

SUBJECT: Interest Rate Limitations in Wisconsin

Introduction.....	1	Military Service.....	1
State-chartered credit unions.....	1	Mortgages.....	1
Federal credit unions.....	1	Wisconsin Consumer Act.....	2
Other legal limits.....	1	Chapter 13 Bankruptcy.....	2

INTRODUCTION

This release applies to all credit unions, state and federal. It describes limits on what loan rates may be charged. Wisconsin's usury law has been repealed.

STATE-CHARTERED CREDIT UNIONS

1995 Wis. Act 328 repealed the Wisconsin Consumer Act's 18% interest rate limit on open- end credit. No Wisconsin usury limits remain in effect for state-chartered credit unions. Instead, interest rates are set by contract with the borrower.

FEDERAL CREDIT UNIONS

Federal credit unions are subject to an 18% interest rate cap. 12 CFR § 701.21(c)(7). The 18% rate cap for federal credit unions is not the norm. The rate is usually 15% per year. However, the law permits the NCUA Board to set a higher limit, after consultation with Congress, the Treasury Department and other federal financial agencies, for periods not to exceed 18 months if the Board can justify the action. Most recently, the Board extended the 18% rate cap to March 10, 2014. The ceiling applies to all FCU lending except originations under the short-term, small-dollar amount program. Under that program, pay day alternative loans can be made under certain terms at annual percentage rates up to 28%.

OTHER LEGAL LIMITS

Various statutes and regulations limit loan interest rates in particular circumstances.

Military Service

The federal Servicemembers Civil Relief Act (SCRA) and the Wisconsin "Soldiers' and Sailors' Relief Act; State Service," both set a 6% limit on the interest that can be charged on loans that were taken out before entry into active military service. This interest rate cap applies during the time of active duty. On mortgage loans, it continues to apply for a year after active duty ends. Loan payments must be reduced to correspond with the 6% interest rate. See The League's *ii Release No. 0072* for details.

Separate from the SCRA, Department of Defense rules limit the costs and terms allowed for many types of consumer loans made to people in military service or their dependents. A creditor may not offer a covered borrower one of these loans with a "Military Annual Percentage Rate" greater than 36%. For details, see The League's *ii Release No. B067*.

Mortgages

If a consumer loan is secured by a dwelling (including home-equity lines of credit and closed-end mortgages) and if the interest rate may increase after closing, then Truth in Lending requires the loan agreement to include "the maximum interest rate that may be imposed during the term of the obligation." This means that such a loan must have a "lifetime cap" on the interest rate that can be charged over the life of a loan – determined by the credit union at the outset of the loan. Reg. Z disclosures (including HELOC Application Disclosures) must show rate caps (and floors, if the credit union sets them). For more, see The League's *ii Release Nos. B064 and B030*. The maximum rate must also be disclosed on the Loan Estimate and Closing Disclosure, as explained in *ii Release No. B079*.

Wisconsin law (Wis. Stats. §138.056) imposes limits on certain variable-rate first-mortgage loans. For example, it says that a variable rate loan contract must provide for no more than a 1% increase in the interest rate not more than once each six months and permit decreases to be made at any time. The League's *ii Release No. B030* has details.

Wisconsin law (Wis. Stats. §138.052) imposes limits on certain first-mortgage loans. It says that the interest imposed on the amount due after acceleration or maturity of a loan may not exceed the contract rate. See *ii Release No. B047*.

Wisconsin Consumer Act

The Wisconsin Consumer Act severely limits the interest rates on variable-rate loans tied to a "non-approved index" or a discretionary rate. The way the increases must be implemented and disclosed is complicated and burdensome. As a result, many credit unions choose an approved index when establishing a variable-rate consumer loan program. For details, see the League's *ii Release No. B046*, which discusses The League's Kwik-Cash unsecured consumer loan program.

Chapter 13 Bankruptcy

A debtor's Chapter 13 repayment plan may call for the interest rate on a loan to be substantially reduced. Consult your credit union's bankruptcy attorney for guidance on bankruptcy issues.

* * * * *

League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department

PEG/jb

© 2016 Wisconsin Credit Union League