maximum APR of 24% for a \$10,000 5-year loan.

NEVADA

The Nevada Installment Loan and Finance Act, Nev. Rev. Stat. §§ 675.010 to 675.490, allows a lender to charge any rate agreed to by the parties, but § 604A.400 prohibits operating as a "high rate loan service," i.e., one that charges more than 40%, without a license, and even with a license limits high-rate loans to 90 days. As a result, for loans longer than 90 days, the APR is capped at 40%.

NEW HAMPSHIRE

New Hampshire allows a lender to charge a 36% APR for closed-end credit, calculated by TILA rules. N.H. Rev. Stat. Ann. § 399-A:16. Under § 399-A:16(I), for purposes of calculating the statutory 36% APR cap, one annual fee of up to \$100 and one annual participation fee of up to \$100 are to be excluded. However, § 399-A:15(XI) bars these fees for closed-end credit, so it appears that this provision is relevant only for purposes of calculating the statutory APR cap for open-end credit. Accordingly, the cap for a closed-end \$10,000 5-year loan is 36%. The statute applies to loans of \$10,000 or less. § 399-A:1(XX).

NEW JERSEY

N.J. Stat. Ann. § 17:11C-32 allows any rate agreed to by the parties for any consumer loan by a licensed lender. This law applies to loans of \$50,000 or less. § 17:11C-2 But the criminal usury statute, § 2C:21-19, which applies to all loan amounts, makes it a crime to charge more than 30% “notwithstanding any law of this State which permits as a maximum interest rate a rate or rates agreed to by the parties,” so the maximum APR for a \$10,000 five-year loan is 30%.

NEW MEXICO

New Mexico caps interest rates, but only for loans of \$5,000 or less. N.M. Stat. Ann. § 58-15-2(F). There is no cap that would apply to a \$10,000 loan, except that the state deceptive practices statute includes a prohibition of unconscionable terms that has been applied to high-rate consumer installment loans.

NEW YORK

The New York Licensed Lender Law allows any contracted rate for any consumer loan under \$25,000. N.Y. Banking Law § 351. Nonetheless, New York’s criminal usury statute caps the rate at 25%. N.Y. Penal Law § 190.40.

NORTH CAROLINA

The North Carolina Consumer Finance Act applies to loans of \$15,000 or less. N.C. Gen. Stat. §§ 53-166(a), 53-168(a). It allows 30% on the first \$4000 of principal, 24% on the next \$4,000, and 18% on the remainder. § 53-176(a). It also allows a \$25 processing fee for a loan up to \$2,500. For a loan greater than \$2500, it allows a 1% closing fee, up to \$40. § 53-176(b). Taking this split rate and the closing fee into account, the maximum APR allowed for a \$10,000 5-year loan is 27%. For a loan greater than \$10,000, the statute would limit the interest rate to 18%. North Carolina’s general statutory provisions regarding interest, which apply to loans of up to \$300,000, § 24-1.1(f), allow 16% or 6 percentage points above a T-bill rate, which is currently so low that produces a rate less than 16%. § 24-1.1(a), (c).

NORTH DAKOTA

North Dakota’s Money Brokers statute imposes rate caps only on loans of \$1,000 or less. N.D. Cent. Code § 13-04.1-09.2(1). The criminal usury statute imposes a 7% cap, but it does not apply to any lending institution regulated by a state agency. § 47-14-09(2)(e).

OHIO

Ohio has several lending laws that limit interest rates: the Small Loan Act, the General Loan Law, and the Consumer Installment Loan Act. However, for loans of \$5,000 or more that have repayment terms of more than a year, lenders can evade the interest rate caps in these statutes by making the loan through a credit services organization, so Ohio is classified as having no cap. (In 2018, the legislature amended Ohio’s lending

laws to close the credit services organization loophole for certain consumer loans, effective in 2019).

OKLAHOMA

The Oklahoma Consumer Credit Code applies to loans of up to \$50,000, adjusted for inflation, and to loans secured by land and private student loans. Okla. Stat. tit. 14A, § 3-104. It allows either 25%, or a set of split rates: 27% per year on that part of the unpaid balance of the principal that is \$2,910 or less, 23% on the amount over \$2,910 but no more than \$6,200, and 20% on the remainder, with no fees. § 3-508A. Applying these split rates produces a maximum APR of 25% for a \$10,000 5-year loan. Higher rates are allowed by § 3-508B, but only for loans of \$1530 or less.

OREGON

The Oregon Consumer Finance Act applies to loans of up to \$50,000. Or. Rev. Stat. § 725.045(1). It allows the greater of 36% APR or 30 percentage points in excess of the discount window primary credit rate (which was 2.25% as of July 9, 2018, so would produce a rate less than 36%). § 725.340(1). As a result, the maximum rate is 36%.

PENNSYLVANIA

Pennsylvania's Consumer Discount Company Act allows 1) discount interest of \$9.50 per \$100 per year for a loan up to 48 months; if loan is longer than 48 months, it allows discount interest of \$9.50 per \$100 per year for the first 48 months and \$6 per \$100 per year for the remainder; or 2) 2% per month. 7 Pa. Stat. Ann. §§ 6213(E), 6217.1. It also allows the lender to charge a service charge of \$1.50 for each \$50 "or fraction thereof," up to \$150. The regulator has indicated that the \$1.50 service charge is to be calculated on the total of payments, i.e., the amount financed, the discount interest, and the service charge itself. This statute applies to loans of \$25,000 or less. § 6203. Applying both the interest and the service charge produces a maximum APR of 26% for a \$10,000 five-year loan.

RHODE ISLAND

The Small Loan Lenders Act, which allows 3% per month on the first \$300, 2.5% per month on the remainder up to \$800, and 2% per month on the remainder, applies only to loans of \$5000 or less. R.I. Gen. Laws §§ 19-14.2-1, 19-14.2-8. Since this Act does not apply, a \$10,000 five-year loan is governed by a more general interest rate cap of 21% or the Wall Street Journal prime rate (which was 5% on July 9, 2018) plus 9%. § 6-26-2. As a result, the maximum APR is 21%.

SOUTH CAROLINA

The South Carolina Consumer Protection Code applies to loans of up to \$90,000. S.C. Code Ann. § 37-3-104. The statute allows the lender to choose between two alternate rate caps (18% or an add-on rate) for a loan of \$600 or less. For a loan of more than \$600,

however, this law permits the lender to charge any rate that it files and posts. § 37-3-201(2)(b). The only limit is a prohibition of unconscionability. § 37-5-108. South Carolina also has a Consumer Finance Law, but it applies only to loans of \$7500 or less. § 34-29-20(a).

SOUTH DAKOTA

Due to a voter initiative, a 36% cap was imposed on loans of any amount, effective Nov. 16, 2016. S.D. Codified Laws § 54-4-44. This rate cap encompasses all charges and fees, including charges for ancillary products and services, so is a tighter cap than in most other states.

TENNESSEE

For a loan of more than \$5,000, Tennessee's Industrial Loan and Thrift Companies law allows an interest rate of up to 24%. Tenn. Code Ann. § 45-5-301. In addition, the lender can charge 4% of the total amount of the loan, which can be deducted in advance, plus \$2.50 per month (interest and loan charges are not computed on this latter amount). § 45-5-403(a). Putting this interest rate and these fees together, the maximum APR for a \$10,000 loan is 26%. The statute appears to apply to a loan of any amount. (For loans of \$5,000 or less, the statute provides two alternate, higher caps).

TEXAS

The Texas Finance Code applies to loans regardless of their amount. For a \$10,000 loan, the statute allows a \$100 administrative fee (added after calculation of interest) plus either a) 30% on the first \$3,500, 24% on the next amount up to \$7,350, and 18% on the next amount up to \$17,500; or b) \$18 per \$100 per year as an add-on rate for the first \$2,100 and \$8 per \$100 per year on the remainder. Tex. Fin. Code Ann. § 342.201, as adjusted for inflation pursuant to §§ 341.201 to 341.204. The former calculation produces the higher APR for a \$10,000 five-year loan: a little bit above 30%. A separate set of rules known as Subchapter F allows higher finance charges but is applicable only to loans of \$1400 or less. § 342.251.

UTAH

Utah's Consumer Credit Code applies to loans of up to \$50,000 (adjusted annually for inflation) and to any loan that is secured by the consumer's principal dwelling. Utah Code Ann. § 70C-1-202. The statute allows any interest rate agreed to by the parties, limited only by a prohibition of unconscionable terms. §§ 70C-2-101, 70C-7-106.

VERMONT

Vermont's Licensed Lenders Act applies to any loan other than a commercial loan of \$1 million or more. Vt. Stat. Ann. tit. 9, § 2201(h). It allows 1) 24% on the first \$1,000 and 12% on the excess over \$1,000; or 2) 18% on the whole balance. § 2230(a) (incorporating

tit. 9, § 41a(b)(5)). The first option—the split rate calculation—produces an APR of 14% for a \$10,000 5-year loan, so the maximum rate for this loan is the second option (18%).

VIRGINIA

The Virginia Consumer Finance Companies law applies to loans of any size. It caps the interest rate at 36%, but only for loans of up to \$2500. If the loan is for more than \$2500, the lender can charge any rate agreed to by the parties. Va. Code Ann. § 6.2-1520(A).

WASHINGTON

The Washington Consumer Loan Act applies to loans of any size. It allows 25% simple interest, plus a nonrefundable origination fee of 4% of the first \$20,000 of the principal and 2% of the remainder, which may be included in the principal balance of the loan. Wash Rev. Code § 31.04.105(1), (2). For a \$10,000 5-year loan, this produces an APR of 27%.

WEST VIRGINIA

For a loan that is greater than \$2,000 but no more than \$10,000, or that is secured by real property, West Virginia's Consumer Credit and Protection Act allows an actuarial interest rate of 27% (18% if the loan exceeds \$10,000, and 31% if the loan is for \$2,000 or less). W. Va. Code § 46A-4-107. In the alternative, a lender may charge 1) 1% in excess of the 90-day discount rate; 2) 6% add-on interest; or 3) 6% discount interest, provided that the actuarial interest rate does not exceed 15%. §§ 31a-4-30a (made applicable to non-bank lenders by § 46A-3-117), 46A-3-104(1) (incorporating § 47-6-5a). However, all three of these alternative methods produce lower APRs than 27% for a \$10,000 five-year loan. § 46A-4-107(2).

WISCONSIN

Wisconsin's Licensed Lenders law applies to loans of any size, and the Wisconsin Consumer Act applies to loans of \$25,000 or less. Wis. Stat. §§ 138.09, 421.202. Neither statute places any limit on the interest rate a lender can charge other than a statutory prohibition of unconscionability. §§ 138.09(7)(bp), (k), 422.201(2)(bn).

WYOMING

The Wyoming Consumer Credit Code applies to loans of up to \$75,000, and to any loan secured by land or a dwelling. It allows 36% on the first \$1000 and 21% on the remainder. § 40-14-348. Applying these split rates to this loan produces an APR of 23%.