

CHAPTER 47-14 LOANS OF MONEY

47-14-01. Loan of money defined.

A loan of money is a contract by which one delivers a sum of money to another and the latter agrees to return at a future time a sum equivalent to that which the person borrowed. A loan for mere use is governed by chapter 47-12.

47-14-02. Repayment in current funds.

A borrower of money must pay the amount due in such money as is current at the time when the loan becomes due, whether such money is worth more or less than the actual money lent.

47-14-03. Loan presumes interest.

Whenever a loan of money is made, it is presumed to be made upon interest unless it is expressly stipulated otherwise in writing at the time it is made.

47-14-04. Interest defined.

Interest is the compensation allowed for the use, or forbearance, or detention of money, or its equivalent.

47-14-05. Legal rate of interest - Interest after maturity.

Interest for any legal indebtedness must be at the rate of six percent per annum unless a different rate not to exceed the rate specified in section 47-14-09 is contracted for in writing. All contracts must bear the same rate of interest after maturity as they bear before maturity, and any contract attempting to make the rate of interest higher after maturity is void as to the increase of interest, except for a charge for late payment penalty charged in addition to interest which may not exceed fifteen dollars or fifteen percent of the late payment, whichever is less, unless otherwise agreed to in any commercial, agricultural, or real estate note or mortgage.

47-14-06. Annual rate when not specified.

When a rate of interest is prescribed by a law or contract without specifying the period of time by which such rate is to be calculated, it shall be deemed an annual rate.

47-14-07. Interest rate - Before and after breach.

Any legal rate of interest stipulated by a contract remains chargeable after a breach thereof, as before, until the contract is superseded by a verdict or other new obligation.

47-14-08. Interest on loans may be deducted in advance - Limitation.

The interest which would become due at the end of the term for which a loan is made, not exceeding one year's interest in all, may be deducted from the loan in advance if the parties thus agree.

47-14-09. Usury - Definition - Maximum contract rate - Prohibition - Exclusions.

1. Except as otherwise provided by the laws of this state, a person, either directly or indirectly, may not take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than five and one-half percent per annum higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months in effect for North Dakota for the six months immediately preceding the month in which the transaction occurs, as computed and declared on the last day of each month by the state banking commissioner, but that in any event the maximum allowable interest rate ceiling may not be less than seven percent, and in the computation of interest the same may not be compounded; provided, however, that a minimum interest charge of

fifteen dollars may be made. A contract may not provide for the payment of interest on interest overdue, but this section does not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section is deemed usury.

2. This section does not apply to a:
 - a. Bona fide pawnbroking transaction in an amount not exceeding one thousand dollars which is made by a bona fide pawnbroking business transacted under a pawnbroker's license;
 - b. Loan made to a foreign or domestic corporation, foreign or domestic limited liability company, cooperative corporation or association, or trust;
 - c. Loan made to a partnership, limited partnership, or association that files a state or federal partnership income tax return;
 - d. Loan or forbearance of money, goods, or things in action the principal amount of which amounts to more than thirty-five thousand dollars; and
 - e. Loan made by a lending institution which is regulated or funded by an agency of a state or of the federal government.
3. Notwithstanding the interest rate limit set under this section, state-chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in this state.
4. As used in this section, "bona fide pawnbroking transaction" means a transaction with a licensed pawnbroker which includes both possession and a pledge of tangible personal property.

47-14-10. Civil liability for usury - Forfeiture of interest.

The taking, receiving, reserving, or charging of a rate of interest greater than is allowed by the laws of this state relative to usury shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it or which has been agreed to be paid thereon, and in addition thereto, a forfeiture of twenty-five percent of the principal thereof. In case the greater rate of interest has been paid, the person by whom it has been paid, or that person's legal representative may:

1. Recover back twice the amount of interest thus paid, together with twenty-five percent of the principal from the person taking or receiving the same, but an action must be commenced for such purpose within four years after the time when the usurious transaction occurred; or
2. Offset twice the amount of such interest against any indebtedness which the person who paid the same owes to the party or parties receiving such usurious interest.

47-14-11. Criminal penalty for usury.

Any person who shall take, receive, reserve, or charge a usurious rate of interest, in addition to being liable for the penalties and forfeitures specified in section 47-14-10, shall be guilty of a class B misdemeanor.