

# Car-Title Loan Regulation

As of December 2012

## Car-Title Loans

A car-title loan is a short-term cash loan, secured by the borrower's title to a vehicle. State laws determine whether car-title loans are authorized, the terms of the loans, and consumer protections for the loan or repossession of the vehicle if a borrower cannot repay in full when the loan is due.

CFA categorizes the legal status of car-title lending, depending on whether this loan product is specifically authorized, whether title lending operates through legal loopholes, or are effectively prohibited.

**Permit:** 17 states permit car-title loans at triple-digit APRs: Alabama, Arizona, Delaware, Georgia, Idaho, Illinois, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin. Of these states, Delaware, Idaho, Illinois, Missouri, Nevada, New Mexico, South Dakota, Utah, and Wisconsin set no cap on the cost of a car-title loan.

**Loophole:** Car-title lenders operate in four additional states by structuring loans to fall outside of state credit law definitions. For example, title loans are available in California and South Carolina for larger amounts to avoid the small loan rate cap. Kansas title loans are structured as open-end credit, since Kansas has no rate cap for open-end credit from licensed lenders. In Louisiana, car-title lenders make loans for more than \$350 and terms exceeding two months to avoid state law restrictions.

**Restrict:** The remaining states authorize car-title loans at lower rates and likely do not have car-title lenders operating in the state, prohibit by statute or do not permit car-title lending under existing credit laws.

### Consumer Federation of America overview of state car-title regulation



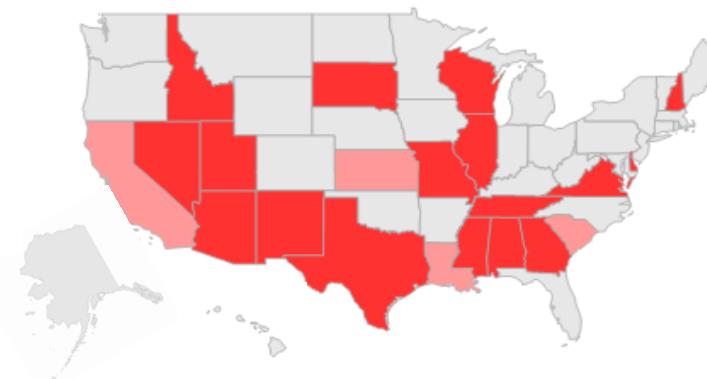
**Permit:** permit or cap at high interest rates



**Loophole:** Car title lenders are exploiting loopholes to evade consumer protections



**Restrict:** prohibited, subject to a restrictive interest rate cap, or omitted from consumer credit law



Consumer Federation of America

## Chart Terms

**Max Loan** is the maximum size of the car-title loan authorized by state law.

**Cost Limits** either displays the maximum loan cost per month or that the state sets no cap on rates. In some states, lenders can charge both interest and fees.

**NSF/Fees** include late fees and other fees lenders are permitted to charge.

**Term Limits** are the maximum duration of a car title loan, plus any loan renewals or roll-overs as well as any requirements to pay part of the loan principal when a loan is renewed.

**Cost \$500** shows CFA's calculation of the total finance charge and the annual percentage rate (APR) for a one month \$500 car title loan at the maximum rate authorized in state law. For Texas, the average loan cost reported to state regulators is displayed.

**Sale/Leaseback?** Column notes those state laws that prohibit title lenders from structuring loans as if the borrower "sold" a vehicle to the lender, then paid to "lease" the vehicle. Sale/Leaseback has been used as a tactic to evade state rate caps or fee limits.

**Repo Terms** summarize briefly any provisions in a state's car title loan law that apply to repossession of the borrower's vehicle on default. This column does not include each state's Uniform Commercial Code provisions that apply to secured loans.

**Right to Cure** spells out state law protections for a borrower whose vehicle has been repossessed before the vehicle is sold to repay the loan. This includes time limits to catch up on payments or any extended payment plan options lenders are required to offer.

**Surplus/Deficiency** means any law requirements that the lender return extra funds from selling a repossessed vehicle after paying off the title loan, interest, and repossession fees; or whether the lender is permitted or prohibited from suing borrowers for any amount still owed after the vehicle has been sold.

**Prohibited Practices** is the list of actions car title lenders are forbidden from doing.

**Title Required** notes which state laws require that the lender hold the borrower's vehicle title to secure the loan. Arizona's law is silent on this point, but state regulatory interpretations is that a "title loan" can be made to a borrower who does not hold title to the vehicle in question.

**States that permit car-title lending** as of December 2012

State	Status	Citation	Max Loan	Cost Limits	NSF/Fees	Term Limits	Cost \$500	Sale/LeaseBack?	Repo Terms	Right to Cure	Surplus/Deficiency	Prohibited Practices	Title Required
AL	Permit	Ala. Pawnshop Act (Ala. Code § 5-19A-1 <i>et seq.</i> )		25%/mon.		Month	\$125/300% APR	Prohibited	5-19A-5©	30 days	Lender keeps surplus	Sell or charge for insurance	
AZ	Permit	Motor Vehicle Time Sales Disclosure Act (Ariz. Stat. 44-281 <i>et seq.</i> )		17%/mon. \$500 or less; 15% per mon. \$501-\$2,500; 13%/mon. \$2,501-\$5,000; 10%/mon. more than \$5,000	Late fee up to 5% of unpaid balance of installment if not paid in full on tenth day after due date		\$85/204%APR			May extend payments, defer payment(s), renew unpaid balance or restate the unpaid balance.	Lender gets deficiency balance, borrower gets surplus.		No
DE	Permit	Del. Code Tit. 5 §§ 2250 <i>et seq.</i>		No Cap		Up to 180 days, including roll-overs	No cap		UCC, surrender	Offer plan, pay 10% prin. Per month	Borrower gets surplus. No deficiency balance.	FDCPA violation, threat of criminal action, advertise teaser rate	Yes

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GA	Permit	Pawnbroker Law (Ga. Code §§ 44-12-130 <i>et seq.</i> )		25%/mon. 1st 3, 12.5% after; plus lien fee	Lien; no more than \$5 a day in storage fees	30 days, may extend	\$125/300% APR	Prohibited	Repo w/o judicial process, \$5/day storage post repo. \$50 to \$250 repo fee	Yes	Lender keeps surplus	Not advertise as loan	Yes
ID	Permit	Idaho Code Ann. § 28-46-501 to -509		No Cap		30 day loan term. On 3rd renewal, have to pay 10% of principle each renewal.	No cap		Notice	Yes, 10 day notice	Borrower gets surplus, no deficiency balance (Ch. 9 Title 28 Idaho Code)	Loan more than worth of vehicle. Loan without clear title.	Yes
IL	Permit	IL Admin. Code Tit. 38, §§110.300-410	\$4000 or up to 50% of monthly income	No Cap	No ck cash fee	Equal installments, 15 days between loans. 1 renewal if pay 20% prin.	No cap	Prohibited	Notice			No balloon payments	Yes

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MS	Permit	Title Pledge Act (Miss. Code §§ 75-67-401 to -449)	\$2,500	25%/mon.	Sales fee	30 days, may renew if pay 10%.	\$125/300% APR			30 days after loan maturity date; or 3 days after repossession. Repo w/o judicial process. If salvage, can sell immediately.	Borrower gets 85% of surplus, no deficiency	Can't pay off loan with another title loan, loan exceeds \$2,500.00; sell insurance	Yes
MO	Permit	Title Loans Law (Mo. Rev. Stat. §367.500-367.533)	\$5,000	No Cap	\$25 NSF, orig. fees	Not less than 30 days, on 3rd renewal pay down 10% of loan	No cap		Repo	20 days after notice of right to cure	Can pursue deficiency balance, must pay surplus	No waiver of rights, make loan without clear title. Cannot use "pawn" or "pawnbroker" terms	Yes
NV	Permit	Nev. Rev. Stat. § 604A.105; see p.10	Up to fair market value of vehicle	No Cap	NSF; no additional fees	30 days, 6 renewals, may go up to 210 days if conditions met	No cap		Interest 90 days after	15 day notice, offer repayment plan	No deficiency balance	No criminal threats, no hold harmless, not by terminal, not looking at customer's ability to repay	Title or add lender as lienholder to title

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NH	Permit	Pawnbroker/Lender Act (N.H. Rev. Stat. § 399-A)	\$10,000	25% interest per month plus lien fee	1 NSF/ck.	one month original term, 10 renewals if pay down 10% of loan	\$125/300% APR plus lien fee					No POA, no confession of judgment, not waive rights, only one loans secured by title, not allowing right to cancel within one day; making loan to someone w/outstanding loan in 60 day period	
NM	Permit	"New Mexico Small Loan Act" N.M. Stat. Ann. §§ 58-15-1 to -30	\$2,500	No Cap			No Cap						Yes
SD	Permit	S.D. Codified Laws Ann. §§ 54-4-70 to 72 (Subject to provisions of § 57A-9)		No Cap		30 days, 4 renewals then pay 10% of loan plus fees and interest	No cap				No deficiency balance, borrower gets surplus		Yes

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TN	Permit	TN Title Pledge Act (§ 45-15-101 to § 45-15-120)	\$2,500	1/5 loan + 2%/months		30 days, may automatically renew; on 3rd renewal pay 5% of original principal amt. plus int. and fees	\$110/264% APR			20 days	No deficiency balance, borrower gets surplus	No waiver of rights, no loan on encumbered title, no insurance	Clear title required
TX	Permit	Tex Fin. Code tit. 5 §§ 393.001-393.628; Tex. Admin. Code tit. 7 §§ 83.1001-83.6008; /Ch. 302, Texas Finance Code; Title 1 Texas Business and Commerce Code	No cap	10% interest cap; no fee limit		Contracts for credit services cannot exceed 180 days	No cap. Ave. based on regulator data: 114.11 or 277% APR						Yes
UT	Permit	Title Lend. Reg. Act (Utah Code §§ 7-24-101 et seq.)		No Cap		May renew	No cap				No deficiency balance, borrower gets surplus	No loan w/o ability to repay, no rollover w/o request, only 1 loan per vehicle	Yes

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VA	Permit	Code of Virginia Tit. 6.2 Chap. 22	Up to 50% of fair mkt. value of vehicle	22% per month of outstanding balance up to \$700, 18%/\$701-\$1400; 15%/\$1401+ lien fee	5% of payment late fee after 7 days past due	Equal monthly installments, at least 120 days up to 12 months; no rollovers, renewals	264% APR, \$110 if prepaid in one month		10-day notice of repossession if lender charges and collects reasonable costs of repo and sale of vehicle	Right to cure prior to sale of repo.	No deficiency balance, surplus to borrower	No loan if motor vehicle has existing lien/one loan at a time; no prepayment penalties; no loans to active-duty military	Must have title to vehicle, lien must be filed with DMV
WI	Permit	Wis. Stat. § 138.16	Up to 50% value of vehicle; \$25,000 max	No cap	2.75%/month	Up to 6 months	No cap		20 days notice prior to repossession required		No deficiency balance, surplus to borrower	May not require key as security	