

286.4-530 Basic, default and deferment charges -- Prohibition against division of loan and excessive charges.

- (1) Every licensee may lend any sum of money not exceeding fifteen thousand dollars (\$15,000), excluding charges, and may charge, contract for and receive thereon charges not in excess of three percent (3%) per month on that part of the unpaid principal balance not in excess of one thousand dollars (\$1,000) and two percent (2%) per month on that part of the unpaid principal balance exceeding one thousand dollars (\$1,000) but not exceeding three thousand dollars (\$3,000); provided, however, that in any loan wherein the original principal amount of the loan (face amount less precomputed charges) exceeds three thousand dollars (\$3,000), the licensee may not charge at a rate per month in excess of two percent (2%) per month on the unpaid balances of the principal. Such charges shall be computed in advance at the agreed rate on scheduled unpaid principal balances of the cash advance on the assumption that all scheduled payments will be made when due. The total amount of such precomputed charges shall be added to the original cash advance and the resulting sum shall become the face amount of the note. Every payment may be applied to the combined total of the cash advance and precomputed charges until the contract is paid in full.
- (2) For the purposes of computation, whether at the maximum rate or less, a month shall be that period of time from any date in a month to the corresponding date in the next month and if there is no such corresponding date then to the last day of such month, and a day shall be considered one-thirtieth ($1/30$) of a month when such computation is made for a fraction of a month. The portion of the charges applicable to any particular monthly installment period, as originally scheduled or following a deferment, shall bear the same ratio to the total charges, excluding any adjustments made pursuant to subsection (3) of this section, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the contract of loan.
- (3) A licensee and borrower may agree that the first installment date may be not more than fifteen (15) days more than one (1) month and the amount of such installment may be increased by one-thirtieth ($1/30$) of the portion of the charges applicable to a first installment period of one (1) month for each extra day.
- (4) If one-half ($1/2$) or more of any installment remains unpaid more than seven (7) days after it is due, the licensee may charge and collect a default charge not exceeding two cents (2¢) for each dollar of the scheduled installment, and such charge may be collected for each full month the installment remains unpaid.
- (5) If the payment of all wholly unpaid installments on which no default charge has been collected is deferred one or more full months, the licensee may charge and collect a deferment charge not exceeding two cents (2¢) for each one dollar (\$1) of the sum of the installments so deferred, multiplied by the number of months the maturity of the contract is extended; provided, however, that such number of months shall not exceed the number of installments which are due and wholly unpaid or due within fifteen (15) days from the date of deferment. The deferment charge may be collected at the time of deferment or at any time thereafter. Any

payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract, provided, however, that if such payment is sufficient to pay, in addition to the appropriate deferment charge, any installment which is in default and the applicable default charge, it shall be first so applied and any such installment shall not be deferred or subject to the deferment charge. At the time a deferment is made the borrower shall be given a statement or receipt showing the amount of the deferment charge, the date and amount of the next scheduled payment and the number of remaining scheduled payments.

- (6) If the contract of loan is prepaid in full by cash, a new loan or otherwise before the final installment date, the portion of the charges applicable to the full installment periods following the installment date nearest the date of prepayment shall be refunded. Any default or deferment charges which are due and unpaid may be deducted from such refund. The tender by the borrower or at his request of an amount equal to the unpaid balance less the required refund must be accepted by the licensee in full payment of the contract. If judgment is obtained before the final installment date the contract balance shall be reduced by the refund which would be required for prepayment in full as of the date judgment is obtained. No refund of less than one dollar (\$1) need be made; no refund for partial prepayments need be made.
- (7) If two (2) or more full installments are in default for one (1) full month or more at any installment date and if the contract so provides, the licensee may reduce the contract balance by the refund or credit which would be required for prepayment in full on such installment date. Thereafter, in lieu of charging, collecting or receiving charges as provided in subsections (1) to (6) inclusive of this section, charges may be charged, collected and received as provided by subsection (8) of this section until the contract is fully paid.
- (8) In lieu of computing and collecting charges as provided in subsections (1) to (6) inclusive of this section a licensee may contract for, collect and receive on loans of fifteen thousand dollars (\$15,000) or less charges as permitted in subsection (1) computed on the unpaid principal balance of the loan from time to time outstanding. Such charges shall not be paid, deducted, received in advance or compounded but shall be computed, collected and received only on unpaid principal balances for the time actually outstanding. The definition of a month and of a day in subsection (2) of this section shall apply for the purposes of such computations.
- (9) If part or all of the consideration for a contract of loan is the unpaid principal balance of a prior loan with the same licensee then the principal amount payable under such contract of loan shall not include any unpaid charges on the prior loan except such charges which have accrued within sixty (60) days before the making of such new contract of loan and may include the balance remaining after giving the refund required by subsection (6) of this section.
- (10) In addition to the charges provided for in this subtitle no further charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, or bonus or other thing shall be directly or indirectly charged, contracted for, or

received, except the lawful fees actually and necessarily paid out by the licensee to any public official for filing, recording or releasing in any public office any instrument securing the loan; the identifiable charge of premium for insurance provided for in KRS 286.4-560; or fees for noting or releasing a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this subtitle. If any amount in excess of the amounts authorized by this subtitle is charged, contracted for or received, except as the result of an accidental or bona fide error, the lender shall have no right to collect or receive any charges whatsoever.

- (11) No licensee shall induce or permit any borrower to split up or divide any loan nor permit any one borrower to become indebted to him under more than one (1) contract of loan at the same time if the actual amount of the indebtedness on any one of such contracts is in the amount or of the value of fifteen thousand dollars (\$15,000) or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subterfuge, or pretense whatsoever, any interest, or consideration therefor greater than would otherwise be permitted by this subtitle.
- (12) No licensee shall directly or indirectly charge, contract for or receive any interest or consideration greater than the lender would be permitted by law to charge if he were not a licensee hereunder upon any loan in the amount or of the value of more than fifteen thousand dollars (\$15,000) excluding charges, or in any case in which the licensee permits any individual as borrower, indorser, guarantor, or surety for any borrower, or otherwise, to owe on any loan or loans directly or contingently, or both, to the licensee at any time the sum of more than fifteen thousand dollars (\$15,000) for principal, excluding charges.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 53, sec. 3, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 107, sec. 2, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 382, sec. 1. -- Amended 1970 Ky. Acts ch. 48, sec. 2. -- Created 1960 Ky. Acts ch. 204, sec. 13, effective June 16, 1960.

Formerly codified as KRS 288.530.

Legislative Research Commission Note (7/12/2006). In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286, and KRS references within this statute have been adjusted to conform with the 2006 renumbering of that code.