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Insights

Wisconsin Introduces True Lender Legislation

January 22, 2026

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On December 12, 2025, the Wisconsin legislature introduced a bipartisan measure (SB 759) that proposes significant amendments to Chapter 138 (Money and Rates of Interest) of the Wisconsin Statutes. SB 759 would implement a 36% annual percentage rate (APR) cap on nonbank consumer loans, codify "true lender" tests, implement anti-evasion provisions and subject licensees to expanded reporting requirements for consumer loans regulated by the Department of Financial Institutions (DFI). If SB 759 is enacted, Wisconsin would join several other states that have passed similar legislation.

True lender tests and anti-evasion provisions in state lending statutes could require additional licensing and compliance for non-bank lenders and fintech companies involved in bank partnership models.

As of the date of this publication, SB 759 has been introduced and referred to committee. A fiscal estimate is pending or under review. The bill has not advanced to hearings or votes.

KEY PROVISIONS OF SB 759

- **Proposed APR Cap** – The bill prohibits licensed lenders from charging an APR exceeding 36% on consumer loans. Violations of the cap would render the loan void and enforceable. Currently, Chapter 138 does not set a maximum rate of interest but does require lenders to obtain a license from the DFI before assessing a finance charge exceeding 18% per year on a consumer loan with an amount financed of $25,000 or less.
- **True Lender Tests (Predominant Economic Interest and Totality of Circumstances)** – To determine which entity is considered to "make" a consumer loan—and therefore subject to licensing and rate cap requirements—SB 759 extends the scope beyond the party named as the lender in the loan agreement. These provisions aim to capture the "true lender" in bank partnership or similar arrangements. An entity makes a loan, regardless of claimed role (e.g., agent or service provider), if:
  - They hold, acquire, or maintain the predominant economic interest in the loan;
  - They market, broker, arrange, or facilitate the loan and hold the right (or right of first refusal) to purchase the loan or receivables; or
  - The totality of the circumstances indicates that they are the lender with respect to the consumer loan and the transaction is structured to circumvent or evade the requirements applicable to licensed lenders. The bill sets forth specific factors that weigh in favor of a person being deemed the "true lender" under the totality of circumstances test, including (1) indemnifying a party exempt from licensing,

(2) designing, controlling, or operating the lending program, (3) acting directly as a lender in another state but purporting to act in Wisconsin as an agent or service provider for exempt entity, and (4) holding intellectual property rights in the brand, underwriting system or other core aspects of the lending program.

- **Anti-Evasion Provisions** – The bill explicitly prohibits any "device, subterfuge, or pretense" to circumvent or evade requirements, such as disguising consumer loans as personal property sale-leaseback transactions or loan proceeds as cash rebates for purported sales.
- **Expanded Reporting Requirements** – Licensees that made or serviced loans subject to the 36% APR cap must include additional data in their annual reports to the DFI, such as:
  - The number of loans made with an APR above 18%;
  - The average APR;
  - The number of these loans refinanced, accelerated due to default, or resulting in money judgments or vehicle repossessions.

The DFI must submit an annual aggregated report to the Wisconsin legislature summarizing the information above.

TRUE LENDER LEGISLATION IN OTHER STATES

Several states have already enacted similar "true lender" legislation to address bank partnerships. Notable examples include:

- **Connecticut – SB 1033 (October 1, 2023):** Codified the predominant economic interest and totality of circumstances tests, subjecting recharacterized lenders to existing interest rate limits.
- **Illinois – SB 1792 (effective March 23, 2021)**: The Predatory Loan Prevention Act (PLPA) imposes a 36% APR cap on consumer loans (calculated under the Military Lending Act methodology). The PLPA also broadly defines "lender" to include entities that offer, make, buy whole or partial interests in, arrange, or act as agents for loans. It incorporates anti-evasion measures, treating an entity as the lender if it holds the predominant economic interest in the loan, markets or facilitates the loan with purchase rights, or if the totality of circumstances indicates an intent to circumvent the PLPA requirements.
- **Maine - S.P. 205 / L.D. 522 (effective October 18, 2021)**: Requires licensing for agents or service providers to exempt entities if they hold the predominant economic interest, market or facilitate loans with purchase rights, or meet totality of circumstances factors.
- **Minnesota – SF 2744 (effective January 1, 2024)**: It caps APR at 50% for small and short-term loans, with ability-to-repay requirements for loans over 36% APR. Also codified the predominant economic interest and totality of circumstances tests.
- **Nebraska - LB 92 (effective June 7, 2023)**: Mandates licensing for non-financial institutions that market, own, hold, acquire, service, or participate in loans originated through bank-partnerships.
- **New Mexico – HB 132 (effective January 1, 2023)**: It caps loan up to $10,000 at 36% APR. Also codified the predominant economic interest and totality of circumstances tests.
- **Washington – SB 6025 (June 6, 2024)**: Requires licensing for non-exempt entities in loans over 25% APR if they hold predominant economic interest or totality of circumstances indicates evasion.

We are closely monitoring “true lender” legislative developments and are able to provide counsel to impacted financial companies and institutions. For assistance or guidance on assessing compliance strategies and risk, please contact David A. Bowen or any member of Krieg DeVault’s Financial Services practice group.

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