

STATES REQUIRING SIGNED AGREEMENTS FOR PAYMENT DEFERRALS

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
California Civil Code § 2982.3 (a)	Non motor retail installment	<p>The holder of a conditional sale contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto. However, the seller or holder may, as an adjunct to or to assist in efforts to collect one or more delinquent installments on the contract, advise one or more obligors on the contract, either in writing or orally, that the due date for one or more installments under the contract shall be extended, with no charge being made for such extension other than any applicable late charge provided for in the contract.</p>	
Connecticut Gen Stat § 36a-784	Indirect Vehicle Finance	<p>Whenever any sales finance company or retail seller renews or extends the installments remaining unpaid so that the retail installment contract is both extended beyond its original date of final payment and the installments are reduced or increased in amount, such renewal or extension agreement shall be in writing.</p> <p>For extensions that do not result in a change in the installment amount, the extension agreement is not required to be in writing.</p>	

© American Financial Services Association. Content is general information only, not legal advice or legal opinion based on any specific facts or circumstances. For your company's compliance, please seek legal advice. AFSA expressly disclaims any and all liability that may result from reliance on this document.

Last updated 5/19/20

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
Hawaii Rev. Stat. §476-6	Indirect Vehicle Finance	“Any payment on account of the principal balance of a contract which is due on a particular date may be extended or deferred to a later date by mutual agreement... shall be set forth in writing and signed in duplicate by the buyer and the seller or holder of the contract”	
Hawaii Rev. Stat. § 412:9-304	Consumer Loans	The term and conditions of the extension or deferment, including the amount of the consumer loan so extended or deferred, and the period of, and the charge for the extension or deferment shall be set forth in writing and signed by the borrower with one copy given to the borrower.	
Idaho Stat. 28-42-302	Consumer loans	“DEFERRAL CHARGES. (1) With respect to a precomputed regulated consumer credit transaction, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one or more unpaid installments, and the creditor may make and collect a charge not exceeding the rate previously stated to the debtor applied to the amount or amounts deferred for the period of deferral calculated without regard to differences in the lengths of months, but proportionally for a part of a month, counting each day as 1/30th of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.”	

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
Iowa Code § 537.2503	Consumer Loans	<p>“(1) Before or after default in payment of a scheduled installment of a precomputed consumer credit transaction, the parties to the transaction may agree in writing to a deferral of all or part of one or more unpaid installments...”</p> <p>“(3) The modification need not be in writing if the parties agreed in writing at the time of the original precomputed consumer credit transaction that if an installment is not paid within 10 days after its due date, the creditor could unilaterally grant a deferral and make charges as provided in this section.”</p>	
Louisiana Rev Stat § 6:969.16	Indirect Vehicle Finance	With respect to a precomputed transaction, the parties before or after default may agree in writing to a deferral of all or part of one or more unpaid installments...	
Massachusetts Stat. Tit. 255B § 17	Indirect Vehicle Finance	The holder of an installment sale contract may, upon agreement with the buyer, defer the scheduled payment of all or part of any unpaid instalment payment or payments, or renew the unpaid total of payments of such contract. The agreement for such deferment or renewal shall be in writing and signed by the parties thereto.	<p>AFSA asked Elizabeth Benotti, Chief Director, Division of Banks on 3/31</p> <p>4/1 Answer from Liam O'Driscoll, Chief Director for examinations: statutory requirement and they are not authorized to waive it. Suggested the use of e-signatures to meet the requirement more quickly.</p>

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
Massachusetts 209 MA Admin. § 26.01 (3)(d)	Small Loans <\$6,000	No deferment charge shall be made on any installment for which a default charge has been made unless the default charge on such installment is refunded in full. Except as provided hereinafter a deferment agreement 1. shall be in writing and signed by the parties;	AFSA asked Elizabeth Benotti, Chief Director, Division of Banks on 4/1 4/1 Answer from Liam O'Driscoll, Chief Director for examinations: statutory requirement and they are not authorized to waive it. Suggested the use of e-signatures to meet the requirement more quickly.
New York. Pers. Prop. Law § 306	Indirect Vehicle Finance	The holder of a retail instalment contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or any part of any instalment or instalments payable thereunder. The agreement for such extension or deferment must be in writing and signed by the parties thereto.	4/10 department has been asked
NC Gen Stat § 25A-30	Indirect Vehicle Finance	Except as provided by subsections (e) and (f) of this section, a deferral agreement must be in writing , dated and signed by the parties. (e) If the deferral agreement extends the due date of only one installment, the agreement need not be in writing. (f) A deferral agreement for which no charge is made shall not be subject to subsections (b), (c) or (d) of this section.	4/16 We are hearing informally (seek your own confirmation from the Department) that for the first extension, as long as there's no fee involved, you don't need a signed agreement but you should send a letter to the customer outlining what you did. If it's a second extension, it should be in writing, but things done to benefit the consumer should probably be documented in the file if called upon later to defend.
14A Okla. Stat. § 2-204	Consumer Loans	"(1) With respect to any consumer credit sale, refinancing or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one or more unpaid installments."	

© American Financial Services Association. Content is general information only, not legal advice or legal opinion based on any specific facts or circumstances. For your company's compliance, please seek legal advice. AFSA expressly disclaims any and all liability that may result from reliance on this document.

Last updated 5/19/20

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
10 Pa. Code § 41.3	Licensed Consumer Discount Companies (TIL)	Documents pertaining to loan contracts which a consumer may be required to sign shall be completely filled in before execution by the consumer and <i>may not be signed by the consumer at a place of business other than that designated in the license certificate</i> A deferment <i>arises from a written agreement</i> , other than the original loan contract, between a consumer and a licensee to postpone one or more scheduled payments for a specified period of time other than to the end of the contract.	Section 41.3(a) notes that “If special circumstances require, a licensee may, at the request of a consumer, obtain signatures at a place where the consumer may so designate.” AFSA believes that whichever is done that is in the best interest of the customer during the restrictions would be ok. Governors are asking the public to stay at home and the less they have to leave their home the better. Many people use post office boxes and In many instances have to walk to a community mail box. AFSA needs to confirm with the department.
South Dakota Codified Law 54-3A-15	Indirect Vehicle Finance	A deferral agreement shall: (1) Be in writing and be signed by the parties;	The Division of Banking does not, at this time, intend to issue guidance or an order waiving the referenced requirements provided in SDCL Chapter 54-3A. The Division will, however, consider specific requests from lenders licensed by the Division for authorization to waive certain requirements due to COVID19 related issues. The requests should be in writing and should be as detailed as possible.

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
7 Texas Admin. Code § 84.203(b)(3)	Indirect Vehicle Finance	A deferment agreement must be in writing and must be noted in the account record at the time the deferment is made.	Has exceptions for state of disaster. <u>(7 Texas Admin. Code § 84.203(b)(3))</u> Disaster exception. A holder must deliver the deferment agreement to the retail buyer, but is not required to obtain the retail buyer's signature, if the following conditions are met: (A) The retail buyer resides in an area designated as a state of disaster under Texas Government Code, §418.014; and (B) The deferment occurs before the state of disaster has been terminated: (i) by executive order; or (ii) by expiration as described in Texas Government Code, §418.014(c).
Utah Code 700C-2-103(1)		Before or after default, the parties to any consumer credit agreement with an amount financed of \$58,300 or less may agree in writing to defer all or part of one or more unpaid installments . Except for an open-end credit agreement, the parties may also agree in writing at any time that if an installment is not paid within 10 days after its due date, the creditor may unilaterally grant a deferral.	
Vt. Stat. Tit. 9 s 2358	Indirect Vehicle Finance	The amendment to the contract must be confirmed in writing signed by the buyer and the holder .	

State & Statute	Industry Affected	Statute Text	Coronavirus Exception?
Wis. Stat. § 422.204	All consumer credit transactions (e.g., Traditional Installment Loans, Indirect Vehicle Finance, etc.) with an amount financed of less than or equal to \$25,000	The [deferral] agreement shall be in writing and signed by the customer.	<p>The Department of Financial Institutions is unwilling to relax this requirement.</p> <p>It feels there are enough avenues through which to obtain an agreement signed and in writing during the pandemic.</p> <p>The Department will not be issuing formal guidance on this one way or the other.</p>
Wyoming Stat § 40-14-215	Consumer credit sales	With respect to a consumer credit sale, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid installments, and the seller may make and collect a charge which the buyer expressly agrees to pay as consideration for the deferral. A deferral charge may be collected at the time it is assessed or at any time thereafter.	