Chapter 82

1993 EDITION

Interest; Repayment Restrictions; Dishonored Check Fee

INTEREST

82.010 Legal rate of interest

82.020 Computation of interest; charges not included

82.025 Exemptions from application of ORS 82.010 (3) and (4) and 82.020

REPAYMENT RESTRICTIONS

82.150 Definitions for ORS 82.160 and 82.170

82.160 Notice to borrower of penalty for repayment prior to date for repayment in loan agreement

82.170 Notice to borrower of lender authority to refuse to accept repayment prior to date for repayment in loan agreement

DISHONORED CHECK FEE

82.300 Dishonored check fee

CROSS REFERENCES

Banks, interest rates on loans, 708.480

Consumer finance loans, interest rates, 725.340

County orders, interest, 208.020

Credit unions, interest rates on loans, 723.502

Debt consolidators, fees limited, 697.692

Motor vehicle retail installment contracts, finance charge, 83.560, 83.565

Pawnbrokers, interest rates, 726.390

Redemption by lien creditor, interest payable, 23.540

Redemption by mortgagor, judgment debtor or successors, interest payable, 23.560

Redemption from redemptioner, interest payable, 23.550

Retail installment contracts, service charges, 83.090, 83.100

Small loans, interest rates, 725.340

INTEREST

82.005 [1979 c 655 §2; repealed by 1981 c.412 §24]

82.010 Legal rate of interest. (1) The rate of interest for the following transactions, if the parties have not otherwise agreed to a rate of interest, is nine percent per annum and is payable on:

(a) All moneys after they become due; but open accounts bear interest from the date of the last item thereof.

(b) Money received to the use of another and retained beyond a reasonable time without the owner's express or implied consent.

(c) Money due or to become due where there is a contract to pay interest and no rate specified.

(2) Except as provided in this subsection, the rate of interest on judgments for the payment of money is nine percent per annum. The following apply as described:

(a) Interest on a judgment under this subsection accrues from the date of the entry of the judgment unless the judgment specifies another date.

(b) Interest on a judgment under this subsection is simple interest, unless otherwise provided by contract.

(c) Interest accruing from the date of the entry of a judgment shall also accrue on interest that accrued before the date of entry of a judgment.

(d) Interest under this subsection shall also accrue on attorney fees and costs entered as part of the judgment.

(e) A judgment on a contract bearing more than nine percent interest shall bear interest at the same rate provided in the contract as of the date of entry of the judgment.

(3) Except as provided in ORS 82.025, no person shall:

(a) Make a business or agricultural loan of $50,000 or less at an annual rate of interest exceeding the greater of 12 percent, or five percent in excess of the discount rate, including any surcharge on the discount rate, on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district where the person making the loan is located, on the date the loan or the initial advance of funds under the loan is made; or

(b) Make a loan of $50,000 or less, except a loan made under paragraph (a) of this subsection, at an annual rate of interest exceeding the greater of 12 percent, or five percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district where the person making the loan is located, on the date the loan or the initial advance of funds under the loan is made.

(4) Any person who violates subsection (3) of this section shall forfeit the right to collect or receive any interest upon any loan for which a greater rate of interest or consideration than is permitted by subsection (3) of this section has been charged, contracted for or received. The borrower upon such loan shall be required to repay only the principal amount borrowed. [Amended by 1959 c.365 §a; 1973 c.198 §1; 1975 c.61 §1; 1977 c.791 §1; 1979 c.655 §1; 1979 c.794 §1; 1981 c.412 §1; 1987 c.215 §18; 1987 c.873 §26]

82.020 Computation of interest; charges not included. (1) If, pursuant to any arrangement, understanding or agreement, with the knowledge of the lender, either as a part of the contract of borrowing or collateral thereto, regardless of when made and whether it is made as a special arrangement or in conformity to a regular rule, regulation or practice, there is paid by or at the expense of the borrower to the lender, or the lender's broker, officer, director or agent, with respect to or in connection with any loan to which ORS 82.010 applies, any commission, bonus, fee, premium, penalty or other charge, compensation or gratuity, whether in money, credit or other thing of value, as a consideration, compensation or inducement for obtaining any such loan, or any renewal, extension of forbearance thereof, the same shall be deemed a part of the interest charged on such loan.

(2) In computing interest for the purposes of ORS 82.010, any bona fide commission paid or sustained by the borrower shall be computed for the contract term and not for any accelerated period or prepayment.

(3) Notwithstanding subsection (1) of this section, the following charges shall not be deemed a part of the interest charged on a loan:

(a) Reasonable amounts actually applied in payment of the expense of inspecting any security offered in connection with the loan, investigating the responsibility of the applicant or procuring or extending any abstract of title or certificate of title insurance covering such security;

(b) The amount actually paid for the examination of any such abstract of title or certificate of insurance; or

(c) The cost of the preparation, execution and recording of any papers necessary in consummating such loan. [1987 c.215 §20]

82.025 Exemptions from application of ORS 82.010 (3) and (4) and 82.020. ORS 82.010 (3) and (4) and 82.020 do not apply to:

(1) Any bank, national bank, state or federally chartered mutual savings bank, state or federally chartered savings and loan association, state or federally chartered credit union, consumer finance licensees under ORS chapter 725, or pawnbrokers licensed under ORS chapter 726.

(2) Any lender approved by the Secretary of Housing and Urban Development of the United States for participation in any mortgage insurance program under the National Housing Act (12 U.S.C. 1701 et seq.).

(3) Any loan secured by a first lien on real property or made to finance the acquisition of real property and secured by any lien on that property.

(4) Any loan which is secured by real property, which is scheduled under the loan agreement to be repaid in substantially equal payments and which is made by a lender described in this subsection. A lender under this subsection is one who makes, invests in or arranges real property loans, including loans secured by first liens on residential manufactured homes, aggregating more than $1 million per year. Under this subsection, payments shall be "substantially equal" if, under the terms of the loan agreement, no single scheduled payment is more than twice the amount of any other scheduled payment.

(5) Any loan wholly or partially secured or covered by guarantees or insurance by the Federal Housing Administration, the United States Department of Veterans' Affairs or the Farmers Home Administration of the United States, any department, bureau, board, commission or agency of the United States, or any corporation wholly owned, directly or indirectly by the United States.

(6) Any loan permitted under applicable federal law and regulations from a tax qualified retirement plan to a person then a participant under the plan.

(7) Any bona fide sale or resale of securities or commercial paper.

(8) Any interest charge by broker-dealers registered under the Securities Exchange Act of 1934 for carrying a debit balance in an account for a customer if the debit balance is payable on demand and secured by stocks or bonds. [1987 c.215 §21; 1991 c 67 §13]

82.110 [Repealed by 1981 c.412 §24]

82.115 [1975 c.625 §2, 1977 c 791 §2; repealed by 1981 c.412 §24]

82.117 [1979 c 638 §2; repealed by 1981 c.412 §24]

82.120 [Amended by 1975 c.321 §1, 1979 c.284 §90, repealed by 1981 c.412 §24]

82.125 [1971 c.214 §2; repealed by 1981 c.412 §24]

82.130 [Repealed by 1981 c.412 §24]

82.140 [Repealed by 1981 c.412 §24]

REPAYMENT RESTRICTIONS

82.150 Definitions for ORS 82.160 and 82.170. As used in ORS 82.160 and 82.170:

(1) "Loan" means a loan of money that is primarily for personal, family or household use made by a person who is regularly engaged in the business of lending money.

(2) "Loan agreement" means the written document issued in connection with a loan that sets forth the terms upon which the loan is made. [1973 c.611 §3; 1987 c.716 §1]

82.160 Notice to borrower of penalty for repayment prior to date for repayment in loan agreement. (1) If a loan agreement provides for a penalty to be charged for repaying the loan prior to the date provided for repayment in the loan agreement, the loan agreement shall contain in printing or writing of a size equal to at least 10-point bold or underlined type substantially the following notice:

NOTICE TO THE BORROWER

Do not sign this loan agreement before you read it. This loan agreement provides for the payment of a penalty if you wish to repay the loan prior to the date provided for repayment in the loan agreement.

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(2) If a loan agreement does not contain a notice as required by subsection (1) of this section, a lender shall not collect from the borrower a penalty for payment of the loan prior to the date provided for repayment. [1973 c.611 §1; 1985 c.359 §1]

82.170 Notice to borrower of lender authority to refuse to accept repayment prior to date for repayment in loan agreement. (1) If a loan agreement authorizes the lender to refuse to accept repayment of the loan prior to the date provided for repayment in the loan agreement, the loan agreement shall contain in printing or writing of a size equal to at least 10-point bold or underlined type substantially the following notice:

NOTICE TO THE BORROWER

Do not sign this loan agreement before you read it. This loan agreement authorizes the lender to refuse to accept repayment of the loan prior to the date provided for repayment in the loan agreement.

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(2) If a loan agreement does not contain a notice as required by subsection (1) of this section, a lender shall not refuse to accept

repayment of the loan by the borrower prior to the date provided for repayment. [1973 c 611 §2, 1985 c 359 §2]

DISHONORED CHECK FEE

82.300 Dishonored check fee. (1) When a check, draft or order for the payment of money is dishonored for lack of funds or credit to pay the check, draft or order, or because the maker has no account with the drawee, the payee, holder or assignee of the check, draft or order may collect from the maker a reasonable fee representing the cost of handling and collecting on the check, draft or order. The total fee for any single check, draft or order shall not exceed $25.

(2) The fee under subsection (1) of this section may not be charged in addition to damages or other costs in any judgment against the maker of the check, draft or order under ORS 30 700 [1989 c 578 §1]