A SURVEY OF THE GENERAL USURY LAWS*

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Early History

Almost since the beginnings of capitalistic society the exacting lender has been regarded with universal opprobrium and antipathy. We find this aversion in the laws of ancient China, in the Hindu Institutes of Manu, in the Koran of Mahomet and among the ancient Greeks and Romans.1 Under the Code of Hammurabi2 the king of Babylon fixed the rate of interest. Among the Athenians usage fixed the rate at 12%, and the profound contempt to which those not conforming were condemned formed a punishment so great that additional punishment was deemed unnecessary. The Romans experimented between no laws against usury and the other extreme of disallowing any interest.3 It is from the Roman law expression for indemnification for loss due to the delay in the interval or interesse before repayment that our modern word “interest” is derived.4

Among the Jews the term “usury” was synonymous with the term “interest,” and meant the taking of any compensation whatever for the use of money. Under the Mosaic law the Jew was prohibited from collecting anything by way of compensation for the lending of money or any other goods to fellow Israelites, although permitted to exact gain from aliens.5 Also the taking of any interest or gain constituted the offense of usury in the early Christian church,6 at common law and under the canonical law of the Church of England. The usurer was not only punished by the censures of the church in his lifetime, but was denied a Christian burial. By the laws of Alfred the Great and Edward the Confessor, if, after death, even, a man was found to have been a usurer,

*This discussion is directed toward various aspects of the general usury laws as distinguished from those of special classes which have, in many jurisdictions, been taken outside the scope and operation of the general usury laws through such legislation as special small loan laws, pawnbroker’s acts, Morris Plan acts, special bank acts, building and loan association laws, and credit union laws. A tabular presentation of certain aspects of the usury statutes is presented in the Chart on pp. 48-53. References are made to this Chart throughout the text without further citation.

2 Code of Hammurabi, §51.
3 Dunham v. Gould, supra note 1, at 377, 379.
5 Deuteronomy XXIII, 19, 20. See also Leviticus XXV, 35-37; Exodus XXII, 25; Psalms XV, 5.
6 Exemplary of the opinion entertained that the taking of interest was a detestable vice, hateful to man and contrary to the laws of God, is the phillippic of St. Basil, a theologian of the early Christian church, quoted in Commonwealth v. Donoghue, 250 Ky. 343, 351, 63 S. W. (2d) 3, 6 (1933).
his goods were forfeited to the crown, and his lands to the lord of the fee.\footnote{See Gray v. Bennett, 3 Mec. 522, 527 (Mass. 1842); Schlesinger v. State, 195 Wis. 366, 372, 218 N. W. 440, 442 (1928).}

In the fifteenth century, church leaders, realizing that the struggling commerce of the times was making additional sources of capital a virtual necessity, advanced the peculiar doctrine that Jews might be allowed to take interest, since they were to be damned in any case, and by giving them a monopoly of the business the souls of Christians might not be lost.\footnote{Marshall v. Beeler, 104 Kan. 32, 36, 178 Pac. 245, 247 (1919).} Under the impact of this realization the Church began to view financial transactions in a more favorable light.\footnote{For a discussion of the devices employed to circumvent the strict prohibition of the Church of England against the taking of any interest see 15 Encyc. Soc. Sciences (1932) 195, 196.} Thus while the Church forbade the charging or taking of interest, it allowed the creditor to collect a fine if the principal sum was not returned at the specified maturity. Soon it became the custom for the parties to insert a penal clause (\textit{poena conventionalis}) and to stipulate a purely nominal loan period in the agreement, after the expiration of which the debtor became at once liable for principal and the penalty. But regardless of this penal clause the Church approved the collection of \textit{damnnum emergens}, damages sustained as the result of the loan; and later the concept \textit{lucrum cessans}, by which the creditor might recover the profit he would have made had he employed the loaned money in some productive enterprise. Still another escape was available by the use of the partnership agreement in conjunction with the insurance contract and the sale of future uncertain profit (\textit{contractus trinus}).

In England the demands of a growing empire soon made necessary the reconciliation, as Francis Bacon expressed it,\footnote{Moral Essays No. 41 (Usury).} of two considerations: “The one, that the tooth of usury be grinded that it bite not too much; the other, that there be left open the means to invite moneyed men to lend for the continuing and quickening of trade.” In 1545, in response to these needs of expanding business and commerce, the statute of Henry VIII\footnote{37 Henry VIII, c. 9.} authorized the taking of lawful interest by an act providing for a 10% maximum because, in the words of the statute, “where divers actes have bene made for the avoyding and punishment of usury; being a thing unlawful, and other corrupt bargaines, shifts, and chevisances, which be so obscure in terms, and so many questions growen upon ye same, and of so little effect, that little punishment, but rather encouragement to offenders that ensued thereby.” However, ten years later this law was repealed by a statute\footnote{5 & 6 Edw. VI, c. 20 (1555).} which prohibited the taking of any interest whatsoever on pain of forfeiting the entire debt. But the need for the extension of the credit system and the employment of capital remained, so in 1570 the repealed statute of Henry VIII was reenacted.\footnote{13 Eliz., c. 8.} Finally in 1714 by the Statute of Usury,\footnote{12 Anne, c. 16.} which was to become the prototype of all such legislation in the United States, the rate was lowered to 5\%, which rate remained the maximum until all English usury laws were abolished in 1854.\footnote{17 & 18 Vict., c. 90. The English Money-Lenders Act, 1900, 63 & 64 Vict., c. 51, provides for...}
Influence of Economists

In spite of the age-old aversion to the charging of high rates of interest, economists in the eighteenth century, foremost among whom were Turgot and Bentham, contested the soundness and practicability of the laws restricting the charging of interest, contending that the laws were mischievous and easily evaded and denying that the arbitrary fixing of maximum rates by the legislature in any way curbed or stabilized the prevailing market rate. Eventually such writings and arguments produced profound effects, influencing the final repeal in England of all laws against usury in 1854. In Denmark they were repealed in 1855; in Spain, in 1856; in Sardinia, Holland, Norway, and Geneva, in 1857; in Saxony and Sweden, in 1864; in Belgium, in 1865; and in Prussia and the North German Confederation, in 1867.

Development in America

In America too the prohibitions against usury showed some signs of being whittled away. In 1850 New York disallowed the defense of usury to corporations, motivated, perhaps, by the feeling that corporations were large monied combinations not needing the protection accorded individuals, and by a general policy of aiding the development of the resources of the country by allowing high rates of interest to attract capital to new ventures. By 1940 fourteen other states (see Chart) have followed suit and entirely deny to corporations the right to plead usury as a defense. The legislation of recent years has in many states brought about rather extensive relaxation of the effect of the general usury laws through the creation of exempted and especially treated classes by such legislation as small loan laws, pawnbroker's acts, Morris Plan acts, special bank acts and credit union laws. Some of the legislation of this type prescribes its own penalties and remedies in case of noncompliance with the statutory provisions, but in many instances the violator of the special statute will be subject to the provisions of the general usury law also.

In 1867 the brilliant speech of Representative Richard H. Dana, Jr., advocating the repeal of the usury laws before the House of Representatives of Massachusetts, was climaxed by the repeal of the general usury law by that commonwealth, never to be readopted. Following the lines of argument presented by Bentham and Turgot, Dana deplored the absurdity of arbitrary legislative attempts to fix the market rate of interest without regard to the duration and amount of the loan, the security given and the other risk factors of various types of loans. In 1880 thirteen states were

The re-opening of transactions of money-lenders where proceedings were brought for enforcement of any agreement or security and where the court finds the interest excessive or the transaction harsh and unconscionable, in which case the court would relieve the person sued from payment of any sum in excess of sum adjudged by the court to be fairly due, allowing a recovery if any such excess paid. The Moneylenders Act, 1927, 17 & 18 Geo. V, c. 21, amended the 1900 act to the effect that any rate in excess of 48% per annum should be presumed to be excessive and unconscionable unless the contrary be shown.

Turgot, Mémoire Sur les Prêts d'Argent (1769); Bentham, Letters in Defense of Usury (1787); see Ryan, Usury and Usury Laws (1924) cc. 6, 7.


without any stipulated maximum. But today in only four states, Massachusetts, Colorado, Maine and New Hampshire (see Chart), may parties contract for any rate stipulated in writing, the latter state being the last to abolish its statutory restrictions, in 1921. Rhode Island, however, might well be classified as a fifth such state since its 30% maximum is too high to have any such deterrent effect as the maximums of the other forty-three states, ranging from 6 to 12% (see Chart).20

Moral v. Legal Usury

Usury is characteristically defined as a loan or forbearance of money or something circulating as money, repayable absolutely with an exaction in excess of interest allowed by law, and made with an unlawful intent.20 The common law in force in America does not prohibit a contract for the payment of interest, where the sum agreed upon is not "unconscionable."21 Therefore, in the absence of statutory restriction there can be no legal usury.22 Such a definition has been criticized23 as ignoring the primary purpose behind every law against usury: the prevention of moral usury, i.e., the taking advantage of the necessitous condition or inexperience of the borrower, as distinguished from merely taking more than the law allows. In those states having legal maximums no distinction is made in the general usury laws between "moral" and "legal" usury, nor, for the most part, as to the different types of consumer loans, yet the statutes are framed upon the assumption that, because of the disparity in the conditions of borrowers and lenders in general, they cannot be considered in pari delicto, and that the indigent debtors are under such moral duress as to take from them the character of particeps criminis.24 While this "legal" usury concept is generally adhered to with reference to the general usury laws, with the exception of several states which have imposed greater penalties for the taking of exorbitant or extortionate rates of interest, there has been an ever increasing tendency toward the individualization of treatment of various types of loans, borrowers and lenders through the adoption of the Uniform Small Loan Law25 and other special legislation of the type already referred to.

But regardless of the arguments urged in opposition to the general usury laws as they now exist either from the business or economic standpoint or as an effective

20 At least five state constitutions prescribe the highest rate that the legislature may stipulate as the maximum contract rate: AZ R. CONST. ART. XIX, §13; CALIF. CONST. AMEND. ART. XX, §2; OKLA. CONST. ART. 14, §2; TENN. CONST. ART. 11, §7; TX. CONST. ART. XVI, §11.
24 Ryan, op. cit. supra note 16 passim.
25 Marshall v. Beeler, supra note 8; McArthur v. Sheneck, 31 Wis. 673, 676; Webber, U sury (1899) §17; cf. 5 OHIO GEN. CODE ANN. (Page, 1938) div. III, c. r, §8307.
26 See Hubachek, infra p. 108.
deterrent of "moral" usury, such legislation has tended to lower the maximum rate allowable by contract. However, as indicated, many types of loans formerly within the operation of the general usury law, have been withdrawn and put in special classes wherein much higher rates are allowed. The repugnance against the taking of "legal" usury is still widespread and the attitude of one Kentucky court is shared by many jurisdictions: "We think a better comparison or analogy is to look upon the offense (of usury) and the law as fraud, deceit, cheating and kindred wrongs are viewed." Many courts, if not the economists, still feel that the debtor is held in financial peonage and that general usury laws are necessary to protect him from the greed of the oppressive lender and still think of the creditor who willfully attempts to take more than the law allows as a Shylock exacting his pound of flesh.

**Nature of Defense**

Though 44 states have general usury laws for the protection of the borrower, it is generally held that, the defense being entirely for his benefit, the debtor must bear the onus of specially pleading and proving usury, and may waive such a defense. The protection of the usury statutes has been held waivable even in states which declare that usury renders the transaction entirely void, thereby, in effect, making the transaction voidable at the option of the debtor rather than strictly void. Also it is held that the borrower by his action and representations may be estopped to set up the defense of usury. Though the plea of usury is generally held to be personal to the borrower or his legal representative, several states have statutes which make this plea available to any person having a legal or equitable interest in the estate or assets of the borrower, the debtor's accommodation endorser, guarantor, or surety, any junior mortgagee or lien holder or by the vendee or grantee of any property involved in, pledged or mortgaged as security for the alleged usurious loan.

**Footnotes**

2 Commonwealth v. Donoghue, supra note 6, at 358, 63 S. W. (2d) at 9.
2 Note (1932) 17 Iowa L. Rev. 402.
It is generally held that there need not necessarily be an actual intent to violate an existing law to constitute the requisite corrupt intent for the offense of usury,
but, by the decided weight of authority, an intention on the part of the lender alone against whom the usury acts are aimed, to exact an amount in excess of that sanctioned by law, will taint the contract with usury, in which case the law will conclusively presume that the creditor intended the consequences of his own act and a violation of the usury law.  In most jurisdictions the borrower is considered as acting under a sort of duress which renders his agreement involuntary and the fact of his knowledge immaterial. Actually, this is the equivalent of the recognition that the statute, having been enacted for the debtor’s protection and benefit, his intent or knowledge has been rendered non-essential. However, New York courts have construed their usury statute as necessitating the unlawful intent of both the lender and the borrower.

This corrupt or unlawful intent on the part of the lender must exist at the inception of the contract. The fact that the lending creditor subsequent to the execution of the contract wrongfully demanded or actually took or received more than the legal rate of interest does not contravene the statute and render the contract usurious if the agreement at its inception was free from usury, because, it is reasoned, the borrower, once he has entered the contract of loan or forbearance, is not thereafter acting under the compulsion of pressing necessity, and any subsequent act is done or agreement is made of his own free will.

Though the statutory penalties are imposed against the lender for the mere charging and agreeing to take, as well as the actual taking or receipt of usurious interest, the parties may purge or disinfect a contract infected with the taint of usury, if the tainted obligation, with the borrower’s knowledge and consent, is cancelled and annulled and a new obligation is executed free from all infection, being supported solely by the moral obligation of the borrower to pay the money actually received with legal interest.

Where it has been found that an excessive rate has been stipulated or agreed upon

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83 Miller v. Life Ins. Co. of Va., 118 N. C. 612, 24 S. E. 484 (1896).
through mistake, by inadvertence or some clerical error, the statutory penalties are generally not enforced.87

Where an agent negotiating a loan is acting in behalf of the borrower or if the agent, though acting for the lender, has limited authority and his acts are not consented to or ratified by the lender, any compensation paid to the agent cannot be regarded as a part of the interest charged or collected by the lender.88 If an agent charges more than allowed by the statutory maximum by way of excessive commissions or bonuses, and such acts are authorized or ratified by the lender through acceptance of the benefits of the contract with knowledge of such acts, the contract is thereby tainted with usury, even though the agent alone gets the benefit of the commissions and bonuses.89 The statutes of several states provide absolutely that in all cases where there is illegal interest contracted for by the transaction of any agent the principal shall be held thereby to the same extent as though he had acted in person.40

**Status of Holder in Due Course**

There is some confusion among the jurisdictions as to the effect of the defense of usury upon a holder in due course of negotiable paper. In addition to the consideration that such a defense might deter the use of negotiable instruments, it would seem that the reasons for allowing the plea of usury as against the party originally exacting the usury are absent in the case of a bona fide purchaser of the evidence of an indebtedness without notice of the taint of usury prior to the purchase thereof. Perhaps with these considerations in mind, 13 states by express statute (see Chart) have denied the defense as against a holder in due course of negotiable paper, in many instances allowing the maker of the note to be made whole by a recovery of the amount paid to such a holder from the exacting lender. In other states, in the absence of statute, the same protection is given the bona fide purchaser in due course by holding the borrower estopped to assert usury against such a party.41 However, in several states, where usury is said to render the contract void, it is reasoned that the contract is a nullity ab initio, and hence its transfer cannot give it any vitality and the defense is available even as against a holder in due course.42 This result has

been reached notwithstanding the Negotiable Instrument Law which is said not to impliedly repeal the usury law. At the other extreme, several states provide by statutes (see Chart) that a bona fide assignee of an evidence of indebtedness may recover the full amount paid therefor from the maker thereof, regardless of his status as a holder in due course of negotiable paper.

**Penalties and Evasion**

The statutory penalties imposed for usury vary in severity from state to state and, in many instances, bear witness to the heinousness with which the particular state regards the offense. In the colonial period the statutory penalty for usury was generally much more severe than now. It was a forfeiture of the contract in all the laws before 1767 and of two or three times the principal in some of the southern colonies, in addition to stringent criminal penalties. Today civil penalties run all the way from the forfeiture of excess interest contracted for over the maximum rate allowable, forfeiture of all interest contracted for in almost one half of the states, forfeiture of double and treble the contracted-for rate in a few jurisdictions to forfeiture of the entire principal and interest in seven states. (See Chart) Several states impose one penalty for taking or charging "legal" usury, and a greater penalty for contracting for a stipulated "extortionate" rate of interest or for an excessive rate on certain types of loans. (See Chart) About one third of the jurisdictions also impose some type of criminal penalty. (See Chart)

There have been several instances where, though there was no criminal penalty imposed by the general usury statutes, the court was sufficiently shocked that it improvised a device whereby criminal punishment might be meted out for long-continued flagrant violations of the general usury laws. One such case was a Kentucky one wherein the defendant was charged with the practice of loaning money at interest rates varying from 240% to 360% per annum. The court upheld an indictment charging criminal conspiracy on the ground that it set forth "a nefarious plan for the habitual exaction of gross usury, that is, in essence, the operation of the business of extortion." In New Jersey, under similar circumstances, lenders have

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43. Survey of Usury Laws

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44. Note 43.

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48. Note 47.
been convicted of the crime of keeping a disorderly house for the habitual taking of usurious interest on the ground that "any place of public resort in which illegal practices are habitually carried on is a disorderly house." Also there have been several instances where the courts have granted injunctions on behalf of the state to check flagrant violations of the usury law as public nuisances. In one such case the remedy at law was deemed inadequate as to the debtor, since the borrowing employee was, in effect, rendered helpless because of his fear of being discharged, if his wages, assigned to the lender as security, were subjected to garnishment.

The penalties for infractions of the usury laws fall short of discouraging resolute violators. Generally the statutory maximums of the general usury laws are too low, especially in the field of small loans, with its high carrying charges, overhead and risk of loss, to give a fair rate of return to the lender. In the absence of an adequate small loan law the result has been to drive the legitimate lender out of business and leave the field wide open to the loan shark who, because he must of necessity operate illegally and run the risk of detection and the consequent losses, exacts exorbitant charges from necessitous borrowers who are either ignorant of their rights or in no position to enforce them. The willingness of the borrower to promise all that may be demanded of him in order to obtain temporary relief from financial embarrassment has resulted in numerous devices to evade the general usury laws, though the courts profess to look beyond the mere form of a transaction to its substance. These include: excessive commissions, bonuses, brokerage fees, procuring fees, attorneys fees, services charges, pretended sales, contingent interest, compound interest, and interest taken in advance. Determined violators have often successfully evaded the general usury laws though the laws of most jurisdictions stipulate that the maximum shall not be exceeded "directly or indirectly" and those of a few states explicitly set forth the amounts that may be charged for such fees and charges.

A few states have allowed the lender by agreement to take interest in advance of a period stipulated by statute, usually not exceeding one year, though by the taking of such interest in advance more than the maximum contract rate of interest is 'in fact taken.' There is much diversity among the other states, a majority holding that interest may be taken in advance at the maximum rate. Where the interest taken in advance does not aggregate more than the legal rate, it is held that there is no

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48 State ex rel. Smith v. McMahon, supra note 47.

49 GALLERT, HILBORN AND MAY, SMALL LOAN LEGISLATION (1932) 53; Ryan, op. cit. supra note 16, at 15.


agreement usurious. It is stated that the debtor could relieve himself of liability by
above the legal interest depends on a contingency and not on the happening of a
to thereafter draw interest on the whole amount
pound interest is made at the inception of the loan contract, in which case it is held
to render the contract usurious, or subsequent thereto, in which case extension of
compounded. Some distinction is made between whether the agreement to pay com-
usury.

Lordi Mansfield observed in Floyer v. Edwards, I Cowp. 112
WILLISTON, Cal.
Dermott v. Carter, 39 (1935);
is not usury but an unenforceable
allowable maximum. This excess amount has often been treated as an exaction which
if the provision were carried out, the lender would receive interest exceeding the
the payment of principal and interest in the event
default,
Sidered as interest, but rather a means for promoting punctual payment and averting
delaying the interest first; yet this is not usury.”

By the weight of authority a provision giving the lender an option to accelerate
the payment of principal and interest in the event of the borrower’s default in payment
as the amounts become due does not taint a contract with usury, even though,
if the provision were carried out, the lender would receive interest exceeding the
allowable maximum. This excess amount has often been treated as an exaction which
is not usury but an unenforceable penalty. Texas courts, however, have concluded

39 (1935); Wichita Falls Bldg. & Loan Ass’n v. Moss, 82 S. W. (2d) 171 (Tex. Civ. App. 1935);
Cal. 609, 255 Pac. 805, 53 A. L. R. 725 (1927); Robinson v. Morris Plan Co. of Ga., 47 Ga. App. 737,
171 S. E. 394 (1933); Burdon v. Unrath, supra note 33. 6 WILLISTON, op. cit. supra note 33, §1695;
WEBB, USURY (1899) §112. That some distinction is made between short and long term loans see 6
WILLISTON, loc. cit. supra. Recognizing that the practice of taking interest in advance was customary,
Lord Mansfield observed in Floyer v. Edwards, 1 C. 112 (1774): “Upon nice calculation, it will be
found that the practice of the banks in discounting bills, exceeds the rate of five per cent (maximum),
for they take interest upon the whole sum for the whole time the bills run, but pay part of the money,
‘sixth’ by deducting the interest first; yet this is not usury.”

41 CALIF. Gen. LAWS (1937) act. 3757, §2; Idaho LAWS 1933, c. 197, p. 390; 2 Mich. COMPL.
(1932) c. 124, §7728; Wis. Stat. (1939) tit. XIV, c. 115, §115.05. Contra: N. D. COMPL. LAWS ANN.
(Supp. 1925) c. 60, art. 3, §6073; 3 S. D. Code (1939) tit. 38, §38.01, §38.0109.

42 Easton v. Butterfield Live Stock Co., 48 Idaho 472, 73 P. 716 (1913); Eagle Rock Corp. v. Idamont
210, 205 N. W. 165 (1925), 41 A. L. R. 973, 979 (1926); Florida Land Holding Corp. v. Burke, 135
Va. 497, 22 S. E. 494 (1895), 49 L. R. A. 590 (1900); 6 WILLISTON, op. cit. supra note 33, §1696; Webb,
Usury (1899) §§119, 120. Contra: Shropshire v. Commerce Farm Credit Co., 120 Tex. 400, 39 S. W.
(2d) 11 (1931), 84 A. L. R. 1269, 1283 (1933), cert. denied, 284 U. S. 675 (1931); 2 Minn. Stat.
(Mason, 1927) c. 51, §7036; N. D. COMPL. LAWS ANN. (Supp. 1925) c. 60, art. 3, §6072a.

43 Sandford v. Lundquist, 80 Neb. 414, 118 N. W. 129 (1908), 18 L. R. A. (n. s.) 633 (1909); Webb,
Usury (1899) §§123, 129, 130.

44 CALIF. Gen. LAWS (1937) act. 3757, §2; Idaho LAWS 1933, c. 197, p. 390; 2 Mich. COMPL.
(1932) c. 124, §7728; Wis. Stat. (1939) tit. XIV, c. 115, §115.05. Contra: N. D. COMPL. LAWS ANN.
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(Mason, 1927) c. 51, §7036; N. D. COMPL. LAWS ANN. (Supp. 1925) c. 60, art. 3, §6072a.

46 Sager v. American Inv. Co. 170 Ark. 568, 280 S. W. 654 (1926); Easton v. Butterfield Live Stock
Co., supra note 55; Goodale v. Wallace, 19 S. D. 405, 103 N. W. 651 (1905); Cisna Loan Co. v. Gawley,
87 Wash. 438, 151 Pac. 792 (1915); Notes (1933) 84 A. L. R. 1283, (1936) 100 A. L. R. 1431. That
provision for acceleration of accrued and unaccrued interest does not constitute usury unless the earned
that if the accelerating provision shows that, upon the exercise of the option to accelerate the maturity of principal and interest, unearned interest in excess of the statutory maximum rate may be received the contract is thereby rendered usurious.\footnote{West v. Ogden, 74 F. (2d) 777 (C. C. A. 5th, 1935); Atwood v. Deming Inv. Co., 55 F. (2d) 180 (C. C. A. 5th, 1932); Ingram v. Temple Trust Co., 108 S. W. (2d) 306 (Tex. Civ. App. 1937); Shropshire v. Commerce Farm Credit Co., supra note 55.}
The tendency, in Texas as well as other jurisdictions, appears to be to construe the contract, wherever possible, to provide for the collection of only accrued or earned interest at a lawful rate in the event of acceleration and to be untainted with usury.

Where the contract gives the borrower an option to pay before the date of maturity of the loan, and the debtor exercises this prepayment privilege by paying the principal with interest to the date of maturity before such payment is due, the transaction is not thereby tainted with usury since the debtor, acting voluntarily to terminate the loan, cannot thereby render a transaction usurious which, but for such a circumstance, would be entirely free from any claim of usury and because the lender has a right to insist upon the full amount of his investment and the contracted for interest as consideration for assenting to the acceleration.\footnote{Clement v. Scott, 60 S. W. (2d) 258 (Tex. Civ. App. 1933); Lincoln Nat. Life Ins. Co. v. Anderson, 124 Tex. 566, 80 S. W. (2d) 294 (Tex. Com. App. 1935), motion overruled, 81 S. W. (2d) 1112; Armstrong v. Alliance Trust Co. 88 F. (2d) 449 (C. C. A. 5th, 1937); Matthews v. Georgia State Sav. Ass'n, 132 Ark.-210, 200 S. W. 130 (1918); Graham v. Fitts, 53 Fla. 1046, 43 So. 512 (1907); Tipton v. Ellsworth 18 Idaho 207, 109 Pac. 134 (1910); Moore v. Cameron, 93 N. C. 51 (1885).}

\section*{Remedies of Borrower}
Pursuant to the policy, embodied in the usury laws, of extending protection to the necessitious borrower by operating on the lender, two thirds of the states have statutes allowing the borrower or his legal representative, and in several states the assignee or judgment creditor of the debtor, to recover back usurious interest though paid to the lender voluntarily. (See Chart) Such a right of recovery usually exists only by virtue of legislative fiat. Other states, which disallow recovery, take the view that the defense of usury is to be used only as a shield, not as a sword, and that voluntary payment constitutes a waiver of the defense. Under some statutes the amount recoverable may be double or treble, which may often exceed the forfeiture imposed when an action is brought by the creditor to enforce a usurious contract, apparently indicating that the actual taking or receiving of usurious interest and the completion of a transaction tainted with usury is considered more odious than merely agreeing to take or receive an excessive rate. Usually recovery by the victimized borrower for his own benefit is subject to a stipulated time limit; a number of states after the debtor's right of recovery has been barred, provide for an additional


period in which stipulated officials may recover the amount paid in excess plus any forfeiture for the use of the school or poor fund as the case may be. (See Chart)

It is settled in most jurisdictions that a borrower seeking such equitable relief as the cancellation of securities given to secure a usurious contract or to restrain the foreclosure of such securities must, under the mandate of the maxim "he who seeks equity must do equity," first tender the payment of the principal and legal interest, on the theory that it is unconscionable for the debtor to keep the money borrowed without paying any interest thereon and yet ask the chancellor for special relief. Several states have enacted statutes explicitly making available equitable relief without the necessity of such tender. Since usury laws are enacted for the protection of borrowers and to discourage the exaction of usury, it would seem that the debtor would be doing equity if, as condition precedent to equitable relief, he tendered the amount which the exacting lender might have recovered if he had initiated the action.

**Conflict of Laws**

In testing a contract for usury and in determining what usury law is applicable, three different theories have been advanced: (1) that the law of the place where the agreement was made should govern its nature and validity (lex loci contractus); (2) that the law of the place where the contract is to be performed should govern (lex loci solutionis); or (3) that the real intention of the parties, if they act in good faith without intending to escape the consequences of a usurious transaction, is determinative, providing the law intended to be applicable has some reasonable relation to an important element of the contract. This latter view appears to be supported by the weight of authority, being bolstered by the fiction that the parties are presumed to have intended to contract with reference to the law of that jurisdiction which will uphold the contract. A few courts have gone so far as to apply the law of a jurisdiction other than that of the lex loci contractus or lex loci solutionis, such as the domicile of the debtor or the place where the security reposes, where the requisite intent has been found. Resolving the question of what law should be controlling in terms of the intent or presumed intent has been criticized on the ground that it is almost impossible to know when a court will find a bona fide intent or bad faith and an intent to evade the laws against usury by juggling the jurisdictions.

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62 For criticism of the rule that a borrower seeking equity must first tender payment of principal and legal interest see (1934) 12 N. C. L. Rev. 379, (1935) 14 N. C. L. Rev. 114.

63 2 BEALE, CONFLICT OF LAWS (1935) §347.4; GOODRICH, CONFLICT OF LAWS (1927) §108; 6 WILLISTON, op. cit. supra note 33, §1792.

64 See note 63 supra.

65 2 BEALE, loc. cit. supra note 63.
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<tr>
<td>ARIZONA</td>
<td>Ariz. Rev. Code (Courtright, Supp. 1956) c. 37, §§109-8-86</td>
<td>6%</td>
<td>8% in writing</td>
<td>Forfeiture of all interest, interest paid deducted from principal due.</td>
<td>Any interest paid in excess of principal due recoverable.</td>
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<tr>
<td>ARKANSAS</td>
<td>Ark. Rev. Code (Pope's Digest, 1927) c. 112, §§1091-906</td>
<td>6%</td>
<td>10% in writing</td>
<td>Forfeiture of principal and interest. All securities void.</td>
<td>Maker, or his vendee, assigns, or creditors, may sue in equity to cancel security or usurious loan. Tender of principal unnecessary.</td>
<td>Misdeemnor for employing to discount employees' wages more than 10% when payment made before regular pay day.</td>
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</tr>
<tr>
<td>CALIFORNIA</td>
<td>Cal. Gen. Laws (Deering, 1937), 2 Calr. Rev. Code, §§11.5; Calif. Corp. Rev. Amend. Art. XX, §22</td>
<td>7%</td>
<td>10% in writing</td>
<td>Usurious contract void as to all interest.</td>
<td>Borrower or personal representative may recover from lender or his personal representative treble amount paid over lawful rate if action brought within 1 year after payment.</td>
<td>Misdeemnor to charge or receive excessive rate or to demand or receive for all fees, commissions, etc., more than 5% on loans of $1,000 or less and 3% on sums over $1,000 or to demand or receive any procuring fee on loan of less than 6 months unsecured by realty.</td>
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</tr>
<tr>
<td>COLORADO</td>
<td>Colo. Stat. Ann. (1935) c. 88, art. 1, §§ 1-3</td>
<td>6%</td>
<td>Any rate in writing</td>
<td>Forfeiture of principal and interest.</td>
<td>No set-off or recovery back of excess interest paid.</td>
<td>Fine and/or imprisonment for taking or charging excessive rate.</td>
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</tr>
<tr>
<td>CONNECTICUT</td>
<td>2 Conn. Rev. Stat. (1910) c. XLVI, § 241, §§475-25-37</td>
<td>6%</td>
<td>12%</td>
<td>Forfeiture of principal and interest.</td>
<td>Forfeiture of all interest.</td>
<td>Borrower or personal representative may recover from lender or his personal representative excess paid if action brought within 1 year of payment.</td>
<td>Defense of usury not available to corporations.</td>
<td></td>
</tr>
<tr>
<td>DELAWARE</td>
<td>Del. Rev. Code (1935) c. 77, §§430101 (1), §102 (2)</td>
<td>6%</td>
<td>6%</td>
<td>Forfeiture of excess.</td>
<td>Forfeiture of all interest.</td>
<td>Borrower may recover unlawful interest paid.</td>
<td>Defense of usury not available as against holders in due course.</td>
<td></td>
</tr>
<tr>
<td>DISTRICT OF COLUMBIA</td>
<td>D. C. Code (1929) c. 1, §1-9</td>
<td>6%</td>
<td>8%</td>
<td>Forfeiture of all interest.</td>
<td>Forfeiture of all interest.</td>
<td>Recovery of double amount of interest received or taken.</td>
<td>Defense of usury not available to corporations.</td>
<td></td>
</tr>
<tr>
<td>FLORIDA</td>
<td>Fla. Comp. Gen. Laws (1927) div. 1, ch. V, § 4, §§8936-45, §8936-45</td>
<td>8%</td>
<td>10%</td>
<td>Forfeiture of all interest.</td>
<td>Forfeiture of all interest.</td>
<td>Forfeiture of both principal and interest. For refusal to give receipt for payments on demand, forfeiture of all interest. One accepting chattel mortgage to secure loan of less than $1,000, who willfully fails to insert amounts secured as principal, interest and fees, shall forfeit all interest and fees.</td>
<td>Defense of usury not available as against holders in due course; after payment of interest, the debtor may recover double amount paid and attorney's fees from excising lender.</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>Code or Law</td>
<td>Interest Rate</td>
<td>Amount of Recovery</td>
<td>Type of Contract</td>
<td>Note</td>
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<tr>
<td>Georgia</td>
<td>6%</td>
<td>8%</td>
<td>Recovery of interest if action brought within year.</td>
<td>Contract voided as to usurious interest contracted for.</td>
<td>Gross sale of the property at reasonable price, and in all cases of fraud, the court may set aside the contract and direct the property to be returned to the grantor.</td>
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</tr>
<tr>
<td>Idaho</td>
<td>6%</td>
<td>8%</td>
<td>Recovery of all interest plus twice the amount of interest charged.</td>
<td>Person paying or legal representative may recover interest paid plus twice amount of said interest.</td>
<td>Misdeemeanor to recover collateral or money deposited, and in all cases of fraud, the court may set aside the contract and direct the property to be returned to the grantor.</td>
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</tr>
<tr>
<td>Illinois</td>
<td>6%</td>
<td>7%</td>
<td>Recovery of all interest.</td>
<td>Usurious interest when voluntarily paid cannot be recovered back if transaction entirely closed.</td>
<td>Defense of usury not available to corporations.</td>
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</tr>
<tr>
<td>Indiana</td>
<td>6%</td>
<td>8%</td>
<td>Recovery of all interest.</td>
<td>Contract voided as to usurious interest contracted for.</td>
<td>Corporations may agree upon any rate in writing.</td>
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</tr>
<tr>
<td>Iowa</td>
<td>6%</td>
<td>7%</td>
<td>Recovery of all interest, Forfeit of 8% of unpaid principal at time judgment rendered to be used of school fund of county where action brought.</td>
<td>No recovery of usurious interest paid.</td>
<td>Misdeemeanor to recover collateral or money deposited, and in all cases of fraud, the court may set aside the contract and direct the property to be returned to the grantor.</td>
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<tr>
<td>Kansas</td>
<td>6%</td>
<td>10%</td>
<td>Recovery of interest over 10% and a like amount to be deducted from principal due and lawful interest.</td>
<td>No recovery of interest voluntarily paid.</td>
<td>Defense not available as against holders in due course; after payment debtor may recover double amount of excess paid over 10% from exacting lender if action brought within 2 years from maturity of paper.</td>
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<tr>
<td>Kentucky</td>
<td>6%</td>
<td>5%</td>
<td>Excess void.</td>
<td>Recovery of excess over 5% if action brought within 2 years of payment.</td>
<td>18</td>
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</tr>
<tr>
<td>Louisiana</td>
<td>6%</td>
<td>8%</td>
<td>Recovery of excess over 8% if action brought within 2 years of payment.</td>
<td>No recovery of usurious interest paid.</td>
<td>Misdeemeanor to recover collateral or money deposited, and in all cases of fraud, the court may set aside the contract and direct the property to be returned to the grantor.</td>
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</tbody>
</table>

*This does not take into consideration the effect of the Negotiable Instruments Law. See p. 43.
1 Cooley v. Colum, 211 Ala. 201, 100 So. 145 (1924); Alabama Cash Credit Corp. v. Bartlett, 144 So. 308, 225 Ala. 641 (1932); Bell v. Barnes, 238 Ala. 248, 195 So. 273 (1939).
2 Usury statute not meant to apply to corporate bonds. In re Washo, 200 Cal. 959, 254 P. 951 (1927).
3 In Brown v. Stock, 2 Colo. 70 (1873), where the contract provided for interest at rate of 10% per month from maturity until payment the court, treating the agreement as one for liquidated damages for the non-payment of money, said that, while the parties were free to agree on any rate, if the rate is so excessive as to suggest that the interest was in the nature of a penalty rather than of compensation for use of money, the court will refuse to enforce such an excessive rate.
4 This restriction does not affect any loan made by any national bank or any bank or trust company duly incorporated under laws of Connecticut or any loan made for mortgage of real property for a sum in excess of $5,000. 2 Conn. Rev. Gen. Stat. (1910) tit. XLVI, § 241, §4737.
5 Demand notes of $5,000 and over with negotiable instruments as collateral security may bear any rate of interest agreed upon in writing. 16 Rev. Code (1935) tit. 7, art. 1, §102(3).
7 In loans repayable in monthly, quarterly or yearly installments 6% may be charged on whole principal for whole time and principal and interest may be made payable in installments. Ga. Code (1935) tit. 57, c. 57-1, §§75-116.
8 On loans of $100 or less where interest less than 5% is charged, service charges may be expected so that the interest plus such charges will equal 5%. Idaho Laws 1923, c. 197, p. 390.
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<tr>
<td>MAINE</td>
<td>Me. Rev. Stat. (1930) c. 57, §462</td>
<td>6%</td>
<td>Any rate in writing.</td>
<td>Forfeiture of excess.</td>
<td>Usury no cause of action when indebtedness has been redeemed or settled by obligor, except in cases of loans of $50 or less where settlement connected with a renewal of original debt.</td>
<td></td>
<td>Defense of usury not available to corporations.</td>
<td>Defense of usury not available as against holders in due course.</td>
</tr>
<tr>
<td>MARYLAND</td>
<td>2 Md. Code Ann. (1939) art. 49, §§15-16, vol. I, art. 23, §129</td>
<td>6%</td>
<td>6%</td>
<td>Forfeiture of excess.</td>
<td>Usury no cause of action when indebtedness has been redeemed or settled by obligor, except in cases of loans of $50 or less where settlement connected with a renewal of original debt.</td>
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<td>Defense of usury not available to corporations.</td>
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</tr>
<tr>
<td>MINNESOTA</td>
<td>2 Minn. Stat. (Mason, 1927) c. 51, §§7010-41</td>
<td>6%</td>
<td>8% in writing.</td>
<td>Usurious contract and securities void.</td>
<td>Recovery by person paying or personal representative from person receiving or his personal representative of interest paid if action brought within 2 years from payment; provided, 3% amount recovered be paid into treasury of county where collected for use of common schools.</td>
<td>20</td>
<td>Defense of usury not available as to holders in due course; upon payment maker or personal representative may recover principal of interest from original holder.</td>
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<tr>
<td>MISSISSIPPI</td>
<td>1 Miss. Code Ann. (1930) c. 37, §§1946-51</td>
<td>6%</td>
<td>8% in writing.</td>
<td>Forfeiture of all interest. If greater than 20% charged, forfeiture of principal and interest. If 6% or less stipulated, but greater than 6%, 5% rate contract forfeited.</td>
<td>Recovery of any amount of forfeiture paid.</td>
<td></td>
<td>Defense of usury not available to corporations.</td>
<td>Defense of usury not available as against holders in due course.</td>
</tr>
<tr>
<td>MISSOURI</td>
<td>1 Mo. Rev. Stat. (1929) c. 14, §§239-42, c. 10, art. B, §§220, 421</td>
<td>6%</td>
<td>8% in writing.</td>
<td>Forfeiture of all interest over lawful rate. Personal security given to secure usurious contract invalid.</td>
<td>Recovery of excess paid over lawful rate by borrower or personal representative.</td>
<td></td>
<td>Misdemeanor to dispose of contract with knowledge of usury without notifying purchaser. Misdemeanor to take charge or pay over 2% per month.</td>
<td>Defense of usury not available to corporations.</td>
</tr>
<tr>
<td>NEBRASKA</td>
<td>Neb. Comp. Stat. (Supp. 1939) c. 45, art. 1, §§101-109</td>
<td>6%</td>
<td>9%</td>
<td>Recovery only of principal less interest paid.</td>
<td>Relief without payment or tender of principal sum. No recovery of interest voluntarily paid.</td>
<td>23</td>
<td>Defense of usury not available to corporations.</td>
<td>Defense of usury not available as against holders in due course.</td>
</tr>
<tr>
<td>Location</td>
<td>Code Reference</td>
<td>Interest Rate</td>
<td>Description</td>
<td>Penalty</td>
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<tr>
<td>New Mexico</td>
<td>N. M. Stat. Ann. (Curttright)</td>
<td>6%</td>
<td>Judgment only for principal interest contracted for, if interest paid, judgment for principal less twice amount paid less amount of unpaid interest.</td>
<td>If contract performed, recovery of treble amount of interest collected if action brought within 3 years after payment.</td>
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<tr>
<td>New York</td>
<td>N. Y. Laws (Thompson, 1939)</td>
<td>6%</td>
<td>Usurious contract and security void.</td>
<td>Misdeemeanor to charge usury on household and kitchen furniture or to refuse to give receipt or surrender note of security on payment of such loans.</td>
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<tr>
<td>North Carolina</td>
<td>N. C. Code (Michie, 1939)</td>
<td>6%</td>
<td>Forfeiture of entire interest. Forfeiture of double interest paid on loan made on household and kitchen furniture.</td>
<td>Misdeemeanor to charge usury.</td>
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<tr>
<td>North Dakota</td>
<td>1 N. D. Comp. Laws Ann. (1913)</td>
<td>4%</td>
<td>Forfeiture of entire interest. Forfeiture of double interest paid on loan made on household and kitchen furniture.</td>
<td>Misdeemeanor to charge usury.</td>
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<tr>
<td>Ohio</td>
<td>Ohio Gen. Code Ann. (Page, 1938)</td>
<td>6%</td>
<td>Payment of excess over lawful rate applicable to principal. Usurious interest voluntarily paid cannot be recovered.</td>
<td>On obligations payable in whole or in part 1 year or more from date thereof, corporations may not plead usury.</td>
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</tbody>
</table>

17 Loans of less than $1000 discharged on payment or tender of principal with 18% interest and sum not over $5 for actual expenses in making or securing the loan; lender entitled to interest at rate of 18% for 6 months regardless of tender; any collateral security discharged upon payment or tender. 4 Mass. Laws Ann. (1933) c. 140, §§90, 91.
18 10% in writing may be exacted on unpaid interest. 2 Mass. Comp. Laws (1929) tit. XIX, c. 176, §9242.
19 Forfeiture of entire interest. Forfeiture of double interest paid on loan made on household and kitchen furniture. 1 N. D. Comp. Laws Ann. (1913) c. 60, art. 3, §§6067-78, Supp. (1922) c. 60, art. 3, §§6076, 6078; Laws 1945, c. 157, p. 207.
21 The operation of a "loan shark business" may be enjoined as a public nuisance. State ex rel. Leake v. Harris, 334 Mo. 713, 67 S.W. (2d) 981(1934).
23 Blain v. Wilson, 22 Neb. 302, 49 N.W. 224(1891); Waller v. First Trust Co., 126 Neb. 403, 225 N.W. 29(1929).
25 Lenders, who have repeatedly violated the usury laws, have been convicted of the crime of keeping a disorderly house for the habitual taking of usurious interest on the ground that "any place of public resort in which illegal practices are habitually carried on is a disorderly house." State v. Diamant, 73 N.J. L. 131, 62 Atl. 286(1905); State v. Martin, 77 N.J. L. 652, 73 Atl. 548(1909); L.R.A. (n.a.) 1910 A.
26 Minimum charge of $1 may be made for interest where maximum rate fails to aggregate said sum. N. M. Stat. Ann. (Courtright, 1929) c. 89, §90-100. Lender may charge 12% interest where the evidence of the debt is not secured by collateral security. N. M. Stat. Ann. (Courtright, 1929) c. 89, §90-112.
29 Demand notes of $5000 and over with negotiable instruments as collateral security may bear any rate of interest agreed upon in writing. N.Y. Laws (Thompson, 1939) pt. I, Gen. Bus. Law, 1937.
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<td>OKLAHOMA</td>
<td>2 Okla. Corp. Stat. Ann. (1921) c. 32, art. VI, §§5092-5106.</td>
<td>6%</td>
<td>10%</td>
<td>Forfeiture of twice amount charged. If in an action on indebtedness of $300 or less, shown contract is usurious, suit shall be dismissed at cost of plaintiff.</td>
<td>Recovery by person paying or legal representative twice amount of interest paid.</td>
<td>No railroad corporation shall be allowed to plead defense of usury.</td>
<td>Bona fide purchaser of evidence of debt takes fee of defense of usury, excepting lender who transfers evidence of debt to bona fide purchaser before disturibable to maker for double amount of interest charged or received.</td>
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<tr>
<td>OREGON</td>
<td>Or. Code Ann. (1930) tit. LXII, c. XLI, §§57(1200-1207).</td>
<td>6%</td>
<td>10%</td>
<td>Forfeiture of entire debt to school fund where suit brought.</td>
<td>Judgment rendered for sum borrowed without interest less all payments made by borrower against defendant and in favor of state for use of common school fund of county where suit brought. No recovery of usurious interest voluntarily paid.</td>
<td></td>
<td>Bona fide assignee may recover against his immediate assignor or original usurer full amount paid by him for such contract.</td>
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</tr>
<tr>
<td>RHODE ISLAND</td>
<td>R. I. Gen. Laws (1930) tit. 11, c. 485, §§1-5.</td>
<td>6%</td>
<td>70% on amounts over $50, and on amounts under $50, 5% per month for first 6 months and 234% per month thereafter.</td>
<td>Usurious contract and securities void.</td>
<td>Recovery from lender by debtor of amount paid to lender, any assignee, or transferee of contract.</td>
<td>Fine or imprisonment for charging usury.</td>
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<tr>
<td>SOUTH CAROLINA</td>
<td>S. C. Code (1922) tit. 35, c. 142, §§6238-43; Acts. 1914, No. 698, p. 1291.</td>
<td>6%</td>
<td>7% in writing.30</td>
<td>Forfeiture of all interest.</td>
<td>Recovery of double amount of interest paid.</td>
<td>Misdemeanor to violate usury law.</td>
<td>Corporations may not plead usury as to coupon or registered bonds.</td>
<td></td>
</tr>
<tr>
<td>SOUTH DAKOTA</td>
<td>S. D. Code (1919) tit. 38, c. 3801, §§380101, 380111, c. 38.99, §§389901.</td>
<td>6%</td>
<td>8%</td>
<td>Forfeiture of entire interest.</td>
<td>All interest paid recoverable.</td>
<td>Misdemeanor to charge usury.</td>
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</tr>
<tr>
<td>TENNESSEE</td>
<td>Tenn. Code Ann. (Williams, 1914) tit. 2, c. 7, §§170-16.</td>
<td>6%</td>
<td>6%21</td>
<td>Forfeiture of excess over legal rate.</td>
<td>Usurious interest recoverable by party paying representative or any judgment creditor of such person within 2 years from payment of debt.</td>
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<tr>
<td>TEXAS</td>
<td>Tex. Stat. (Vern., 1916) tit. 79, arts. 5009-74.</td>
<td>6%</td>
<td>10% in writing.</td>
<td>Forfeiture of all interest.</td>
<td>Recovery by party paying or legal representative of double amount of interest paid if action brought within 2 years from time of payment.33</td>
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<tr>
<td>UTAH</td>
<td>Utah Rev. Stat. Ann. (1933) tit. 44, §44-6 (1-10).</td>
<td>6%</td>
<td>10% in writing.**</td>
<td>Contract and securities void.</td>
<td>Recovery by party paying or personal representative of principal or interest paid if action brought within 1 year after payment; if action not so brought, superintendent of public instruction may recover sums with costs any time within 5 years after said 1 year for use of state district school fund.</td>
<td>Misdemeanor to violate usury law.</td>
<td>Discount, sale and transfer in regular course of business of negotiable paper by one not taking thereof without intent to violate usury law shall not be construed as usurious.</td>
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</tr>
<tr>
<td>VERMONT</td>
<td>Vermont Purt. Laws (1933) tit. 47, c. 202, §7530-31.</td>
<td>6%</td>
<td>6%</td>
<td>Forfeiture of excess interest.</td>
<td>Recovery of excess paid over legal rate by person paying with interest from time of payment.</td>
<td>Corporations may not plead defense of usury.</td>
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<tr>
<td>VIRGINIA</td>
<td>Va. Code Ann. (Michie, 1936) tit. 54, c. 230, §5551-57.</td>
<td>6%</td>
<td>6%**</td>
<td>All interest deemed illegal consideration.</td>
<td>Recovery of excess over lawful interest within 1 year after payment from contracting party though payment made to his endorse or assignee; sale of securities may be enjoined pending such action. As condition to equitable relief, borrower required to tender only principal.</td>
<td>Corporations may not plead defense of usury.</td>
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<tr>
<td>WEST VIRGINIA</td>
<td>W. Va. Code Ann. (Michie, 1936) c. 47, art. 6, §4626-27.</td>
<td>6%</td>
<td>6%**</td>
<td>Forfeiture of excess over legal rate.</td>
<td>Recovery of excess paid from contracting party though payment made to his endorse or assignee. Sale of securities may be enjoined pending a suit brought in equity to discover amount really lent.</td>
<td>Corporations may not plead defense of usury.</td>
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<tr>
<td>WISCONSIN</td>
<td>Wis. Stat. (1939) tit. 47, c. 111, §1115.01-1115.08.</td>
<td>6%</td>
<td>10% in writing.</td>
<td>Forfeiture of all interest.</td>
<td>Recovery by party paying or legal representative of principal or interest paid if action brought within 1 year after payment. Debtor must prove tender of principal as condition precedent to any relief.</td>
<td>Corporations may not plead defense of usury.</td>
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<td></td>
</tr>
<tr>
<td>WYOMING</td>
<td>Wyo. Rev. Stat. Ann. (1931) c. 38, §159 (101-113).</td>
<td>7%</td>
<td>10%</td>
<td>Recovery only of principal less any interest paid.</td>
<td>Relief may be given a complainant without tender or payment of principal sum.</td>
<td>Misdemeanor to charge over 25% per annum, including all fees, etc., on any sums less than $200.</td>
<td></td>
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** Beach v. Guaranty Sav. Ass'n, 44 Ore. 530, 76 Pac. 16(1904); Fidelity Security Corp. v. Brugman, 137 Ore. 58, 61 P.2d 131, 138(1931).


** Industrial banks making personal loans on monthly payment plan which require no collateral except indorsement, are incorporated in South Carolina and do not receive deposits may charge on loans of not less than $10 nor over $200 13% per month. S.C. Code (1932) tit. 39, c. 142, §6718.

** Loans secured by real or personal property in other states wholly may bear any rate of interest allowed by the law of the state in which the property is situated. 5 Tenn. Code Ann. (Williams, 1934) tit. 2, c. 1700. Bonds or notes or an aggregate amount of $60,000 or more, secured by lien of mortgage or deed of trust, may be issued, bearing a rate not greater than 7 1/2%, payable annually. The shortest maturity to be not less than 2 years after date of the issuance. 5 Tenn. Code Ann. (Williams, 1934) tit. 2, c. 1700.


** On loans of money only, to amount of $1000 or less, it may be agreed upon in writing to take not over $1 for first month only and thereafter the regular maximum contract rate. Utah Rev. Stat. Ann. (1933) tit. 44, §44-5-2.

** Licensed banker or broker and any corporation authorized by law to make loans or to discount paper may do so at rate of 7 1/2% for 30 days and charge a minimum of $1 and may receive such interest in advance. Agricultural credit corporations or associations organized under the laws of Virginia may charge interest or discount loans for agricultural purposes at maximum of 15% per annum in excess of rate charged such agricultural credit corporation or association by Federal intermediate credit banks, at the time such loans made, or may charge 6%, and in either case may charge a minimum loan or discount fee of $1 for 30 days or more and may receive interest or discount in advance. Va. Code Ann. (Michie, 1936) tit. 54, c. 230, §5533.


** Law v. Hillman, 74 Wash. 408, 133 Pac. 583(1913), L.R.A. 1918B 581, 585.

** $1 may be charged where interest at the maximum rate would not amount to that sum. W. Va. Code Ann. (Michie, 1937) c. 47, art. 6, §4627.