Volume Title: Commercial Banks and Consumer Instalment Credit

Volume Author/Editor: John M. Chapman and associates

Volume Publisher: NBER

Volume ISBN: 0-870-14462-6

Volume URL: http://www.nber.org/books/chap40-1

Publication Date: 1940

Chapter Title: The Legal Status of the Consumer Credit Operations of Commercial Banks

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Chapter URL: http://www.nber.org/chapters/c4729

Chapter pages in book: (p. 47 - 62)

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The Legal Status of the Consumer Credit Operations of Commercial Banks

ALTHOUGH an extensive body of legislation has long regulated the ordinary operations of commercial banks, their more recent activities as agencies of consumer credit have received but little specific legislative attention. Banks that make personal loans do so in most cases under general banking statutes, state and national, which authorize them to make loans and to discount paper, subject to supervision by the proper authorities. With very few exceptions, however, these laws make no direct reference to loans repayable on an instalment basis. The rate of simple interest on average outstanding balances of instalment loans is higher than the discount rate, depending on the schedule of repayments, and frequently it is high enough to conflict with the provisions of the usury statutes. Commercial banks are therefore in considerable doubt regarding the legality of such loans, except in the few states which have enacted special legislation to cover instalment lending by such institutions. With respect to this phase of their operations commercial banks are in a very different position from industrial banking companies, credit unions and small loan companies, which likewise make instalment loans to consumers but are in many states subject to definite statutory regulation which sets the maximum rate at which they can lend and exempts them from the general statutes governing interest.

Cash instalment lending, however, is but one aspect of the consumer credit activities of commercial banks. There is also

the financing of time sales which, as we have already noted, has been undertaken by many commercial banks in recent years. Except in Indiana, Michigan and Wisconsin, instalment sales financing is covered neither by the special statutes covering personal loan department practice nor by the general provisions of banking law, so that this important branch of banking enterprise remains without specific regulation as to customer charges.

In the following pages we present a summary of the legislation governing the personal loan departments of commercial banks. This information, derived largely from responses to a questionnaire addressed to all state banking departments and from the text of state banking statutes, is arranged to facilitate a comparison of provisions concerning licensing and regulation, customer charges, size of loan, length of contract and time-sales financing.

Replies to the questionnaire were received from all but 2 states, North Dakota and Louisiana. Of the 46 reporting, 10 had taken some legislative action with respect to personal loan departments: Arizona,[1] Delaware,[2] Maine,[3] Michigan,[4] New Jersey,[5] New York,[6] North Carolina,[7] Ohio,[8] South

[1] Chapter 69, House Bill No. 169, effective June 14, 1939.

[2] Laws of Delaware, secs. 121-22, vol. 40. These are secs. 3556-57 of the Delaware laws applying to small loan companies, but national banks, state banks and trust companies are specifically included in their provisions.

[3] Maine Banking Law, sec. 27, XIX, specifically empowers savings banks to make personal loans on endorsed notes.

[4] Michigan financial institutions act (Public Act 341, session of 1937 as amended 1939 by Senate Bill No. 212, Senate Enrolled Act No. 71), sec. 38. This law refers to personal lending as "industrial loan business," but the section cited applies also to personal loans by commercial banks.

[5] New Jersey Banking Law, sec. 17; 4-31.1-8. A particularly interesting section of the New Jersey law stipulates that any loan contract drawn up under its provisions must include a statement of that fact.

[6] New York Banking Law, sec. 108-2. No other state has as comprehensive a body of legislation regulating personal loan departments.

[7] North Carolina Banking Law, 1937 supplement, Chapter 5, Article 5, sec. 220-a.

[8] Ohio General Code, sec. 710-180 (special-plan banking section) governs the operations of personal loan departments of commercial banks. Sec. 710-148d-1 permits mutual savings banks to operate such departments.

Carolina[9] and Virginia.[10] In Wisconsin legislation covering personal loan departments was pending.[11] Of the 36 states (including Wisconsin) whose banking departments reported that they had no legislation specifically applicable to the granting of personal loans by commercial banks, 12 indicated that such loans would be affected by their general banking statutes.[12]

Almost all states replied to a question[13] about the legal maximum interest rate for personal loans made by banks. From these responses it is apparent not only that practice varies widely, but also that a considerable degree of uncertainty prevails as to what rates are permitted by law. In addition to the interest charge, the borrower may have to pay one or more special fees—a credit investigation or examination fee, a service charge, brokerage fees, insurance premiums, fines for late payments, fees for the registration of legal instruments, and court costs in case of litigation. It is impossible to determine, from the replies to the questionnaire, whether a given charge is specifically authorized, expressly forbidden, or merely sanctioned as a matter of practice in the absence of any statutory pronouncement; about half the reporting states

[9] South Carolina Session of 1935, Public Act 270. This statute authorizes banks "to make loans payable in instalments for financing of purchases and other desirable purposes."

[10] Statutes of Virginia relating to banks, trust companies, etc., sec. 5553, 1938 Acts of Assembly.

[11] Bill 283-A, dealing with personal loan departments, was referred to a legislative committee March 3, 1939, but was not reported out.

[12] The 12 states whose general banking statutes cover some aspects of personal lending by banks are: Arkansas, California, Connecticut, Iowa, Massachusetts, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas and Wyoming. Oregon and Rhode Island reported that they had no special legislation but that the usury statutes would apply to personal loans made by commercial banks. Tennessee reported no specific regulation of personal loan departments but indicated that such loans were made by some banks and that they could not legally charge more than 6 percent. Wyoming has no special legislation, but its general statutes contain a provision regarding the interest rate on loans up to $200.

[13] "Is the maximum rate of interest which a bank in your state may charge on personal loans specified in the banking law? If so, what is this rate? If the usury rate is applicable, please state rate."

authorize or permit one or more of these charges. The fees most commonly allowed are those for credit investigation or service; in about one-fourth of the states reporting, at least one of these charges is permissible,[14] whereas in nine states all special fees and charges are forbidden.[15]

LICENSING AND REGULATION

Provisions for licensing and regulating the personal instalment loan business of commercial banks vary greatly among those states which have enacted special legislation. The banking laws of Arizona, Maine, North Carolina, South Carolina and Virginia do not mention the licensing of personal loan departments at all. In Delaware, where banks have the right to operate under the small loan law, they may do so without procuring a certificate of registration from the state bank commissioner. Only in four states are banks required to obtain permission to establish personal loan departments. Michigan banks seeking to engage in the industrial loan business (the term used in the Michigan law to refer to personal and industrial loans) must apply to the banking department, which is directed to consider the financial position of the bank (amount of capital and surplus), and the character and needs of the community to be served, before it grants a certificate authorizing the applicant institution to make such loans. New Jersey banks are required to obtain a license from the state banking department before they may establish a personal loan department. In New York the superintendent of banks may at his discretion grant a bank permission to open a personal loan department if he deems that the convenience and advantage of the community would be served thereby.

[14] The credit investigation fee and the service charge are in theory distinguishable from each other. As used by banks, however, the terms overlap and no exact distinction can be drawn.

[15] Arkansas, Florida, Indiana, Minnesota, Mississippi, Missouri, New Jersey, Oklahoma, Tennessee.

In Ohio a bank must amend its charter, with the approval of the banking superintendent and of its stockholders, to comply with the law for special-plan banks before it may establish a personal loan department.

Personal loan departments of banks in Ohio and New York are subject to periodic examination by the division of banks, conducted in the same general manner as are the examinations of other operations of commercial banks, savings banks and trust companies. The New York law, passed in 1936, provides that the records of personal loan departments "shall be kept in such form as the superintendent may from time to time prescribe." Upon approval of a bank's application to operate a personal loan department, the state banking department sends the bank a copy of the annual report form for personal loan departments and a copy of the regulations covering their operations; it also advises how the interest rate shall be computed and expressed in loan contracts and recommends the use of certain operating practices. New York appears to be the only state which supplies personal loan departments with any supervisory material or report forms.

CUSTOMER CHARGES

All states in the union have enacted laws establishing a legal rate of interest which lenders may not exceed without the borrower's consent. By agreement with the borrower, interest in excess of this amount may be charged in most states, but such an overcharge is limited to the percentage stipulated as the "contract rate." Table 10 lists legal and contract rates[16] for all states and the District of Columbia. Legal rates vary from 4 percent in North Dakota to 8 percent in Florida. The most frequent rate is 6 percent, which applies in 39 states and in the District of Columbia. In 11 states the contract rate is

[16] Both these rates are "legal" in the literal sense of the word. In this discussion we are employing the terms "legal rate" and "contract rate" because such usage conforms to general practice.

TABLE 10

Legal and Contract Rates in All States and in the District of Columbia[a]

STATE	LEGAL RATE	MAXIMUM CONTRACT RATE	STATE	LEGAL RATE	MAXIMUM CONTRACT RATE
Alabama	6	8	Nebraska	6	9
Arizona	6	8	Nevada	7	12
Arkansas	6	10	New Hampshire	6	any
California	7	10	New Jersey	6	6
Colorado	6	any	New Mexico	6	12[b]
Connecticut	6	12	New York	6	6
Delaware	6	6	North Carolina	6	6
District of Columbia	6	8	North Dakota	4	7
Florida	8	10	Ohio	6	8
Georgia	7	8	Oklahoma	6	10
Idaho	6	8	Oregon	6	10
Illinois	5	7	Pennsylvania	6	6
Indiana	6	8	Rhode Island	6	30[c]
Iowa	5	7	South Carolina	6	7
Kansas	6	10	South Dakota	6	8
Kentucky	6	6	Tennessee	6	6
Louisiana	6	8	Texas	6	10
Maine	6	any	Utah	6	10[d]
Maryland	6	6	Vermont	6	6
Massachusetts	6	any	Virginia	6	6
Michigan	5	7	Washington	6	12
Minnesota	6	8	West Virginia	6	6
Mississippi	6	8	Wisconsin	6	10
Missouri	6	8	Wyoming	7	10
Montana	6	10			

[a] Taken from Polk's *Banker's Encyclopedia* (March 1939). Special exemptions from these rates are to be found in many state laws: loans made by personal finance companies, for example, are almost always exempt from usury statutes; Delaware, Illinois and New York allow any rate agreed upon for demand loans in amounts over $5000 secured by certain kinds of collateral, etc.

[b] This applies to unsecured loans; on collateral loans the rate is 10 percent.

[c] On loans up to $50 the rate is 5 percent per month for the first 6 months, 2½ percent per month thereafter; over $50 the rate is 30 percent per annum.

[d] "The law also allows 4 percent service charge on unpaid balance, in addition to 10 percent maximum rate." Polk, *op. cit.*

also 6 percent; 4 states do not stipulate a contract maximum, and 33 states and the District of Columbia fix a contract rate higher than the legal rate, the former varying from 7 to 12 percent.

Certain types of loans are covered by special legislation which exempts them from the laws limiting interest charges. The interest rate applying to cash advances by personal finance companies, for example, is not restricted by such statutes. Many banks, however, in the absence of specific legislation on this point, have been unable to determine definitely whether their personal instalment loans would be entitled to such exemption. Undoubtedly some banks would attribute their hesitancy to undertake instalment lending to this uncertainty. In New York special legislation allowing banks to establish and operate personal loan departments was not enacted until 1936; before that year several large commercial banks refused to risk violation of the statutes governing interest rates by making small instalment loans.[17] A large number of banks have dealt with this situation by applying the borrower's instalment payments not directly against his outstanding indebtedness but to a savings deposit, known as an "hypothecated account," which accumulates and is applied to the loan upon maturity.[18]

[17] While the absence of definite legislation has to some extent deterred commercial banks from making small instalment loans, it is probably true also that in many states this aspect of banking is too recent to have created an active demand for statutory control. According to the Rhode Island state banking department, for example, the volume of such business has not assumed sufficient proportions to warrant special legislation. Massachusetts reports that personal loans are comparatively new in commercial banking institutions in that state, and are not regulated by any statutes other than those governing the lending of funds by commercial banks. Alabama reports that too few banks have personal loan departments to require the issuance of uniform supervisory rules.

[18] The interest charge on a loan of $1200 extending for 12 months at 10 percent discount is $120, so that the proceeds of the loan come to $1080. If monthly payments are applied directly against the indebtedness, the rate of interest is 1.66 percent per month, which is approximately 21 percent per year, depending on the method of calculation; such a rate might be considered usurious by the courts. If the hypothecated account is used, however, the

Not all of the 10 states which have special personal loan legislation applying to commercial banks have set a maximum interest rate for such loans. The section of the Maine law dealing with personal loans does not mention rates. The general legal rate in that state is 6 percent and any contract rate is permitted; moreover the Maine small loan law allows 12 percent per annum on loans up to $300.[19] In Delaware, New Jersey, North Carolina and Virginia the rate is 6 percent discount payable in advance.[20] The contract rate of 7 percent applies in Michigan and South Carolina, and of 8 percent in Arizona, and in all three states interest may be deducted in advance.

New York is the only state which quotes the interest charge as a percent of the average unpaid principal balance. This rate may not exceed 12 percent per annum. Since the legal rate is 6 percent discount on the face of a non-instalment note, which would amount to 11.78 percent on the average unpaid balance of a loan paid off in regular instalments, there is little actual difference between the two methods of quoting legal rates.

In Ohio no specific statute governs the interest rate on so-called special-plan loans. The contract rate is 8 percent, but special-plan banks (those making "industrial loans") and mutual savings banks may require periodic or deposit payments as additional security (with or without an allowance

entire $1200 indebtedness continues for the full year, since the borrower's "repayments" actually go to build up the deposit account. This is applied in full, at the end of the period, to the liquidation of the debt, as agreed between lender and borrower when the loan is made. In this case the borrower has nominally had the use of $1080 for the entire year, on which interest of $120 is only 11.1 percent. To make their position still more tenable from the legal aspect, some banks allow interest on the hypothecated deposit as payments accumulate in the account.

[19] Although the small loan law in Maine specifically excludes banks (sec. 158) the questionnaire return from this state indicated that the 12 percent rate is allowed on bank personal loans.

[20] Virginia permits a minimum interest charge of $1.

of interest on such deposits), thus effecting an increase in the interest rate beyond the statutory maximum of 8 percent.

In addition to the states just mentioned, two or three others have provisions applicable to personal loans made by commercial banks. The Nebraska law makes no explicit stipulation concerning small loans or personal loan departments, but according to its state banking department some Nebraska banks are licensed by the secretary of state; these are exempt from the laws regulating interest and permitted to charge up to 10 percent discount per annum. In Rhode Island interest on all bank loans is subject to the statute governing interest rates.[21] Wyoming has no personal loan legislation and "the general statutes allow 25 percent per annum on loans up to $200."[22]

Charges other than interest, whether authorized or merely customary, also differ markedly from state to state. Arizona permits only lawful fees for the filing, recording or acknowledgment of legal instruments. Delaware authorizes a credit investigation fee or service charge, and is one of the few states to specify the amount, 2 percent; in addition, non-cumulative delinquency fines of 5 percent are permitted in this state. The Maine law does not mention fees in the section applying to personal loans by banks,[23] and the North Carolina and Virginia laws contain no provisions regarding charges. In Michigan, borrowers may be charged $1 per $50 of the loan to cover expenses, including a credit investigation fee and fees for the drawing up of necessary papers, but no charge may be collected unless the loan is actually made and under no circumstances may it exceed $15. The New Jersey law states that "no further interest or discount charge, nor any other charge whatsoever, shall be made directly or indirectly."

[21] The Rhode Island law provides further that on loans of $50 or less, 5 percent interest per month may be charged for the first 6 months, and 2½ percent per month thereafter.

[22] Questionnaire return from Wyoming state banking department.

[23] The Maine small loan law forbids any but "lawful fees."

New York forbids all charges except fines and court costs (in cases of default)[24] and group insurance premiums. The Ohio law permits a credit investigation fee, of unrestricted amount, but there is no statute either authorizing or forbidding other charges.[25] The banking laws of South Carolina provide a minimum charge of $1 "in lieu of interest" on small loans.

A number of states, in addition to those with special legislation, reported provisions for various charges.[26] Some banks consider that such supplementary fees constitute the profit margin on personal instalment loans when interest alone would be inadequate to justify the granting of such credit. Accordingly the legal status of additional charges may be an important factor in a bank's determination as to whether or not it will engage in consumer instalment lending.

[24] Default charges are of two kinds: (1) on delinquent principal payments, either interest at no more than the usual 12 percent per annum on the average unpaid balance, or (after five days delinquency) a fine not to exceed 4 percent or $2 on any one payment (total fines not to exceed $15 or 2 percent of the total loan); (2) actual expenditures, including reasonable fee to attorney for necessary litigation.

[25] According to the state banking department the actual practice in Ohio is to charge up to $2 per $100, depending on the size of the loan, the quality of the collateral and the credit record of the borrower. On many loans no charge is made.

[26] The questionnaire returns from Georgia, Kentucky, New Hampshire, New Mexico and Vermont state that the laws of those states make no provision for any fees or charges. In Connecticut a credit investigation fee is allowed, but other charges are not specified and any may be imposed. Idaho banks impose a charge of $1 for each loan. A life insurance charge is permitted in Massachusetts. Nebraska banks may charge, besides interest, a brokerage fee of not more than 10 percent of the amount actually lent, and an examination fee of not more than 50 cents on loans up to $50. In Nevada special fees are not subject to regulation. The Oregon usury statute exempts "reasonable" fees for credit investigation and for the registration of legal documents. Pennsylvania places no restriction on credit investigation fees and permits fines for late payment. Rhode Island does not restrict credit investigation fees and allows "any incidental charge." The 4 percent "service charge" which Utah permits in addition to interest is said to cover documentary fees for the most part. In Wyoming the maximum interest of "25 percent per annum" which may be applied to loans up to $200 must include all charges, investigation fees and the like.

SIZE OF LOANS AND LENGTH OF CONTRACT

Of the 10 states which have enacted legislation covering loans by personal loan departments, 8 place a maximum limit on the amount that may be lent to a single customer on an instalment basis. Arizona, New Jersey, Maine and South Carolina set a flat maximum of $1000,[27] and North Carolina stipulates a maximum of $1500. In New York the limit is variable, from $500 to $3500, depending on the population of the city in which the bank is located.[28] According to the Delaware law, the maximum size of loan is determined by the amount of the lender's capital and surplus.[29] In Michigan no bank may lend to a single borrower more than 3 percent of its capital and surplus.[30] Ohio and Virginia do not specifically limit the size of personal loans.

Only 4 states have set a maximum length of contract for personal loans: New Jersey 12 months, New York 15 months,[31] Michigan 18 months,[32] and Ohio 12 months (on loans made by mutual savings banks). South Carolina has fixed a minimum contract length of 6 months, but no maximum.

Michigan permits weekly, semi-monthly or monthly repayment instalments, but requires that they be uniform in amount. New York specifies "equal or substantially equal"

[27] South Carolina also sets a minimum of $10.

[28] The various limits are set as follows:

$3500 applies in cities with more than 1,000,000 inhabitants;
$2500 in cities with not less than 300,000 or more than 1,000,000;
$1500 in cities with not less than 25,000 or more than 300,000;
$1000 in cities with not less than 4,000 or more than 25,000;
$ 500 in communities with less than 4,000.

[29] Individuals may borrow up to $500 from firms having a paid-in capital of $10,000; firms with a larger capital may lend a single borrower up to 10 percent of their capital stock and surplus.

[30] The Michigan law applies to "industrial loan business." Loans for real estate improvements or repairs are excluded from the 3 percent limit.

[31] Except that in the case of loans running more than one year provision may be made for the omission of repayments during no more than 3 specified months.

[32] Loans for improvements or repairs on real estate may, however, extend over 24 months.

instalments at regular intervals of one month. Delaware and Virginia allow weekly, monthly, or other periodic instalments. In South Carolina the only stipulation on this score is that loans shall be "payable in instalments." The uniformity requirement is designed, of course, to eliminate the "balloon note," a device which serves to lengthen the period of borrower indebtedness.

SUGGESTED UNIFORM PERSONAL INSTALMENT LOAN LAW

The questionnaire replies analyzed in the foregoing pages testify to the prevailing confusion regarding the legal status of personal instalment loans made by commercial banks. In states where legislation is lacking, a bank must decide whether it is legally empowered to make personal loans, whether such loans are subject to the provisions of the general banking laws or (in the absence of definite exemption from small loan laws) the small loan law of the state, what operating methods may be adopted, what interest and other fees may be charged, and what records must be kept. On the other hand it must take the risk of adverse court decisions in the event of legal action on any of these points at some later date.

In an effort to foster some degree of uniformity in the state laws regulating cash instalment loans made by commercial banks, the American Bankers Association has prepared a recommended draft of a Personal Instalment Loan Statute. The text of the draft is quoted below.[33]

> An Act to increase to the public the credit facilities of banks, trust companies and national banks doing business in this State by fixing the rate of interest or discount that may be charged on loans to be repaid in instalments, or by means of deposits, and to limit the charges thereon. . . .

[33] The Association considers that the statutes of New Jersey, New York, North Carolina and South Carolina are modified forms of this proposed law.

1. Any bank or trust company heretofore or hereafter organized under any general or special law of this State, and any national bank doing business in this State, shall have power, in addition to such other powers as it may have to make loans to any person, firm or corporation in an amount not exceeding one thousand dollars ($1,000) and to deduct in advance from the proceeds of such loan, interest or discount at a rate not exceeding any contract rate permitted by law in this State, upon the total amount of the loan from the date thereof until the maturity of the final instalment, notwithstanding that the principal amount of such loan is required to be repaid in instalments, or notwithstanding the loan is secured by a deposit account opened by the maker or makers concurrently with the making of the loan and assigned as collateral security therefor, which deposit account may evidence deposits made, or require deposits substantially uniform in amount, to be made periodically, with or without interest throughout the term for which the note evidencing such loan runs.

2. No further interest or discount charge, nor any other charge whatsoever, shall be made directly or indirectly on any such loan or discount of such note by such bank, trust company or national bank in addition to the charges herein expressly provided for, except that there may be charged to the borrower

(a) a penalty not exceeding . . percent (. . %) of the amount of any principal payment or payments in default.

(b) the actual cost of insurance in the case such bank, trust company or national bank insures the life of the borrower under an insurance policy, and

(c) a charge in an amount not exceeding one dollar ($1) per one hundred dollars ($100), or fraction thereof, of loan for the cost of credit investigation or appraisal of the security offered as collateral.

3. All Acts or parts of Acts inconsistent with this Act are hereby repealed.

4. This Act shall take effect immediately.

TIME-SALES FINANCING

Commercial banks not only make instalment loans directly to consumers but also buy finance paper from dealers and lend money on the security of retail sales contracts. The latter phase of consumer financing by commercial banks has, however, received little legislative attention. As we have mentioned previously, only three states—Indiana,[34] Michigan[35] and Wisconsin[36]—have sales finance laws applicable to commercial banks.[37]

The Indiana "Retail Installment Sales Act" is a comprehensive statute covering transactions up to $1500, regardless of the agency through which they are handled. It requires that any person, firm or corporation wishing to purchase instalment contracts from a dealer secure a license from the department of financial institutions, and that all agencies except banks be licensed before they may make loans to dealers on the security of retail instalment contracts. The license fee is $10 annually for banks, $100 for other agencies. The act stipulates in detail what information must appear on the written contract,[38] and the department of financial institutions is given broad powers to establish a schedule of maximum legal charges[39] and delinquency penalties, and to regulate time-sales practices.

[34] Indiana Bankers Association, *Acts of the State of Indiana Affecting Various Financial Institutions* (1935) Chapter 12, "Retail Installment Sales Act."

[35] Michigan Senate Bill No. 166, Senate Enrolled Act No. 144.

[36] Wisconsin Statutes, 1937, sec. 218.01.

[37] Maine has a licensing act relating to the instalment finance business, but banks are exempt from its provisions. Although South Carolina permits banks to make instalment loans "for financing of purchases and other desirable purposes," the character of the statute indicates that it was not designed to regulate retail instalment sales along the lines discussed here.

[38] The stipulated items are cash price, amount of down payment, unpaid balance, cost of insurance, principal balance owed (unpaid balance plus insurance), amount of finance charge, time balance and the number of payments, with the amount and date of each (sec. 4).

[39] It is made clear that the law is not to be considered as repealing any earlier

The Michigan act covers the time sales of motor vehicles only, and makes no specific mention of banks. It defines the term "seller" as a person who sells or agrees to sell a motor vehicle, or any legal successor in interest of such person. Here the question is whether a bank which lends funds to a consumer for the purchase of a motor vehicle, taking title to the car from the retail dealer until payment is complete, or a bank which purchases dealer paper, becomes thereby the dealer's "legal successor in interest." If so, banks clearly fall under the provisions of the law which describes, in terms almost identical with those of the Indiana statute, the information which must appear on the written contract, and regulates repossession practice in considerable detail.

The Wisconsin law, described as a licensing act, is similar to the law of Michigan in that it relates to motor vehicle business exclusively. It affects motor vehicle salesmen, motor vehicle dealers and sales finance agencies. Thus banks are plainly included, as is indicated by the definition of a sales finance agency: "any person, firm or corporation engaging in this state in the business, in whole or in part, of acquiring by purchase or by loan on the security thereof, or otherwise, retail instalment contracts from retail sellers in this state." Sales finance agencies as thus defined are required to be licensed by the banking department, the license fee depending on the gross volume of business measured by the unpaid balance of the retail contracts. Broad authority to supervise and

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Indiana statutes regarding legal rates of interest, but is merely supplementary thereto.

In view of competitive conditions in the sales finance field, the section of this law dealing with the finance charge is of particular interest. "The department, in determining the fair maximum finance charge which may be contracted for in any retail instalment contracts, shall take into consideration the availability of credit facilities to individuals who do not have the security generally required by commercial banks, and the finance charge which will be necessary in order to induce sufficient amounts of efficiently operated commercial capital to enter the business of making retail instalment contracts. The department shall fix charges sufficient to provide adequate credit facilities for retail instalment sales."

regulate the operations of such agencies is conferred upon the banking commission in connection with its licensing powers. It may, for example, revoke licenses if the sales finance agency makes a finance charge in excess of 15 percent per annum, or in cases of other violations of the act; it is empowered also to examine the books of licensees, to define unfair practices in the motor vehicle industry and to promote the general interests of the retail buyers of motor vehicles. A particularly interesting clause stipulates that sales finance agencies must be licensed as direct loan companies if they wish to make direct loans or to refinance accounts at original contract rates.[40]

[40] See National Bureau of Economic Research (Financial Research Program), *Sales Finance Companies and Their Credit Practices,* by W. C. Plummer and R. A. Young (1940) Chapter 9, "Abuses in Retail Instalment Financing, and Their Regulation," for a more detailed discussion of statutes pertaining to sales financing.