TITLE XIV.
Regulation of Trade.

CHAPTER 115.

MONEY AND RATES OF INTEREST.

115.01 Money.
115.02 Contracts not affected.
115.03 Judgments, how computed.
115.04 Legal rate.
115.05 Maximum rate; prepayment, disclosure; corporations.
115.06 Effect of usury and penalties.
115.07 Collateral loan law.
115.09 Discount loan law.
115.10 Pawnbrokers.

115.01 Money. The money of account of this state shall be the dollar, cent and mill; and all accounts in public offices, and other public accounts, and all proceedings in courts shall be kept and had in conformity to this regulation.

115.02 Contracts not affected. Nothing contained in the preceding section shall vitiate or affect any account, charge or entry originally made or any note, bond or other instrument expressed in any other money of account; but the same shall be reduced to dollars or parts of a dollar as hereinbefore directed in any suit thereupon.

115.03 Judgments, how computed. In all judgments or decrees rendered by any court of justice for any debt, damages or costs and in all executions issued thereon the amount shall be computed, as near as may be, in dollars and cents, rejecting smaller fractions; and no judgment or other proceeding shall be considered erroneous for such omissions.

115.04 Legal rate. The rate of interest upon the loan or forbearance of any money, goods or things in action shall be $5 upon the $100 for one year and according to that rate for a greater or less sum or for a longer or a shorter time; but parties may contract for the payment and receipt of a rate of interest not exceeding the rate allowed in s. 115.05, in which case such rate shall be clearly expressed in writing.

History: 1961 c. 431.

115.05 Maximum rate; prepayment, disclosure; corporations. (1) Except as authorized by other statutes, no person shall, directly or indirectly, contract for, take or receive in money, goods or things in action, or in any other way, any greater sum or any greater value, for the loan or forbearance of money, goods or things in action, than:

(a) At the rate of $12 upon $100 for one year computed upon the declining principal balance of the loan or forbearance;

(b) With respect to loans or forbearances repayable in substantially equal weekly or monthly instalments and the face amounts of which include predetermined interest charges, at the rate of $6 upon $100 for one year computed upon that portion of the original principal amount of any such loan or forbearance, not including interest charges, for the time of such loan or forbearance, disregarding part payments and the dates thereof; and

(c) With respect to loans or forbearances repayable in instalments other than of the type described in par. (b), the amount of interest may be predetermined at the rate set forth in par. (a) at the time the loan is made on the basis of the agreed rate of interest and the principal balances agreed to be outstanding and stated in the note or loan contract as an addition to the principal; provided that if any agreed balance of principal or principal and interest combined or any instalment of principal or principal and interest combined is prepaid in full by cash or renewal the unearned interest shall be refunded as provided in sub. (2) (b). In the computation of interest upon any bond, note, or other instrument or agreement, interest shall not be compounded, nor shall the interest thereon be construed to bear interest, unless an agreement to that effect is clearly expressed in writing, and signed by the party to be charged therewith.

(2) Any loan for which the rate of interest charged exceeds $10 per $100 for one

year computed upon the declining principal balance may be prepaid by the borrower at any time in whole or in part. Upon prepayment of any such loan in full by cash, renewal or refinancing, the borrower shall be entitled to a refund of unearned interest charged which shall be determined as follows:

(a) On any such loan which is repayable in substantially equal, successive instalments at approximately equal intervals of time and the face amount of which includes predetermined interest charges, the amount of such refund shall be as great a proportion of the total interest charged as the sum of the balances scheduled to be outstanding during the full instalment periods commencing with the instalment date nearest the date of prepayment bears to the sum of the balances scheduled to be outstanding for all instalment periods of the loan.

(b) On any other such loan, the amount of such refund shall not be less than the difference between the interest charged and interest, at the rate contracted for, computed upon the unpaid principal balances of the loan from time to time outstanding prior to prepayment in full.

(3) A contract to make loans or an evidence of indebtedness may provide for a rate of interest or penalty payable upon the principal amount of an extension of a loan or forbearance or upon any amount in default under a loan or forbearance which shall not exceed the rate allowed in sub. (1) (a).

(4) Any person making a loan for which interest is agreed to be paid at a rate exceeding the rate of $10 upon $100 for one year computed upon the declining principal of the loan shall, at or prior to making such loan, deliver to the borrower a statement, which may be incorporated in a copy of the evidence of indebtedness, setting forth all of the terms of the transaction in clear and distinct language, including:

(a) The rate of interest agreed upon in terms either of simple interest computed on the declining principal balance or of the actual interest cost in money, and

(b) A statement that the loan may be prepaid in full or in part and that, if the loan is prepaid in full, the borrower may receive a refund of interest charged.

(5) This section shall not apply to loans to corporations except loans made by permittees under s. 115.07.

History: 1961 c. 431; 1963 c. 210, 459.

For discussion of effect of prior statute on right of corporation charged usurious interest, see Country Motors v. Friendly Finance Corp. 13 W (2d) 475, 109 NW (2d) 137.

115.06 Effect of usury and penalties. (1) All instruments, contracts or securities providing a rate of interest exceeding the rate allowed in s. 115.05 shall be valid and effectual to secure the repayment of the principal amount loaned in excess of $2,000; but no interest may be recovered thereon except upon bottomry and respondentia bonds and contracts.

(2) Any lender or agent of a lender who violates any provisions of s. 115.05 may be fined not less than $25 nor more than $500, or imprisoned not more than 6 months, or both.

(3) Any borrower who paid interest on a loan or forbearance at a rate greater than the rate allowed in s. 115.05 may by himself or his personal representative recover in an action against the lender or his personal representative the amount of interest, principal and charges paid on such loan or forbearance but not more than $2,000 of principal, if such action is brought within 2 years after such excessive interest has been paid.

(4) Any borrower to whom a lender or agent of a lender fails to provide the statement required in s. 115.05 (4) with respect to a loan or forbearance may by himself or his personal representative recover in an action against the lender or his personal representative an amount equal to all interest and charges paid upon such loan or forbearance but not less than $50 plus reasonable attorney's fees incurred in such action.

(5) Notwithstanding the provisions of subs. (1) to (4), if any violation of s. 115.05 is the result of an unintentional mistake which the lender or agent of the lender corrects upon demand, such unintentional violation shall not affect the enforceability of any provision of the loan contract as so corrected nor shall such violation subject the lender or the agent of the lender to any penalty or forfeiture specified in this section.

History: 1961 c. 431.

115.07 Collateral loan law. (3) REGULATIONS. (a) When the payment of money loaned shall be secured, or purport to be secured by mortgage, bill of sale, pledge, receipt or other evidence of debt upon goods or property, or by assignment of wages, or by power of attorney to execute any such instrument on behalf of the borrower, whether any such instrument or the power given to execute the same, shall be valid or not, or whether

any such instrument or power shall be fully executed or executed partly in blank, any person, association, copartnership, or corporation licensed under sub. (4) may take, accept and charge, in addition to the interest aforesaid, a service fee in an amount equal to 4 per cent per annum of the loan for the time of such loan, disregarding part payments and the dates thereof, but not to be computed for a period exceeding one year in any event, in lieu of all charges for examinations, views, fees, appraisals, commissions and charges of any kind or description whatsoever in the procuring, making and transacting of the business connected with such loan.

NOTE: Chapter 158, laws of 1963, amended (3) (a), effective July 1, 1965, to read:

"115.07 Collateral loan law. (3) Regulations. (a) When the payment of money loaned shall be secured, or purport to be secured by a mortgage, bill of sale, pledge, receipt or other evidence of debt upon goods or property, or by assignment of wages, or by power of attorney to execute any such instrument on behalf of the borrower, whether any such instrument or the power given to execute the same, shall be valid or not, or whether any such instrument or power shall be fully executed or executed partly in blank, any person, association, copartnership, or corporation licensed under sub. (4) may take, accept and charge, in addition to the interest aforesaid, a service fee in an amount equal to 4 per cent per annum of the loan for the time of such loan, disregarding part payments and the dates thereof, but not to be computed for a period exceeding one year in any event, in lieu of all charges for examinations, views, fees, appraisals, commissions and charges of any kind or description whatsoever in the procuring, making and transacting of the business connected with such loan. In addition to the service fee, a licensee under sub. (4) may charge an amount sufficient to cover the fee for filing the termination statement required by s. 409.404."

(b) The full amount of the service fee shall be fully earned at the time the contract is made without regard to the services performed and shall not be deemed interest, but if the same permittee makes a subsequent contract with the same borrower within 12 months of a prior contract for which the permittee has charged a service fee, the permittee shall not charge a service fee on any portion of the subsequent contract which is used to pay any portion of the prior contract, unless the permittee shall refund to the borrower a pro rata portion of the service fee for each full month remaining on the contract for which a service fee has been charged, calculated in the same manner in which interest is refunded as hereinafter provided in this section.

(c) No loan made under this section shall be refinanced or renewed in whole or in part under section 115.09 or chapter 214.

(d) No permittee shall permit any person to be indebted to such permittee under this section, directly or indirectly, at any time, while such person is indebted to such permittee or an affiliate, employe or agent of such permittee under section 115.09.

(e) The amount of interest may be predetermined at the time the loan is made on the basis of the agreed rate of interest and the principal balances agreed to be outstanding and stated in the note or loan contract as an addition to the principal; provided that if any agreed balance of principal or principal and interest combined or any instalment of principal or principal and interest combined is prepaid in full by cash, renewal or refinancing, the unearned interest shall be refunded as provided in s. 115.05 (2).

(g) Any person, association, copartnership or corporation who, as principal or as agent for another, shall wilfully violate any provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $100 nor more than $1,000, or by imprisonment not more than 6 months, or by both such fine and imprisonment.

(4) PERMITS. Before any person, or any association, copartnership or corporation, heretofore or hereafter created, shall do business under s. 115.07 (3), such person, association, copartnership or corporation shall first obtain a permit from the commissioner of banks, who is hereby invested with the supervision of such organizations. Such permit upon application shall be issued to any licensee under s. 115.09 for the location specified in the license of such licensee and such permit shall remain in effect as long as said license shall continue in force. The provisions of s. 115.09 (1), (2), (3), (4), (4a), (5), (6), (7) (d) and (f), (8), (9) and (11) shall apply to any person, association, copartnership or corporation making loans under s. 115.07 (3), but a licensee under s. 115.09 shall not be required to pay an additional investigation fee or an annual license fee for a permit under this subsection at the same location licensed under s. 115.09.

History: 1961 c. 431; 1963 c. 158.

115.09 Discount loan law. (1) Before any person, association, copartnership or corporation heretofore or hereafter created shall do business under the provisions of this section or charge the discount and fee authorized by subsection (7) (a), (b) and (c), such person, association, copartnership or corporation shall first obtain a license from the commissioner of banks. Applications for such license shall be in writing and upon forms provided for this purpose by the commissioner. Every such applicant at the time of making such application shall pay to the commissioner a fee of $100 for investigating the application unless the applicant be licensed hereunder at some other location and the

sum of $50 as an annual license fee for the period terminating on the last day of the current calendar year. In event the cost of the investigation shall exceed $100, the applicant shall upon demand of the commissioner pay to the commissioner, the amount by which the cost of the investigation shall exceed the $100 fee.

(2) The commissioner may also require the applicant to file with him, and to maintain in force, a bond in which the applicant shall be the obligor, in a sum not to exceed $5,000 with one or more corporate sureties licensed to do business in Wisconsin, whose liability as such sureties shall not exceed the sum of $5,000 in the aggregate, to be approved by the commissioner, and such bond shall run to the state of Wisconsin for the use of the state and of any person or persons who may have a cause of action against the obligor of the bond under the provisions of this section. Such bonds shall be conditioned that the obligor will conform to and abide by each and every provision of this section, and will pay to the state or to any person or persons any and all moneys that may become due or owing to the state or to such person or persons from the obligor under and by virtue of the provisions of this chapter.

(3) (a) Upon the filing of such application and the payment of such fee, the commissioner shall investigate the relevant facts, and if he shall find that the character and general fitness and the financial responsibility of the applicant, and the members thereof if the applicant is a partnership or association, and the officers and directors thereof if the applicant is a corporation, warrant the belief that the business will be operated in compliance with this section the commissioner shall thereupon issue a license to said applicant to make loans in accordance with the provisions of this section. If the commissioner shall not so find, he shall deny such application.

(b) Every license shall remain in force and effect until suspended or revoked in accordance with this section or surrendered by the licensee, and every licensee shall, on or before each December 10, pay to the commissioner the annual license fee for the next succeeding calendar year.

(c) Such license shall not be assignable and shall permit operation under it only at or from the location specified in the license at which location all loans shall be consummated, but this provision shall not prevent the licensee from making loans under this section at an auction sale conducted or clerked by a licensee.

(d) A separate license shall be required for each place of business maintained by the licensee. Whenever a licensee shall change the address of its place of business to another location within the same city, village or town the licensee shall at once give written notice thereof to the commissioner, who shall replace the original license with an amended license showing the new address, provided the location meets with the requirements of paragraph (e). No change in the place of business of a licensee to a different city, village or town shall be permitted under the same license.

(e) A licensee may conduct, and permit others to conduct, at the location specified in its license hereunder, any one or more of the following businesses: A loan, finance or discount business under section 115.07 (4), or under section 218.01, or under chapter 214, or an insurance business, or a currency exchange under section 218.05; but merchandise shall not be sold at such location; and no other business shall be conducted at such location unless written authorization is granted the licensee by the commissioner. The foregoing provisions shall not bar licensees under s. 115.09 or permit holders under 115.07 (4) (formerly section 115.07 (3a)) who operated under such licenses or permits on January 1, 1947, from continuing their operation at the same location.

(f) Every licensee shall make an annual report to the commissioner for each calendar year on or before March 15 of the following year. Such report shall cover business transacted by the licensee under the provisions of this section and shall give such reasonable and relevant information as the commissioner may require. Such reports shall be made upon blanks furnished by the commissioner and shall be signed and verified by the oath or affirmation of the licensee if an individual, one of the copartners if a copartnership, or by an officer of the corporation or association if a corporation or association. Any licensee operating under the provisions of this section shall keep the records affecting loans made pursuant to the provisions of this section separate and distinct from the records of any other business of such licensee.

(4) The commissioner for the purpose of discovering violations of this chapter may cause an investigation to be made of the business of the licensee transacted under this section, and shall cause an investigation to be made of convictions reported to it by any district attorney for violation by a licensee of any of the provisions of this chapter. The place of business, books of account, papers, records, safes and vaults of said licensee shall be open to inspection and examination by the commissioner or his representative for the purpose of such investigation and the commissioner may examine under oath all persons whose testimony he may require relative to said investigation.

The commissioner may, upon notice to the licensee and reasonable opportunity to be heard, suspend or revoke such license after such hearing, (a) if the licensee has violated any provision of this chapter and if he determines such violation justifies the suspension or revocation of the license; (b) if any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commissioner in refusing to issue such license; and (c), if the licensee has failed to pay the annual licensee fee or to maintain in effect the bond, if any, required under sub. (2).

(4a) Any licensee and any other person aggrieved by any order of the commissioner has the right to appeal to the board of review under this section, provided a written notice of appeal is served upon the commissioner and upon the chairman or secretary of the consumer credit review board under s. 220.037 within 10 days from the date of the commissioner's order. Upon service of a written notice of appeal as herein provided the review board shall hold a hearing within a reasonable time thereafter. The review board shall give the parties a written notice of the time and place said hearing will be held. The cost of any investigation or examination or hearing, including witness fees or any other expenses, conducted by the commissioner or the review board shall be paid by the licensee so examined or by the appellant within 30 days after demand therefor by the commissioner, and the state may maintain an action for the recovery of such costs and expenses in any court of competent jurisdiction, except that no cost shall be charged an appellant by the review board unless the board sustains the commissioner.

(5) No licensee or other person, association, copartnership or corporation subject to this section or section 115.07 shall print, display, publish, distribute or broadcast, or cause to be printed, displayed, published, distributed or broadcast in any manner whatsoever any statement with regard to the rates, terms or conditions for the lending of money, credit, goods or things in action which is false or calculated to deceive. In any advertisement which states or indicates the amount of a loan, the amount of an instalment, or the amount of the charge:

(a) The amount of loan shall be the net proceeds to the borrower after deducting the discount and service fee; if such discount and service fee are not deducted, it shall be the face of the loan;

(b) The statement of the amount of an instalment shall also indicate the number of instalments required to pay the loan contract and the interval between each instalment; and

(c) The amount of the charge shall be the total of the discount and service fee for repayment of the loan contract according to its terms. Any advertisement which states or gives the amount of the charge or the amount of an instalment shall also state and give the amount of the charge in terms of percentage per annum of simple interest.

(6) The licensee shall keep such books and records in his place of business as in the opinion of the commissioner of banks will enable him to determine whether the provisions of this chapter are being observed. Every such licensee shall preserve the records of final entry used in such business, including cards used in the card system, if any, for a period of at least 2 years after the making of any loan recorded therein.

(7) (a) It shall be lawful for any person, association, copartnership, or corporation licensed under this section to deduct the discount and service fee authorized by paragraphs (b) and (c) from a loan which is repayable in substantially equal instalments at approximately equal intervals of time over a period not exceeding 30½ months; provided that the total indebtedness under this section of any person, as borrower, indorser, guarantor or comaker, to the same licensee shall not exceed $2,000 after excluding such charges. When a loan contract provides for instalments payable at monthly intervals, a first interval of not more than 45 days and not less than 15 days may be treated as a monthly interval.

(b) The discount may be any sum not exceeding 8 per cent a year for the first $300 and 7 per cent a year for any additional amount, computed on the original face amount of the contract for the full period of the contract; provided that if the contract is prepaid in full by cash, renewal or refinancing, the portion of the discount shall be refunded which is applicable to the full instalment periods (or the full months if the instalment period exceeds one month) originally scheduled to follow the date of prepayment. The amount of such refund shall be as great a proportion of the original discount as the sum of the balances scheduled to be outstanding during the full instalment periods following the date of prepayment bears to the sum of the balances scheduled to be outstanding for all instalment periods in the loan contracts; provided that when the instalment periods exceed one month, the proportion shall be determined according to the balances scheduled to be outstanding during consecutive monthly periods.

(c) The service fee shall not exceed 2 per cent of the original face amount of the contract or $20, whichever sum is smaller, and shall be in lieu of all fees, charges and expenses in connection with procuring, making or servicing the loan except as provided by paragraphs (d) and (f). The full amount of the service fee shall be fully earned at the time the contract is made, without regard to the services performed and shall not be deemed interest, but if the same licensee makes a subsequent contract with the same borrower within 4 months of a prior contract for which the licensee has charged a service fee, the licensee shall not charge a service fee on any portion of the subsequent contract which is used to pay any portion of the prior contract. No licensee shall split up or divide a loan into 2 or more contracts or make any additional loan to the same borrower within a period of 30 days, for the purpose of obtaining a greater amount of service fee than would otherwise be permitted. No licensee or an affiliate, employe or agent of such licensee shall make a loan, under section 115.07 (3), to renew or refinance a loan made by such licensee under this section, unless the resulting loan under section 115.07 (3) exceeds $2,000.

(d) In case of default lasting more than 10 days, the licensee may charge one per cent of the amount in default, and if the default lasts more than 20 days the licensee may charge an additional one per cent for each succeeding period of 20 days or fraction thereof. No default charge may be made after acceleration of maturity, unless the licensee gives the same refund of discount which would be required if the contract had been prepaid in full on the date of such acceleration of maturity.

(e) In addition to the discount, service fee, and default charge provided for in paragraphs (a), (b), (c) and (d), no further or other amount whatsoever shall be directly or indirectly charged, contracted for, deducted, or received, except as provided by paragraph (f). In lieu of deducting the discount and service fee and charging the default charge authorized in paragraphs (b), (c) and (d), a licensee may contract for and receive a rate of charge not exceeding that rate which, computed on scheduled unpaid balances of the proceeds of the loan contract, would produce an amount of charge equal to the total of the discount and service fee which could be deducted from such loan contract, and such rate of charge may be computed on actual unpaid principal balances from time to time outstanding until the loan is fully paid. When such rate of charge is made in lieu of other charges, the provisions of paragraphs (b), (c) and (d) relating to refunds, the service fee on subsequent contracts or additional loans, and the default charge, shall not apply to such loans; the amount or rate of such charge shall be used in lieu of the amount of discount and service fee under subsection (5); and such rate of charge shall be shown in lieu of the discount, service fee, default charge and refund of discount in the statement to the borrower required under subsection (8) (a).

(f) A licensee may require the borrower to provide insurance on property other than household goods, given as security for any loan made under this section, provided that the amount and term of such insurance and the risks covered thereby shall be related to and commensurate with the amount and term of the loan and the type and value of such property. The licensee may accept, but shall not require, term insurance on the life of the principal borrower in amounts not exceeding the declining unpaid balances of the loan, credit accident and health insurance on the principal borrower within the limitation provided in s. 201.04 (4a), and insurance against liability arising out of the ownership or maintenance of any motor vehicle given as security for the loan. Any insurance permitted hereunder shall be effected at standard and lawful premiums through any licensed insurance agent or company selected by the borrower. The purchase of such insurance through the licensee or an agent or broker designated by the licensee shall not be a condition precedent to the granting of the loan. If a borrower procures insurance through the licensee or an officer or employe or an affiliate of the licensee, the licensee shall deliver to the borrower within 20 days after the making of the loan, an executed copy of the insurance policy or certificate of insurance, and the cost of such insurance shall be shown in the statement delivered to the borrower required under sub. (8) (a). The premiums on such insurance and any commissions thereon may be received by the licensee in addition to the charges otherwise authorized under this section. The provisions of this paragraph shall not be deemed to alter or amend the statutes of this state relating to insurance or to affect the power of the commissioner of insurance to grant, revoke, or deny licenses.

NOTE: Chapter 158, laws of 1963, amended (7) (f), effective July 1, 1965, to read:

"(f) A licensee may charge an amount sufficient to cover the fee for filing the termination statement required by s. 409.404. A licensee also may require the borrower to provide insurance on property other than household goods, given as security for any loan made under this section, provided that the amount and term of such insurance and the risks covered thereby shall be related to and commensurate with the amount and term of the loan and the type and value of such property. The licensee may accept, but shall not require, term insurance on the life of the principal borrower in amounts not exceeding the declining unpaid balances of the loan, credit accident and health insurance on the prin-

cipal borrower within the limitation provided in s. 201.04 (4a), and insurance against liability arising out of the ownership or maintenance of any motor vehicle given as security for the loan. Any insurance permitted hereunder shall be effected at standard and lawful premiums through any licensed insurance agent or company selected by the borrower. The purchase of such insurance through the licensee or an agent or broker designated by the licensee shall not be a condition precedent to the granting of the loan. If a borrower procures insurance through the licensee or an officer or employe or an affiliate of the licensee, the licensee shall deliver to the borrower within 20 days after the making of the loan, an executed copy of the insurance policy or certificate of insurance, and the cost of such insurance shall be shown in the statement delivered to the borrower required under sub. (8) (a). The premiums on such insurance and any commissions thereon may be received by the licensee in addition to the charges otherwise authorized under this section. The provisions of this paragraph shall not be deemed to alter or amend the statutes of this state relating to insurance or to affect the power of the commissioner of insurance to grant, revoke, or deny licenses."

(8) Every licensee shall:

(a) Deliver to the borrower, at the time a loan is made, a statement in the English language showing in clear and distinct terms the amount and date of the note and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, the amounts of discount and service fee, stated separately, the proceeds of the loan after deducting such discount and service fee, a description of the payment schedule and the default charge. The statement shall also indicate that the borrower may prepay his loan in whole or in part and that if the loan is prepaid in full the borrower will receive a refund of discount as provided by this section. The statement shall also indicate the percentage per annum of interest charged in the transaction.

(b) Give to the borrower a plain and complete receipt for all cash payments made on account of any such loan at the time such payments are made.

(c) Permit payments of the loan in whole or in part prior to its maturity.

(d) Upon repayment of the loan in full mark indelibly every paper signed by the borrower with the word "Paid" or "Canceled" and execute and deliver a written release of any mortgage, which has been recorded, restore any pledge, cancel and return any note, mortgage, assignment or other document given by the borrower as security or as evidence of indebtedness.

(e) Take no note, promise to pay, security nor any instrument in which blanks are left to be filled in after the loan has been made except that a detailed description or inventory of the security may be filled in, with the written consent of the borrower within 10 days thereafter.

(9) (a) No person, except as authorized by statutes, shall directly or indirectly charge, contract for or receive any interest or consideration greater than allowed in s. 115.05 upon the loan, use or forbearance of money, goods or things in action, or upon the loan, use or sale of credit. The foregoing prohibition shall apply to any person who as security for any such loan, use or forbearance of money, goods or things in action, or for any such loan, use or sale of credit, makes a pretended purchase of property from any person and permits the owner or pledger to retain the possession thereof, or who by any device or pretense of charging for his services or otherwise seeks to obtain a greater compensation than is authorized by this section.

(b) No loan made under this section, or section 115.07 (3) in an amount of $2,000 or less excluding charges for which a greater rate or amount of interest, discount, service fee or other charge, than is allowed by the section under which the loan is made, has been contracted for or received, wherever made, shall be enforced in this state, and every person, association, copartnership or corporation in any wise participating therein in this state shall be subject to the provisions of this section; provided, that if a licensee makes an excessive charge as the result of an unintentional mistake, but upon demand makes correction of such mistake, the loan shall be enforceable and treated as if no violation occurred.

(10) Any person, copartnership or corporation and the several officers and employes thereof who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $500 or by imprisonment in a county jail for not more than 6 months, or by both such fine and imprisonment.

(11) The commissioner shall have power to employ necessary examiners or clerks from time to time and fix their compensation.

(12) No person, association, copartnership or corporation doing business under the authority of any law of this state or of the United States relating to banks, savings banks, trust companies, savings or building and loan associations, or credit unions shall be eligible to become a permit holder or licensee under this section or section 115.07 (4).

(14) The changes made in section 115.07 and this section on August 11, 1947 shall not be construed so as to impair or affect the obligation of any loan contract lawfully made prior to such date.

History: 1961 c. 315, 431; 1963 c. 158, 343.

115.10 Pawnbrokers. (1) APPLICATION. This section shall be known as the pawnbrokers' law and shall apply to all persons licensed to conduct the business of pawnbroker by the common council of any city of this state.

(2) MAXIMUM LOAN. A pawnbroker's loan shall not exceed $150.

(3) DEFINITIONS. The following terms in this section shall be construed to have the following meanings:

(a) "Pawnbroker" includes any person who engages in the business of lending money on the deposit or pledge of personal property, other than choses in action, securities, or written evidences of indebtedness; or purchases personal property with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

(b) "Pledge" means an article or articles deposited with a pawnbroker as security for a loan in the course of his business as defined in the preceding paragraph.

(c) "Pledgor" means the person who obtains a loan from a pawnbroker and delivers a pledge into the possession of a pawnbroker, unless such person discloses that he is or was acting for another in which case a "pledgor" means the disclosed principal.

(d) "Person" includes an individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any group of individuals however organized.

(e) "Pawnbroking" means the business of a pawnbroker as defined in this section.

(f) "Pawn ticket" means the card, book, receipt or other record furnished to the pledgor at the time a loan is granted containing the terms of the contract for a loan.

(4) MAXIMUM INTEREST OR CHARGES. A pawnbroker shall not charge, contract for or receive interest in excess of 3 per cent per month on any loan or balance thereon and such interest shall not be increased by charging commission, discount, storage or other charge directly or indirectly, nor by compound interest; provided, however, that when the interest herein specified amounts to less than $1 per month, the minimum charge shall be $1 for the first month and 50 cents for each succeeding month during the loan period.

(5) COMPUTATION OF INTEREST OR CHARGES. The interest and charges authorized by this section shall be computed at the rates specified on the actual principal balance of the loan due for the actual time which has elapsed from the date of the loan to the date of payment. For the purpose of calculation of interest and charges permitted under this section, a year shall be 12 calendar months, and a month shall be one calendar month, or any fractional part thereof. A calendar month shall be any period from a certain date in one month to the same date in the next succeeding month.

(6) FORFEITURE. A pawnbroker who charges, contracts for or receives interest or charges greater than permitted under this section shall forfeit both principal and interest, and shall return the pledge upon demand of the pledgor and surrender of the pawn ticket, without tender or payment of principal or interest.

(7) PENALTY. Any pawnbroker who shall refuse to comply with paragraph (6) hereof shall, upon conviction, be punished by imprisonment in the county jail not more than one year or by fine not exceeding $500.

(8) SALE OF PLEDGE. Upon default in the payment of any loan, a pawnbroker may sell the pledge upon the conditions contained in this section.

(a) A pawnbroker may sell a pledge at private sale for an amount not less than that agreed to by the pledgor, which amount shall be stipulated on the pawn ticket and shall not be less than 125 per cent of the amount of the loan. A pledge which cannot be sold at private sale at the minimum price agreed to by the pledgor must be sold at public auction, which sale shall be conducted in the manner provided by section 289.48 (1).

(b) No unredeemed pledge may be sold before the expiration of 90 days after the due date of the loan unless otherwise specifically authorized in writing by the pledgor. The authority to sell an unredeemed pledge prior to the expiration of 90 days after the due date of the loan must be given by the pledgor on a date subsequent to the due date of the loan.

(c) An unredeemed pledge must be sold within 12 months of the due date of a loan. No interest or charges permitted under this section may be collected on a loan after the expiration of 12 months of the due date of a loan, whether the loan is renewed or the loan is paid and the pledge redeemed.

(9) NOTICE OF SALE. A pawnbroker shall not sell any pledge unless due notice of such contemplated sale has been forwarded to the pledgor by registered mail to the address given by the pledgor at the time of obtaining the loan or to such new address of the pledgor, as shown on the pawnbroker's record. Notice of the contemplated sale of a pledge shall be mailed to the pledgor not less than 30 days prior to the date of sale. Such notice shall state total amount of principal, interest and charges due on the loan as of the date of the notice.

(10) DISPOSITION OF PROCEEDS. The proceeds from the sale of a pledge shall be applied in the order specified, to the following purposes: Payment of the auctioneer's charges if sold at public auction, or commission for selling not to exceed 5 per cent if sold at private sale; payment of principal of the loan; payment of the interest on the loan permitted under this section, and payment of the charges on the loan permitted under this section; payment of postage for mailing notice to the pledgor of the contemplated sale or notice of the surplus. The surplus, if any, shall be paid to the pledgor or such other person who would have been entitled to redeem the pledge had it not been sold.

(11) NOTICE OF SURPLUS. Notice of any surplus from the sale of a pledge shall be forwarded to the pledgor within 10 days of the date of sale by registered mail to the address given by the pledgor at the time of obtaining the loan or to such new address of the pledgor, of which the pawnbroker has received notice.

(12) REVERSION OF SURPLUS. If a surplus remaining from the sale of a pledge is not paid or claimed within one year from the date of sale, such surplus shall revert to the pawnbroker. The pawnbroker shall not be required to pay any interest on an unpaid surplus.