

**286.4-530 Basic, default, and deferment charges -- Refund upon prepayment -- Reduction when installments in default -- Charges computed on unpaid balance -- Principal may include balance on prior loan -- Loan entered into within 10 days of another loan -- Restrictions on interest and consideration.**

- (1) (a) Every licensee may lend any sum of money not exceeding fifteen thousand dollars (\$15,000), excluding charges, and may charge, contract for, and receive on any loan charges not in excess of:
    1. If the original principal amount of the loan, excluding charges, does not exceed five thousand dollars (\$5,000), three percent (3%) per month on:
      - a. The original principal amount of the loan; and
      - b. Any charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract;
    2. If the original principal amount of the loan, excluding charges, exceeds five thousand dollars (\$5,000) but does not exceed ten thousand dollars (\$10,000), two and forty-two hundredths percent (2.42%) per month on:
      - a. The original principal amount of the loan; and
      - b. Any charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract; and
    3. If the original principal amount of the loan, excluding charges, exceeds ten thousand dollars (\$10,000), two and one-fourth percent (2.25%) per month on:
      - a. The original principal amount of the loan; and
      - b. Any charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract.
  - (b) The charges authorized under paragraph (a) of this subsection 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.
  - (c) The total amount of the precomputed charges under paragraph (b) of this subsection shall be added to the original cash advance and other charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract, and the resulting sum shall become the face amount of the note.
  - (d) Every loan payment may be applied to the face amount of the note until the loan contract is paid in full.
- (2) For the purposes of computation under subsection (1) of this section:
    - (a) Whether at the maximum rate or less:
      1. 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 corresponding date in the next month, then to the last day of that month; and
      2. A day shall be considered one-thirtieth (1/30) of a month when the computation is made for a fraction of a month; and

- (b) 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 loan contract.
- (3) For any loan contract, a licensee and borrower may agree:
  - (a) On a first installment date that is not more than fifteen (15) days more than one (1) month; and
  - (b) That the amount of the first 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, a licensee may charge and collect a default charge not exceeding two cents (\$0.02) for each dollar of the scheduled installment, and this charge may be collected for each full month the installment remains unpaid.
- (5)
  - (a) If the payment of all wholly unpaid installments on which no default charge has been collected is deferred one (1) or more full months, a licensee may charge and collect a deferment charge not exceeding two cents (\$0.02) 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, except the number of months extended shall not exceed the number of installments which are due and wholly unpaid or due within fifteen (15) days from the date of deferment.
  - (b) The deferment charge may be collected at the time of deferment or at any time thereafter.
  - (c) 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 loan contract, except if the 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 that installment shall not be deferred or subject to the deferment charge.
  - (d) At the time a deferment is made, the borrower shall be given a statement or receipt showing:
    - 1. The amount of the deferment charge;
    - 2. The date and amount of the next scheduled payment; and
    - 3. The number of remaining scheduled payments.
- (6)
  - (a) Except as otherwise provided in this subsection, if a loan contract 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.
  - (b) Any default or deferment charges which are due and unpaid on the loan contract may be deducted from the refund required under this subsection.

- (c) Any tender made by a borrower or at his or her request of an amount equal to the unpaid balance less the refund required under this subsection shall be accepted by a licensee in full payment of the loan contract.
- (d) 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.
- (e) A licensee shall not be required to make a refund:
  - 1. Of less than one dollar (\$1); or
  - 2. For partial prepayments.
- (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 loan contract so provides, a licensee may reduce the contract balance by the refund or credit which would be required for prepayment in full on the installment date. Thereafter, in lieu of charging, collecting, or receiving charges as provided in subsections (1) to (6) of this section, charges may be charged, collected, and received as provided in subsection (8) of this section until the loan contract is fully paid.
- (8) (a) In lieu of computing and collecting charges as provided in subsections (1) to (6) 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) of this section computed on the unpaid balance of the loan from time to time outstanding.
  - (b) The charges permitted under paragraph (a) of this subsection shall not be paid, deducted, received in advance, or compounded, but shall be computed, collected, and received only on unpaid balances for the time actually outstanding.
  - (c) The definition of a month and of a day in subsection (2) of this section shall apply for the purposes of the computations under this subsection.
- (9) If part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan with the same licensee, then the principal amount payable under the new loan may include the balance remaining on the prior loan after giving the refund required by subsection (6) of this section.
- (10) (a) In addition to the charges provided for in this subtitle, no further charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, bonus, or other thing shall be directly or indirectly charged, contracted for, or received, for an extension of credit under this subtitle except:
  - 1. 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;
  - 2. The identifiable charge of premium for insurance provided for in KRS 286.4-560; and
  - 3. 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.

- (b) 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) (a) A licensee shall not induce or permit a person to become obligated to the licensee, directly or contingently, or both under any loan contract entered into within ten (10) days of the origination of another loan contract with the same person for the purpose or with the result of obtaining charges greater than would otherwise be permitted by this subtitle.
- (b) For a second or subsequent loan made by a licensee to any person outside of the ten (10) day period referenced in paragraph (a) of this subsection, the licensee shall not be required to limit the loan charges to the aggregate amount of what the loans combined would dictate under this subtitle.
- (12) A licensee shall not directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if the lender were not a licensee:
- (a) Upon any loan in the amount or of the value of more than fifteen thousand dollars (\$15,000), excluding charges; or
  - (b) 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), excluding charges.

**Effective:** June 29, 2023

**History:** Amended 2023 Ky. Acts ch. 123, sec. 1, effective June 29, 2023. -- Amended 2014 Ky. Acts ch. 13, sec. 1, effective July 15, 2014. -- 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.