Licensed lenders are corporations or individuals who have received a state license to issue consumer credit, frequently at high interest rates, under one or more of the numerous state special usury statutes. For example, small loan laws, industrial bank laws, and pawnbroker statutes generally require that a creditor receive a state license and comply with state regulations in order to lend at the generous rates that these statutes usually authorize. Creditors that purport to operate under a special usury statute but fail to obtain the proper license may face serious penalties for violations of the state’s general usury law.

Probably the most common example of a licensed lender in the past was the consumer finance company. These companies, the descendants of small loan lenders, have, in many cases, expanded their operations to include a more middle-class consumer market. Many finance companies have made substantial profits through the cross-selling of credit insurance and other services in conjunction with their loans, through the repeated refinancing of outstanding consumer debt, and through questionable extensions of credit to insolvent borrowers on over-secured loans. Some states also authorize payday lending or auto title lending, usually requiring licensure but typically imposing only minimal substantive regulation.

Although some states required licensing for second mortgage lenders, first mortgage lenders that were not depository institutions were historically not licensed lenders. As previously unregulated mortgage companies became the source of some abusive lending practices in the 1980s, some states added these to the list of lenders subject to licensing and regulation. The federal SAFE Act of 2008 requires individual mortgage loan brokers to be licensed, but whether mortgage lenders themselves must be licensed is still a question of state law.

Footnotes

176 [156] See § 7.8 [1], infra.


178 [158] See Ch. 9 [2], infra (payday lending); Ch. 12 [3], infra (auto title pawn); Ch. 13 [4], infra (rent-to-own).
