

286.3-215 Authority to charge interest in advance -- Installment loans with interest in advance -- Exceptions -- Restrictions on installment loans.

- (1)
 - (a) In addition to the powers heretofore granted, any bank or trust company or combined bank and trust company shall have the power to lend money repayable in installments; to charge or to receive in advance interest therefor in the case of a loan having a maximum maturity of not more than five (5) years and thirty-two (32) days; to contract for a charge for a secured or unsecured installment loan, and which under its terms shall be repayable in installments over a period of not exceeding ten (10) years and thirty-two (32) days, which charge shall be at a rate not exceeding eight dollars (\$8) per one hundred dollars (\$100) per annum upon the principal amount of the loan which charge or charges shall be for the entire period of the loan and may be collected in advance only if the maximum maturity of the loans does not exceed five (5) years and thirty-two (32) days.
 - (b) If the maturity of the loan exceeds five (5) years and thirty-two (32) days but does not exceed ten (10) years and thirty-two (32) days the charge of interest may not be discounted or received in advance but may be added on to the principal amount of the loan and shall not be discounted.
 - (c) If any scheduled payment or deferred payments are more than twice as large as the average of the earlier scheduled payments, the debtor and creditor shall agree that the debtor has the right to finance the amount of such payment or deferred payments at the time they are due without penalty. The terms of the refinancing which are agreed to by the debtor and the creditor shall be no less favorable to the debtor than the terms of the original loan.
- (2) In addition to the charge permitted by this section, no further amount shall be directly or indirectly charged, contracted for, or received on any such installment loan, except lawful fees actually paid to a public officer for filing, recording, or releasing any instrument securing the loan and delinquent charges as hereinafter set out, and except an investigation fee not exceeding one dollar (\$1) for each fifty dollars (\$50) or fraction thereof upon the first eight hundred dollars (\$800) of the principal amount of such loans.
- (3) Delinquency charges may be made not to exceed five cents (\$0.05) for each dollar of each installment more than ten (10) days in arrears, and only one (1) delinquency charge shall be made on any one (1) installment. No delinquency charge shall exceed five dollars (\$5) on any one (1) installment. In addition to such delinquency charges, attorney's fees not exceeding fifteen percent (15%) of the unpaid balance and court costs may be collected, provided that the note is referred to an attorney not a salaried employee of the holder for collection.
- (4) The lending institution shall permit the borrower to repay his loan in whole or in part at any time. If a loan is paid in full prior to maturity, the lending institution shall make a rebate at a rate not less than in accordance with the Rule of 78s if the maximum financing charge permitted hereunder has been taken. If a lesser charge has been taken, the rebate shall be at not less than a proportional rate. Provided, however, the lending institution shall be permitted in computing rebates to retain a minimum charge of ten dollars (\$10) to cover its acquisition

costs and where the amount of credit for anticipation of repayment is less than one dollar (\$1), no rebate need be made.

- (5) In the case of loans made under this section the corporation shall not take any assignment, pledge or transfer of wages to be earned or paid in the future, nor any first lien or first mortgage on real estate as security, except such lien as is created by virtue of a judgment or decree or first mortgage liens on loans on unimproved real estate not exceeding ten (10) acres in size or on real estate on which there is located or to be located a residential mobile home. Nothing in this section is intended to prevent lending institutions from making loans under the provisions of the National Housing Act or any other federal legislation, which loans are hereby authorized.
- (6) No lending institution under this section shall split up or divide a loan or permit any person to become obligated to it under more than one (1) contract of loan at the same time for the purpose of obtaining a greater charge than would otherwise be permitted by this section.
- (7) Every note evidencing a loan made under this section shall contain the following information and provisions: The original principal amount of the loan excluding any charge made under this section; a statement of the total charge for the loan; the amount and the date of each installment; the date of final maturity; an agreement that the borrower may repay the loan in whole or in part at any time, and that if the loan is paid in full before final maturity, the borrower will receive a refund of the unearned portion of the charge as required by this section. At the time the loan is made, the lending institution shall give the borrower either a copy of the note, or a statement of the transaction containing the provisions and information required to be contained in the note. The lending institution shall deliver a receipt for each payment.
- (8) In advertising for loans subject to this section, every advertisement shall conform to the following requirement: Any statement of the amount of the loan shall be the original principal amount showing in detail any charge made under this section.
- (9) KRS 286.4-420, 286.4-620 and 360.010 shall not apply to loans made under authority of this section, but said sections shall remain in full force and effect for all other purposes. Nothing in this section shall be construed to impair the validity or effect of said sections with respect to loans other than those made pursuant to this section nor shall anything in this section be construed to impair the validity or effect of KRS 360.025.
- (10) Any contract of loan in the making or collection of which any act shall have been done which constitutes a willful violation of any provision of this section shall be void, and the bank, trust company, or combined bank and trust company shall have no right to collect or receive any interest or charges whatsoever on such loan, but the unpaid principal of the loan shall be paid in full to the lending institution.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 111, sec. 125, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 78, sec. 1, effective April 1, 1980. -- Amended 1974 Ky. Acts ch. 184, sec. 1. -- Amended 1972 Ky. Acts ch. 267, sec. 1. -- Amended 1962 Ky. Acts ch. 79, sec. 1. -- Created 1946 Ky. Acts ch. 60, sec. 1.

Formerly codified as KRS 287.215.

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.