

CONSUMER CODE

provisions of article L. 312-16, or the lessee, in breach of the provisions of the last paragraph of article L. 312-30, who does not repay the sums referred to in these articles, will be punished by a € 30,000 fine.

The same penalty will be applicable to those who claim from the borrower or from the lessee or deduct from their account sums in excess of those that they are authorised to claim or to deduct in application of the provisions of article L. 312-23 or the two last paragraphs of article L. 312-29.

SECTION VIII

Procedure

Article L312-36

Article L312-36

The tribunal d'instance makes provisions for proceedings arising from the application of articles L. 312-31 and L. 313-12.

CHAPTER III

Common provisions

Articles L313-1 to
L313-16

SECTION I

Interest rate

Articles L313-1 to
L313-6

Subsection 1

The annual percentage rate

Articles L313-1 to
L313-3

Article L313-1

Under all circumstances, costs, commissions or repayments of any kind, whether direct or indirect, including those paid or owing to intermediaries acting in any capacity whatsoever in the granting of the loan, even if these costs, commissions or payments correspond to real disbursements, are added to the interest, for the determination of the loan's annualised percentage rate, as well as for that of the reference effective rate.

For the application of articles L. 312-4 to L. 312-8, however, the charges relating to the guarantees by which the credits may be accompanied as well as legal officer's fees, are not included in the annualised percentage rate defined hereinabove, where their amount cannot be given accurately upon final conclusion of the contract.

In addition, for loans which are the subject of scheduled depreciation, the annualised percentage rate must be calculated by taking into consideration the depreciation methods used for the loan.

The Council of state decree will determine the conditions governing the application of this article.

Article L313-2

(Act no. 92-1336 of 16 December 1992 art. 322 Journal officiel of 23 December 1992 in force on 1 March 1994)

The annualised percentage rate determined as stated in article L. 313-1 must be mentioned in all written documents constituting a loan contract governed by this section of the code.

Any breach of the provisions of this article will be punished by a € 4,500 fine.

Article L313-3

(Act No. 2003-721 of 1 August 2003 Art. 32 I Official Journal of 5 August 2003)

(Act No. 2005-882 of 2 August 2005 Art. 7 I Official Journal of 3 August 2005)

(Order No. 2006-346 of 23 March 2006 Art. 38 I Official Journal of 24 March 2006)

Any contractual loan granted at an annual percentage rate which, at the time of its granting, is more than one third higher than the average percentage rate applied by the credit institutions during the previous quarter for loans of the same type presenting a similar risk factor, as defined by the administrative authority after consulting the Conseil national du crédit, constitutes a usurious loan.

Loans granted in connection with hire-purchase agreements are, for application of the present section, treated as contractual loans and considered to be usurious in the same way as cash loans having the same object.

The procedures for calculating and publishing the average percentage rates referred to in the first paragraph are determined by the regulations.

The provisions of the present article and those of Articles L. 313-4 to L. 313-6 are not applicable to loans granted to a natural person acting in his professional capacity or a legal entity carrying on an industrial, commercial, craft-sector, agricultural or non-commercial professional activity.

Subsection 2

The usury rate

Articles L313-4 to
L313-6

Article L313-4

Where a contractual loan is usurious, the excessive levies in respect of articles L. 313-1 to L. 313-3 are automatically charged on normal interest payable and secondarily on the loan capital.

If the loan capital and interest is paid off, the sums levied unreasonably must be repaid with legal interest from the day on which they are paid.