



Idaho Credit Code "Fast Facts"

The provisions of the Idaho Credit Code (Idaho Code §28-41-101, *et seq.*), apply to credit transactions in Idaho for personal, family, or household purposes. Because the Idaho Credit Code addresses consumer transactions, as opposed to commercial transactions, the consumer protection provisions listed below are incorporated into the Idaho Credit Code.

- Idaho Code §28-42-201—Maximum Finance Charge—Finance charges are allowed as agreed upon by the parties to the agreement. This section implies no other finance charges or other charges apply to the loan unless contracted for and made a part of the agreement;
- Idaho Code §28-42-301—Delinquency Charges—Charges for delinquency are limited in the dollar amount and the timing of the imposition of the charge;
- Idaho Code §28-42-306—Right to Prepay—A borrower may prepay a consumer credit transaction at any time without penalty (separate provisions apply to loans secured by a dwelling);
- Idaho Code §28-42-307—Rebate Upon Repayment—In a pre-computed loan transaction, a borrower is entitled to a rebate of unearned finance charges if full repayment is made prior to maturity;
- Idaho Code §28-42-308—Dishonored Check Fees—A lender is restricted in the amount that it can charge a consumer for a dishonored check; and
- Idaho Code §28-43-201—Compliance with federal Consumer Credit Protection Act—A lender must comply with, (i) the disclosure requirements of the federal Truth-in-Lending Act, (ii) the prohibitions on certain lending activities and disclosure requirements of the Equal Credit Opportunity Act, (iii) consumer credit reporting and collection activities regulated by the federal Fair Debt Collection Practices Act, and (iv) the federal Fair Credit Reporting Act. The following additional federal consumer credit protection provisions also apply:
 1. Requirement that lenders provide conspicuous disclosure of the costs and terms associated with financing;
 2. Requirement that lenders provide clear disclosure of actions taken by a lender related to a loan application;
 3. Prohibition against discriminatory practices in lending;
 4. Requirement of adequate reporting of credit account information and requirements that lenders perform specified corrective-related actions when credit balances are in dispute; and
 5. Restrictions and prohibitions applicable to persons acting as third-party collectors or debts.

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- Idaho Code §28-43-304—No Assignment of Earnings—A consumer may not be required to assign earnings as security for repayment of a loan;
- Idaho Code §28-43-310—Regular Schedule of Payments—Restricts the length of repayment terms in a loan agreement relative to the amount financed;
- Idaho Code §28-43-311—Limitation on Attorney Fees—Restricts lenders from contracting for charges for attorney fees in connection with a loan of \$1,000 or less (Since payday loans in Idaho are limited to \$1,000 – Payday lenders are not entitled to attorney's fees in the event of a lawsuit for collection on a defaulted payday loan);
- Idaho Code §28-43-201 (Part 2-Credit Insurance)—Restricts certain actions by the lender when offering and selling credit insurance in connection with a consumer loan;
- Idaho Code §28-45-104—Limitation on Garnishment—Limits the amount of disposable income that may be garnished as the result of a delinquency judgment stemming from a consumer credit transaction;
- Idaho Code §28-45-109—Extortionate Extensions of Credit—Prohibits lenders from engaging in extortionate practices in lending; and
- Idaho Code §§28-45-106—Unconscionability—Allows a court to invalidate or refuse to enforce unconscionable terms of a loan agreement.

Additional Idaho Credit Code Protections Applying to Payday Loans

The Department conducts routine and for-cause compliance examinations of payday lenders licensed under the Idaho Credit Code. Administrative actions are undertaken when necessary to ensure compliance with Idaho law. In addition to the above listed consumer credit protection provisions, the Idaho Credit Code includes the following consumer protection provisions that apply to payday loans, as defined in Idaho Code § 28-46-401 *et seq.*:

- A payday loan made in Idaho in violation of statutory licensing requirements is void, uncollectible and unenforceable. For any such payday loan the debtor is not obligated to pay the principal or any fee associated with such payday loan;
- Loan limit of the lesser of \$1,000 or 25 percent of the borrower’s gross monthly income;
- Once per 12-month period, a borrower may transition a payday loan into an extended payment plan at no additional cost to the borrower. The extended payment plan must provide for at least four equal payments over at least sixty days;
- A payday lender can only make two re-presentments of a borrower’s check for payment;
- Requirement to conspicuously post in each licensed location a notice of the fees, expressed as a dollar amount per \$100, charged for payday loans;
- Payday loan agreements must include a statement of the total amount of fees charged, expressed in a dollar amount and as an annual percentage rate (APR);
- Limitation of three (3) payday loan renewals;
- Written notice to borrowers, before disbursement of funds, that the borrower has a right to rescind the loan at no cost by the end of the next business day following the day on which the payday loan is made;
- Prohibition of criminal prosecution for default;
- Prohibition of unfair or deceptive acts, practices or advertising;
- Prohibition against accepting any other collateral for a payday loan other than a borrower's check; and
- A payday licensee may not charge treble damages if a borrower's check is returned unpaid. Payday lenders are limited to a return check fee of \$20.

Additional Idaho Credit Code Protections Applying to Vehicle Title Loans

The Department conducts routine and for-cause compliance examinations of title lenders licensed as regulated lenders under the Idaho Credit Code. Automobile title lenders are required to be licensed as regulated lenders under the Idaho Credit Code. The Idaho Title Loan Act (Idaho Code § 28-46-501 *et seq.*) includes the following consumer protections applicable to title lending activities in Idaho:

- All provisions of the Idaho Credit Code relating to regulated consumer loans apply to title loans and to persons engaged in the business of making title loans;
- Title loans made without first having obtained a regulated lender license are void, and the lender forfeits the right to collect any moneys from the debtor and must return the certificate of title and the vehicle (if the lender took possession of it), and all principal, interest and fees paid by the debtor;
- Title loan agreements must include in 12-point bold type the name and address of the Director of the Department of Finance, as well as a telephone number to which consumers may address complaints;
- Title loan agreements must include in 12-point capitalized bold type, the following statement:
 1. This loan is not intended to meet long-term financial needs;
 2. You should use this loan only to meet short-term cash needs;
 3. You will be required to pay additional interest and fees if you renew this loan rather than pay the debt in full when due;
 4. This loan may be a higher interest loan. You should consider what other lower cost loans may be available to you;
 5. You are placing at risk your continued ownership of the titled personal property you are using as security for this loan;
 6. If you default under this loan the title lender may take possession of the titled personal property used as security for this loan and sell the property in the manner provided by law;
 7. If you enter into a title loan agreement, you have a legal right of rescission. This means you may cancel your contract at no cost to you by returning the money you borrowed by the next business day after the date of your loan; and
 8. If you believe that the title lender has violated the provisions of the Idaho Title Loan Act, you have the right to file a written complaint with the Idaho Department of Finance and the Department will investigate your complaint.
- The above statements must also be conspicuously disclosed at the title lender's place of business;
- A debtor has the right to cancel the title loan by the close of business on the next business day after signing a title loan agreement;
- Beginning with the third renewal, the debtor must pay down at least 10 percent of the original principal amount borrowed in addition to any finance charges that are due. If the debtor cannot make the principal reduction payment, the lender may, but is not required to, defer principal payment, but no interest can accrue thereafter on any such principal amount thus deferred;
- If a title loan is automatically renewed per a signed contractual provision, the title lender must provide the debtor with written notice of the renewal by personal delivery or by regular mail within 14 days of the renewal;

- Before exercising any remedies upon default against a borrower, a title lender must mail a “Notice to Cure Default” to the borrower giving the borrower 10 days to cure the default. If the debtor does not cure the default, the lender may repossess the vehicle in accordance with provisions of the Uniform Commercial Code (chapter 9, title 28, Idaho Code). No further finance charges can be assessed to the debtor after the title lender has obtained possession of the vehicle;
- Title lenders may not enter into title loan agreements with persons under 18 years of age, or with persons who appear to be intoxicated;
- Title lenders may not accept any waiver of any rights or protections to borrowers under the Title Loan Act;
- Title lenders may not enter into any agreement giving the lender any recourse against borrowers other than to take possession of the titled vehicle and certificate of title upon the debtor's default, and to sell or otherwise dispose of the vehicle in accordance with the provisions of chapter 9, title 28, Idaho Code, except where the debtor prevented repossession of the vehicle, damaged or committed or permitted waste on the vehicle or committed fraud;
- Title lenders are required to exercise reasonable care to protect from loss or damage the certificate of title in the title lender’s possession;
- Title lenders are prohibited from purchasing vehicles used as security for a title loan made by the title lender;
- Title lenders are prohibited from making title loans unless a borrower presents a clear title to the vehicle at the time the loan is made;
- Title lenders are prohibited from capitalizing or adding any accrued interest or fee to the original principal of the title loan during any renewal of a title loan agreement; and
- Title lenders are prohibited from requiring a borrower to provide any additional guaranty as a condition to entering into a title loan agreement.

Idaho Payday Lender Licensee “Fast Facts”

1. Idaho’s payday lender licensing statute was adopted in July, 2003. However, prior to that date, payday lenders were authorized to operate in Idaho as regulated lender licensees under the Idaho Credit Code.
2. Department records have been maintained since the beginning of fiscal 2001 (July 1, 2000) relative to the number of payday lending locations in Idaho. The following lists the number of payday lender locations licensed in Idaho as of the end of fiscal years 2001 thru 2017¹:

<u>Year</u>	<u>Number</u>	<u>Year</u>	<u>Number</u>
2001 -----	162	2010 -----	216
2002 -----	162	2011 -----	213
2003 -----	167	2012 -----	211
2004 -----	190	2013 -----	212
2005 -----	210	2014 -----	221
2006 -----	217	2015 -----	211
2007 -----	204	2016 -----	174
2008 -----	232	2017 -----	158
2009 -----	224		

3. The following statistics were derived from data compiled from the most recent Idaho Regulated Lenders’ Annual Reports, submitted to the Department by Idaho’s licensed payday lenders reporting lending activities for calendar year 2016²:

• Total dollar amount of payday loans extended:	\$87,748,681
• Total number of payday loans made in 2016:	279,459
• Average payday loan amount:	\$314
• Average finance charge reported for a \$100 payday loan for a 14-day period ³ :	\$19.04
• Average reported loan term in days:	17
• Number of loans renewed in 2016:	131,528
• Number of returned NSF checks in 2016:	19,050
• Total number of lawsuits filed against payday loan borrowers in 2016:	1,012
• Total number of payday loans rescinded by borrowers by the next business day in 2016:	1,941
• Total number of extended payment plans entered into in 2016:	3,673
• Total number of extended payment plans successfully completed in 2016:	2,459

4. The following statistics were derived from records of the Idaho Department of Finance for calendar years 2016 and 2017:

• Total number of payday lender licensees at calendar year-end 2016:	174
• Total number of payday lender licensees at calendar year-end 2017:	159
• Total number of payday lender licensee compliance examinations in 2016:	31
• Total number of payday lender licensee compliance examinations in 2017:	19
• Number of complaints against payday lenders in calendar 2016:	12
• Number of complaints against payday lenders in calendar 2017:	5
• Number of enforcement actions against payday lenders in 2016:	0
• Number of enforcement actions against payday lenders in 2017:	0

¹ The figures for fiscal years 2001 thru 2003 may have included a number of title lender companies due to the fact that during those years payday lending and title lending were authorized under a single Regulated Lender License.

² Annual Report data for calendar year 2017 will be available after May 31, 2018, the statutory report deadline.

³ Weighted by loan volume as reported by payday lender licensees in their 2016 Annual Reports

Idaho Title Lender Licensee “Fast Facts”

- Automobile title lenders who make consumer loans in Idaho are required to be licensed as Regulated Lenders under the Idaho Credit Code. Beginning at the end of fiscal year 2009, the Department began compiling fiscal year-end numbers of Regulated Lenders under the Idaho Credit Code that have identified themselves with the Department as “Title Lenders.” The following lists the number of title lender locations licensed in Idaho as of the end fiscal years 2009 thru 2017 (fiscal year-end is June 30 of each year):

<u>Year</u>	<u>Number</u>
2009 -----	82
2010 -----	82
2011 -----	94
2012 -----	86
2013 -----	86
2014 -----	87
2015 -----	86
2016 -----	74
2017 -----	70

- The following Idaho title lending statistics were derived from data compiled from the most recent Idaho Regulated Lenders’ Annual Reports, submitted to the Department by Idaho’s licensed regulated lenders reporting title lending activities for calendar year 2016⁴:

• Total dollar amount of title loans extended in calendar 2016:	\$14,340,961
• Total number of initial title loans made in 2016:	18,213
• Total number of loans refinanced/renewed in 2016:	6,237
• Average finance charge reported on a \$100 title loan for a 30-day period ⁵ :	\$25.96
• Total number of vehicles repossessed in 2016:	1,431
• Total number of vehicles sold after repossession in 2016:	1,051
• Total number of lawsuits filed against title loan borrowers in 2016:	6
• Total number of title loans rescinded by borrowers by the next business day in 2016:	172

- The following statistics were derived from records of the Idaho Department of Finance for calendar years 2016 and 2017:

• Total number of title lender licensees at calendar year-end 2016:	97
• Total number of title lender licensees at calendar year-end 2017:	85
• Number of title loan licensee compliance examinations in 2016:	12
• Number of title loan licensee compliance examinations in 2017:	16
• Number of complaints against title lenders in 2016:	3
• Number of complaints against title lenders in 2017:	1
• Number of enforcement actions against title lenders in 2016:	1
• Number of enforcement actions against title lenders in 2017:	0

⁴ Annual Report data for calendar year 2017 will be available after May 31, 2018, the statutory report deadline

⁵ Weighted by loan volume as reported by title lender licensees in their 2016 Annual Reports