

Chapter 19.52 RCW
INTEREST—USURY

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Interest

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RCW 19.52.005 Declaration of policy. RCW 19.52.005, 19.52.020, 19.52.030, 19.52.032, 19.52.034, and 19.52.036 are enacted in order to protect the residents of this state from debts bearing burdensome interest rates; and in order to better effect the policy of this state to use this state's policies and courts to govern the affairs of our residents and the state; and in recognition of the duty to protect our citizens from oppression generally. [1967 ex.s. c 23 § 2.]

Severability—1967 ex.s. c 23: "If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby." [1967 ex.s. c 23 § 8.]

Savings—1967 ex.s. c 23: "The provisions of this 1967 amendatory act shall not apply to transactions entered into prior to the effective date hereof." [1967 ex.s. c 23 § 9.]

RCW 19.52.010 Rate in absence of agreement—Exception for prejudgment interest—Application to consumer leases. (1) Except as provided in subsection (2) of this section, every loan or forbearance of money, goods, or thing in action shall bear interest at the rate of twelve percent per annum where no different rate is agreed to in writing between the parties: PROVIDED, That with regard to any transaction heretofore or hereafter entered into subject to this section, if an agreement in writing between the parties evidencing such transaction provides for the payment of money at the end of an agreed period of time or in installments over an agreed period of time, then such agreement shall constitute a writing for purposes of this section and satisfy the requirements thereof. The discounting of commercial paper, where the borrower makes himself or herself liable as maker, guarantor, or indorser, shall be considered as a loan for the purposes of this chapter.

(2)(a) Prejudgment interest charged or collected on medical debt, as defined in RCW 19.16.100, must not exceed nine percent.

(b) For any medical debt for which prejudgment interest has accrued or may be accruing as of July 28, 2019, no prejudgment interest in excess of nine percent shall accrue thereafter.

(3) A lease shall not be considered a loan or forbearance for the purposes of this chapter if:

(a) It constitutes a "consumer lease" as defined in RCW 63.10.020;

(b) It constitutes a lease-purchase agreement under chapter 63.19 RCW; or

(c) It would constitute such "consumer lease" but for the fact that:

(i) The lessee was not a natural person;

(ii) The lease was not primarily for personal, family, or household purposes; or

(iii) The total contractual obligation exceeded twenty-five thousand dollars. [2019 c 227 § 5; 2011 c 336 § 542; 1992 c 134 § 13. Prior: 1983 c 309 § 1; 1983 c 158 § 6; 1981 c 80 § 1; 1899 c 80 § 1; RRS § 7299; prior: 1895 c 136 § 1; 1893 c 20 § 1; Code 1881 § 2368; 1863 p 433 § 1; 1854 p 380 § 1.]

Short title—1992 c 134: See RCW 63.19.900.

RCW 19.52.020 Highest rate permissible—Setup charges. (1) Except as provided in subsection (4) of this section, any rate of interest shall be legal so long as the rate of interest does not exceed the higher of: (a) Twelve percent per annum; or (b) four

percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the later of (i) the establishment of the interest rate by written agreement of the parties to the contract, or (ii) any adjustment in the interest rate in the case of a written agreement permitting an adjustment in the interest rate. No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater interest for the loan or forbearance of any money, goods, or things in action.

(2) (a) In any loan of money in which the funds advanced do not exceed the sum of five hundred dollars, a setup charge may be charged and collected by the lender, and such setup charge shall not be considered interest hereunder.

(b) The setup charge shall not exceed four percent of the amount of funds advanced, or fifteen dollars, whichever is the lesser, except that on loans of under one hundred dollars a minimum not exceeding four dollars may be so charged.

(3) Any loan made pursuant to a commitment to lend at an interest rate permitted at the time the commitment is made shall not be usurious. Credit extended pursuant to an open-end credit agreement upon which interest is computed on the basis of a balance or balances outstanding during a billing cycle shall not be usurious if on any one day during the billing cycle the rate at which interest is charged for the billing cycle is not usurious.

(4) (a) Prejudgment interest charged or collected on medical debt, as defined in RCW 19.16.100, must not exceed nine percent.

(b) For any medical debt for which prejudgment interest has accrued or may be accruing as of July 28, 2019, no prejudgment interest in excess of nine percent shall accrue thereafter. [2019 c 227 § 6; 1989 c 14 § 3; 1985 c 224 § 1; 1981 c 78 § 1; 1967 ex.s. c 23 § 4; 1899 c 80 § 2; RRS § 7300. Prior: 1895 c 136 § 2; 1893 c 20 § 3; Code 1881 § 2369; 1863 p 433 § 2; 1854 p 380 § 2.]

Effective date—1985 c 224: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 224 § 2.]

Severability—1981 c 78: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 78 § 7.]

Severability—Savings—1967 ex.s. c 23: See notes following RCW 19.52.005.

Interest on judgments: RCW 4.56.110.

RCW 19.52.025 Computation of rates—Publication in the Washington State Register. Each month the state treasurer shall compute the highest rate of interest permissible under RCW 19.52.020(1), and the rate of interest required by RCW 4.56.110(3) and 4.56.115, for the succeeding calendar month. The treasurer shall file

these rates with the state code reviser for publication in the next available issue of the Washington State Register in compliance with RCW 34.08.020(8). [2004 c 185 § 4; 1986 c 60 § 1.]

RCW 19.52.030 Usury—Penalty upon suit on contract—Costs and attorneys' fees. (1) If a greater rate of interest than is allowed by statute shall be contracted for or received or reserved, the contract shall be usurious, but shall not, therefore, be void. If in any action on such contract proof be made that greater rate of interest has been directly or indirectly contracted for or taken or reserved, the creditor shall only be entitled to the principal, less the amount of interest accruing thereon at the rate contracted for; and if interest shall have been paid, the creditor shall only be entitled to the principal less twice the amount of the interest paid, and less the amount of all accrued and unpaid interest; and the debtor shall be entitled to costs and reasonable attorneys' fees plus the amount by which the amount the debtor has paid under the contract exceeds the amount to which the creditor is entitled: PROVIDED, That the debtor may not commence an action on the contract to apply the provisions of this section if a loan or forbearance is made to a corporation engaged in a trade or business for the purposes of carrying on said trade or business unless there is also, in connection with such loan or forbearance, the creation of liability on the part of a natural person or that person's property for an amount in excess of the principal plus interest allowed pursuant to RCW 19.52.020. The reduction in principal shall be applied to diminish pro rata each future installment of principal payable under the terms of the contract.

(2) The acts and dealings of an agent in loaning money shall bind the principal, and in all cases where there is usurious interest contracted for by the transaction of any agent the principal shall be held thereby to the same extent as though the principal had acted in person. Where the same person acts as agent of the borrower and lender, that person shall be deemed the agent of the lender for the purposes of this chapter. If the agent of both the borrower and lender, or of the lender only, transacts a usurious loan for a commission or fee, such agent shall be liable to the principal for the amount of the commission or fee received or reserved by the agent, and liable to the lender for the loss suffered by the lender as a result of the application of this chapter. [1989 c 14 § 7; 1967 ex.s. c 23 § 5; 1899 c 80 § 7; RRS § 7304. Prior: 1895 c 136 § 5; 1893 c 20 § 3. Formerly RCW 19.52.030 through 19.52.050.]

Severability—Savings—1967 ex.s. c 23: See notes following RCW 19.52.005.

RCW 19.52.032 Declaratory judgment action to establish usury—Time limitations for commencing. The debtor, if a natural person, or the creditor may bring an action for declaratory judgment to establish whether a loan or forbearance contract is or was usurious, and such an action shall be considered an action on the contract for the purposes of applying the provisions of RCW 19.52.030. Such an action shall be brought against the current creditor or debtor on the contract or, if the loan or debt has been fully repaid, by the debtor against the creditor to whom the debtor was last indebted on the contract. No such

an action shall be commenced after six months following the date the final payment becomes due, whether by acceleration or otherwise, nor after six months following the date the principal is fully paid, whichever first occurs. If the debtor commences such an action and fails to establish usury, and if the court finds the action was frivolously commenced, the defendant or defendants may, in the court's discretion, recover reasonable attorney's fees from the debtor. [1967 ex.s. c 23 § 6.]

Severability—Savings—1967 ex.s. c 23: See notes following RCW 19.52.005.

RCW 19.52.034 Application of chapter 19.52 RCW to loan or forbearance made outside state. Whenever a loan or forbearance is made outside Washington state to a person then residing in this state the usury laws found in chapter 19.52 RCW, as now or hereafter amended, shall be applicable in all courts of this state to the same extent such usury laws would be applicable if the loan or forbearance was made in this state. [1967 ex.s. c 23 § 3.]

Severability—Savings—1967 ex.s. c 23: See notes following RCW 19.52.005.

RCW 19.52.036 Application of consumer protection act. Entering into or transacting a usurious contract is hereby declared to be an unfair act or practice in the conduct of commerce for the purpose of the application of the consumer protection act found in chapter 19.86 RCW. [1967 ex.s. c 23 § 7.]

Severability—Savings—1967 ex.s. c 23: See notes following RCW 19.52.005.

RCW 19.52.060 Interest on charges in excess of published rates. Any corporation, partnership or individual who furnishes the public any goods, wares, merchandise, pledge, security, insurance or transportation of which the price, rate or tariff is by law required to be published, shall, when any price, rate or tariff is charged in excess of the existing and established price, rate or tariff, refund to the person, partnership or corporation so overcharge, or to the assignee of such claim, the amount of such overcharge, and on failure so to do, the claim for such overcharge shall bear interest at the rate of eight percent per annum until paid. [1907 c 187 § 1; RRS § 5841.]

RCW 19.52.080 Defense of usury or maintaining action thereon prohibited if transaction primarily agricultural, commercial, investment, or business—Exception. Profit and nonprofit corporations, Massachusetts trusts, associations, trusts, general partnerships, joint ventures, limited partnerships, and governments and governmental subdivisions, agencies, or instrumentalities may not plead the defense of usury nor maintain any action thereon or therefor, and persons may not plead the defense of usury nor maintain

any action thereon or therefor if the transaction was primarily for agricultural, commercial, investment, or business purposes: PROVIDED, HOWEVER, That this section shall not apply to a consumer transaction of any amount.

Consumer transactions, as used in this section, shall mean transactions primarily for personal, family, or household purposes. [1981 c 78 § 2; 1975 1st ex.s. c 180 § 1; 1970 ex.s. c 97 § 2; 1969 ex.s. c 142 § 1.]

Severability—1981 c 78: See note following RCW 19.52.020.

RCW 19.52.090 Defense of usury or maintaining action thereon prohibited for certain types of transactions after May 1, 1980, and prior to March 1, 1981. No person may plead the defense of usury or maintain any action thereon or therefor for the interest charged on the unpaid balance of a contract for the sale and purchase of personal property which was not purchased primarily for personal, family or household use or real property if the purchase was made after May 1, 1980 and prior to March 1, 1981. [1981 c 78 § 9.]

Severability—1981 c 78: See note following RCW 19.52.020.

RCW 19.52.100 Chapter not applicable to retail installment transactions. This chapter shall not apply to a retail installment transaction, as defined by RCW 63.14.010, whether or not it is construed to be a loan or forbearance of any money, goods, or things in action. [1981 c 78 § 3.]

Severability—1981 c 78: See note following RCW 19.52.020.

RCW 19.52.110 Limitations in chapter not applicable to interest charged by broker-dealers—When. The interest charged by any broker-dealer registered under chapter 21.20 RCW and under the federal securities and exchange act of 1934, as amended, shall not be subject to the limitations imposed by this chapter if the underlying loans (1) may be paid in full at the option of the borrower and (2) are subject to the credit regulations of the board of governors of the federal reserve system, or its successor. [1981 c 79 § 1.]

RCW 19.52.120 Sales contract providing for deferred payment of purchase price not subject to chapter. A sales contract for goods or services providing for the deferred payment of the purchase price shall not be subject to this chapter, regardless of who seeks to enforce the contract, notwithstanding the existence or occurrence of any one or more of the following events:

(1) That the seller may have arranged to sell, pledge, indorse, negotiate, assign, or transfer the obligations thereof to any person, including a financing organization, prior to or subsequent to or concurrently with the making of the sales transaction;

(2) That the amount of the finance charge, however denominated, is determined by reference to charts, computations or information supplied by such person;

(3) That the form or forms of instruments used to evidence the sales transaction have been supplied or prepared by such person;

(4) That the credit standing of the purchaser is or may have been evaluated by such person;

(5) That the sales transaction and the execution of any instrument evidencing the same is negotiated in the presence or with the assistance of a representative of such person;

(6) That the instrument or instruments used to evidence the sales transaction are pledged, indorsed, negotiated, assigned, or transferred by the seller to such person;

(7) That there is an underlying agreement between the seller and such person concerning the pledging, indorsing, negotiation, assigning, or transferring of sales contracts; or

(8) That the financing organization or its affiliates also provide franchising, financing, or other services to the seller-assignor. [1981 c 77 § 7.]

Application, saving—1981 c 77: See RCW 63.14.903.

RCW 19.52.130 Charge made by assignee of retail installment contract or charge agreement to seller-assignor not limited by chapter—No agreement between credit card issuing bank and retailer shall prohibit discounts for cash payment. (1) Nothing contained in this

chapter shall be deemed to limit any charge made by an assignee of a retail installment contract or charge agreement to the seller-assignor upon the sale, transfer, assignment, or discount of the contract or agreement, notwithstanding retention by the assignee of recourse rights and notwithstanding duties retained by the assignee to service delinquencies, perform service or warranty agreements regarding the property which is the subject matter of the assigned or discounted contracts or charge agreements, or to do or perform any other duty with respect to the account or contract assigned or the subject matter of such account or contract.

(2) No agreement between a credit card issuing bank and retailer shall prohibit the retailer from granting general discounts for the payment of cash, not in excess of the percentage allowed by Regulation Z, the Federal Truth in Lending Act. [1981 c 77 § 8.]

Application, saving—1981 c 77: See RCW 63.14.903.

RCW 19.52.140 Chapter not applicable to interest, penalties, or costs on delinquent property taxes. This chapter does not apply in respect to interest, penalties, or costs imposed on delinquent property taxes under chapter 84.64 RCW. [1981 c 322 § 8.]

RCW 19.52.160 Chapter not applicable to mobile homes. This chapter shall not apply to the financing of mobile homes which meets the definition of real property contained in RCW 84.04.090, and which financing is insured by a federal instrumentality. [1985 c 395 § 6.]

RCW 19.52.170 Chapter not applicable to certain loans from tax-qualified retirement plan. This chapter does not apply to any loan

permitted under applicable federal law and regulations from a tax-qualified retirement plan to a person then a participant or a beneficiary under the plan.

This section affects loans being made, negotiated, renegotiated, extended, renewed, or revised on or after April 20, 1989. [1989 c 138 § 1.]

RCW 19.52.900 Application—Construction—1981 c 78. Chapter 78, Laws of 1981 shall apply only to loans or forbearances or transactions which are entered into after May 8, 1981, or to existing loans or forbearances, contracts or agreements which were not primarily for personal, family, or household use to which there is an addition to the principal amount of the credit outstanding after May 8, 1981: PROVIDED, HOWEVER, That nothing in chapter 78, Laws of 1981 shall be construed as implying that agricultural or investment purposes are not already included within the meaning of "commercial or business purposes" as used in RCW 19.52.080 as in effect prior to May 8, 1981. [1989 c 8 § 2; 1981 c 78 § 10.]

Severability—1981 c 78: See note following RCW 19.52.020.