

## Segment 4

Kansas, Kentucky, Louisiana, Maine and Maryland

Once again, I'd like to remind readers that I am endeavoring to analyze and interpret hundreds of statutes, rules, regulations, decisions, and opinions from 50+ different states. It is possible that I will relay some inaccurate information (hopefully, rarely), which might be a product of new developments, case law, or administrative rulings, some of which didn't exist as of the publication of these articles, and some of which I may have simply overlooked. If you have authoritative information which contradicts anything I have written or will write, *please* let us know, so we can publish the *errata*. This, not just for my sake, but for that of the readers, who deserve accuracy.

**16. KANSAS:** No license is required for commercial lenders. A license is only required for mortgage lenders and "supervised loans", defined in Kansas as a loan in which the APR exceeds 12%, as to which the debtor is a person other than an organization, the debt is primarily incurred for personal, family or household purposes, and the loan amount does not exceed \$25,000. *Kansas S.A. 16a-1-301(17) (2019)*. Banks and other regulated depository institutions are exempt from this licensing requirement. *Kansas S.A. 16a-1-301(44)*.

As is the case with a few other states, loan brokers must register for a license unless the broker's fee is wholly contingent on the successful procurement of a loan from a third party and to whom no fee, other than a *bona fide* third-party fee, is paid before the procurement. *Kansas S.A. 50-1016(a) (5) (2019)*.

Here is the statutory definition of "*bona fide* third-party fee:"

- (1) Credit reports, appraisals and investigations; and
- (2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey and similar purposes.

*Kansas S.A. 50-1016(b)*

Here is the loan broker exemption provision in its entirety:

<https://law.justia.com/codes/kansas/2019/chapter-50/article-10/section-50-1016/>

**17. KENTUCKY:** A consumer loan company making loans of \$15,000 or less, for personal, family, or household use, at an interest rate greater than the usury rate (8%) does need a license. *KRS 286.4-420 (2021)*.

Interestingly, Kentucky is one of the few states which clearly delineates that there is no need for a foreign financial institution to register in the state in order to make loans from out of state, or even to maintain an action in Kentucky to prosecute or defend a lawsuit. *KRS 286.2-670 (2009)*. Here's the statute:

<https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=14517>

It is one of the few states that clearly and indisputably gives lenders and brokers the right to do business from out-of-state. Many other states have "similar" laws, but this, based on my research, is unequivocal. Blue grass bourbon, horses and no license required. What more can you ask for?

**18. LOUISIANA:** Another state that does not require a license to make commercial loans. Loan brokers, similarly, do not need a license unless they are making consumer loans. *La. Revised Statute §§3572.2 and 3572.3 (2019)*. As one might expect of a unique, indigenous state like Louisiana, they are extremely protective of their consumers.

#### ***LOUISIANA CONSUMER CREDIT LAW***

<http://www.ofi.state.la.us/LicensedLendersStatutes.pdf>

**19. MAINE:** Maine is strict in its licensing requirements, but, happily, it does not require licenses for commercial lenders. Many other financial companies, like consumer loan servicers, payday lenders, and supervised lenders (again, those who lend to consumers), do indeed need licenses. *Maine Consumer Credit Code, Title 9, Article 2, Part 3*.

Loan brokers need licenses as well, but only those who engage in the arrangement of consumer loans in Maine.

#### ***MAINE CONSUMER CREDIT CODE: LOAN BROKERS***

<https://legislature.maine.gov/statutes/9-A/title9-Asec10-102.html> (2011)

**20. MARYLAND:** Nor does Maryland require a license for commercial lenders. However, consumer lenders do need licenses. *Md. Code Ann., Fin. Inst. §11-301(b)(5) (2018)*. The usury rate is 6% or 8% if there is a written

agreement. *Md. Code. Ann. Comm. Law §12-103(a)(1)*, but this is inapplicable, and a lender may charge interest at any rate if the loan is:

- (i) A loan made to a corporation;
- (ii) A commercial loan in excess of \$15,000 not secured by residential real property; or
- (iii) A commercial loan in excess of \$75,000 secured by residential real property.

*Md. Code. Ann. Comm. Law §12-103(e)(1)*

<https://codes.findlaw.com/md/commercial-law/md-code-com-law-sect-12-103.html>

Next episode, we will explore the exciting terrains of Massachusetts, Michigan, Minnesota, Mississippi and Missouri.

Segment 1 - Alabama, Alaska, Arizona, Arkansas, California 06/28/21  
[https://leasingnews.org/PDF/Alabama\\_California.pdf](https://leasingnews.org/PDF/Alabama_California.pdf)

Segment 2 - 07/06/21  
Colorado, Connecticut, Delaware, Florida and Georgia  
[http://leasingnews.org/archives/Mar2021/03\\_29.ht](http://leasingnews.org/archives/Mar2021/03_29.ht)

Segment 3 -07-12-21  
Hawaii, Idaho, Illinois, Indiana and Iowa  
[https://leasingnews.org/PDF/segment3\\_2021.pdf](https://leasingnews.org/PDF/segment3_2021.pdf)