

SENATE BILL NO. 368

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

0344S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 367.515, 408.500, 408.505, and 408.510, RSMo, and to enact in lieu thereof six new sections relating to small loans, with penalty provisions and a referendum clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 367.515, 408.500, 408.505, and
2 408.510, RSMo, are repealed and six new sections enacted in
3 lieu thereof, to be known as sections 367.105, 367.515, 408.101,
4 408.500, 408.505, and 408.510, to read as follows:

**367.105. Any person making or offering a consumer
2 credit loan shall contract for and receive interest and fees
3 in accordance with sections 408.100, 408.101, 408.140, and
4 408.170, and such loan shall be subject to all provisions of
5 sections 408.100, 408.101, 408.140, and 408.170.**

367.515. A title lender shall contract for and receive
2 simple interest and fees in accordance with sections
3 408.100, **408.101**, and 408.140, **and such interest and fees
4 shall be subject to all provisions of sections 408.100,
5 408.101, and 408.140.**

**408.101. 1. On any loan subject to this section, any
2 person, firm, or corporation may charge, contract for, and
3 receive interest on the unpaid principal balance at rates
4 agreed to by the parties, provided that the combined
5 interest, fees, and finance charges shall not exceed an
6 annual percentage rate of thirty-six percent.**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 2. No person, firm, or corporation shall use any
8 device or subterfuge to intentionally evade the requirements
9 of this chapter to:

10 (1) Offer, make, assist a borrower in obtaining, or
11 broker a loan at an annual percentage rate prohibited by
12 this section;

13 (2) Make a loan disguised as a personal property sale
14 and leaseback transaction;

15 (3) Disguise loan proceeds as cash rebates for the
16 pretextual installment sale of goods or services;

17 (4) Make, assist a borrower in obtaining, or broker an
18 offer of credit, in whole or in part, from a third party or
19 while acting as an agent for a third party, regardless of
20 whether the third party is exempt from licensing or if the
21 approval, acceptance, or ratification by the third party is
22 necessary to create a legal obligation for the third party;
23 or

24 (5) Charge, if authorized under any applicable section
25 of Missouri law, any application fee for providing credit or
26 any fee for participation in a credit plan without including
27 the fee in the calculation of the annual percentage rate
28 required under this section.

408.500. 1. Lenders, other than banks, trust
2 companies, credit unions, savings banks and savings and loan
3 companies, in the business of making unsecured loans of five
4 hundred dollars or less shall obtain a license from the
5 director of the division of finance. An annual license fee
6 of six hundred dollars per location shall be required. The
7 license year shall commence on January first each year and
8 the license fee may be prorated for expired months. The
9 director may establish a biennial licensing arrangement but
10 in no case shall the fees be payable for more than one year

11 at a time. The provisions of this section shall not apply
12 to pawnbroker loans, consumer credit loans as authorized
13 under chapter 367, nor to a check accepted and deposited or
14 cashed by the payee business on the same or the following
15 business day. The disclosures required by the federal Truth
16 in Lending Act, **15 U.S.C. Section 1601, et seq.**, and
17 regulation Z shall be provided on any loan, renewal or
18 extension made pursuant to this section and the loan,
19 renewal or extension documents shall be signed by the
20 borrower.

21 2. Entities making loans pursuant to this section
22 shall contract for and receive simple interest and fees in
23 accordance with sections 408.100, **408.101**, and 408.140, **and**
24 **such loans shall be subject to all provisions of sections**
25 **408.100, 408.101, and 408.140.** Any contract evidencing any
26 fee or charge of any kind whatsoever, except for bona fide
27 clerical errors, in violation of this section shall be
28 void. Any person, firm or corporation who receives or
29 imposes a fee or charge in violation of this section shall
30 be guilty of a class A misdemeanor.

31 3. Notwithstanding any other law to the contrary, cost
32 of collection expenses, which include court costs and
33 reasonable attorneys fees, awarded by the court in suit to
34 recover on a bad check or breach of contract shall not be
35 considered as a fee or charge for purposes of this section.

36 4. Lenders licensed pursuant to this section shall
37 conspicuously post in the lobby of the office, in at least
38 fourteen-point bold type, the maximum annual percentage
39 rates such licensee is currently charging and the statement:

40

NOTICE:

41 This lender offers short-term loans. Please read
42 and understand the terms of the loan agreement
43 before signing.

44 5. The lender shall provide the borrower with a notice
45 in substantially the following form set forth in at least
46 ten-point bold type, and receipt thereof shall be
47 acknowledged by signature of the borrower:

48 (1) This lender offers short-term loans. Please read
49 and understand the terms of the loan agreement before
50 signing.

51 (2) You may cancel this loan without costs by
52 returning the full principal balance to the lender by the
53 close of the lender's next full business day.

54 6. The lender shall renew the loan upon the borrower's
55 written request and the payment of any interest and fees due
56 at the time of such renewal; however, upon the first renewal
57 of the loan agreement, and each subsequent renewal
58 thereafter, the borrower shall reduce the principal amount
59 of the loan by not less than five percent of the original
60 amount of the loan until such loan is paid in full.
61 However, no loan may be renewed more than six times.

62 7. When making or negotiating loans, a licensee shall
63 consider the financial ability of the borrower to reasonably
64 repay the loan in the time and manner specified in the loan
65 contract. All records shall be retained at least two years.

66 8. A licensee who ceases business pursuant to this
67 section must notify the director to request an examination
68 of all records within ten business days prior to cessation.
69 All records must be retained at least two years.

70 9. Any lender licensed pursuant to this section who
71 fails, refuses or neglects to comply with the provisions of

72 this section, or any laws relating to consumer loans or
73 commits any criminal act may have its license suspended or
74 revoked by the director of finance after a hearing before
75 the director on an order of the director to show cause why
76 such order of suspension or revocation should not be entered
77 specifying the grounds therefor which shall be served on the
78 licensee at least ten days prior to the hearing.

79 10. Whenever it shall appear to the director that any
80 lender licensed pursuant to this section is failing,
81 refusing or neglecting to make a good faith effort to comply
82 with the provisions of this section, or any laws relating to
83 consumer loans, the director may issue an order to cease and
84 desist which order may be enforceable by a civil penalty of
85 not more than one thousand dollars per day for each day that
86 the neglect, failure or refusal shall continue. The penalty
87 shall be assessed and collected by the director. In
88 determining the amount of the penalty, the director shall
89 take into account the appropriateness of the penalty with
90 respect to the gravity of the violation, the history of
91 previous violations, and such other matters as justice may
92 require.

408.505. 1. This section shall apply to:

2 (1) Unsecured loans made by lenders licensed or who
3 should have been licensed pursuant to section 408.500;

4 (2) Any person that the Missouri division of finance
5 determines that has entered into a transaction that, in
6 substance, is a disguised loan; and

7 (3) Any person that the Missouri division of finance
8 determines has engaged in subterfuge for the purpose of
9 avoiding the provisions of this section.

10 2. All loans made pursuant to this section and section
11 408.500, shall have a minimum term of fourteen days and a

12 maximum term of thirty-one days, regardless of whether the
13 loan is an original loan or renewed loan.

14 3. A lender may only charge simple interest and fees
15 in accordance with sections 408.100, **408.101**, and 408.140,
16 **and such interest and fees shall be subject to all**
17 **provisions of sections 408.100, 408.101, and 408.140.** No
18 other charges of any nature shall be permitted except as
19 provided by this section, including any charges for cashing
20 the loan proceeds if they are given in check form.

21 [However, no borrower shall be required to pay a total
22 amount of accumulated interest and fees in excess of seventy-
23 five percent of the initial loan amount on any single loan
24 authorized pursuant to this section for the entire term of
25 that loan and all renewals authorized by section 408.500 and
26 this section.]

27 4. A loan made pursuant to the provisions of section
28 408.500 and this section shall be deemed completed and shall
29 not be considered a renewed loan when the lender presents
30 the instrument for payment or the payee redeems the
31 instrument by paying the full amount of the instrument to
32 the lender. Once the payee has completed the loan, the
33 payee may enter into a new loan with a lender.

34 5. Except as provided in subsection 3 of this section,
35 no loan made pursuant to this section shall be repaid by the
36 proceeds of another loan made by the same lender or any
37 person or entity affiliated with the lender. A lender,
38 person or entity affiliated with the lender shall not have
39 more than five hundred dollars in loans made pursuant to
40 section 408.500 and this section outstanding to the same
41 borrower at any one time. A lender complies with this
42 subsection if:

43 (1) The consumer certifies in writing that the
44 consumer does not have any outstanding small loans with the
45 lender which in the aggregate exceeds five hundred dollars,
46 and is not repaying the loan with the proceeds of another
47 loan made by the same lender; and

48 (2) The lender does not know, or have reason to
49 believe, that the consumer's written certification is false.

50 6. On a consumer loan transaction where cash is
51 advanced in exchange for a personal check, a return check
52 charge may be charged in the amounts provided by sections
53 408.653 and 408.654, as applicable.

54 7. No state or public employee or official, including
55 a judge of any court of this state, shall enforce the
56 provisions of any contract for payment of money subject to
57 this section which violates the provisions of section
58 408.500 and this section.

59 8. A person does not commit the crime of passing a bad
60 check pursuant to section 570.120 if at the time the payee
61 accepts a check or similar sight order for the payment of
62 money, he or she does so with the understanding that the
63 payee will not present it for payment until later and the
64 payee knows or has reason to believe that there are
65 insufficient funds on deposit with the drawee at the time of
66 acceptance. However, this section shall not apply if the
67 person's account on which the instrument was written was
68 closed by the consumer before the agreed-upon date of
69 negotiation or the consumer has stopped payment on the check.

70 9. A lender shall not use a device or agreement that
71 would have the effect of charging or collecting more fees,
72 charges, or interest than allowed by this section,
73 including, but not limited to:

74 (1) Entering into a different type of transaction;

75 (2) Entering into a sales lease back arrangement;
76 (3) Catalog sales;
77 (4) Entering into any other transaction with the
78 consumer that is designed to evade the applicability of this
79 section.

80 10. The provisions of this section shall only apply to
81 entities subject to the provisions of section 408.500 and
82 this section.

408.510. [Notwithstanding any other law to the
2 contrary,] 1. For purposes of this section, the [phrase]
3 following terms mean:

4 (1) "Consumer installment lender", a person licensed
5 to make consumer installment loans;

6 (2) "Consumer installment loans" [means], secured or
7 unsecured loans of any amount and payable in not less than
8 four substantially equal installments over a period of not
9 less than one hundred twenty days. [The phrase "consumer
10 installment lender" means a person licensed to make consumer
11 installment loans.]

12 2. A consumer installment lender shall be licensed in
13 the same manner and upon the same terms as a lender making
14 consumer credit loans. [Such]

15 3. A consumer installment [lenders] lender shall
16 contract for and receive interest and fees in accordance
17 with sections 408.100, 408.101, 408.140, and 408.170[.]
18 Consumer installment lenders], and such interest and fees
19 shall be subject to [the] all provisions of sections
20 408.100, 408.101, 408.140, and 408.170 and sections 408.551
21 to 408.562.

Section B. This act is hereby submitted to the
2 qualified voters of this state for approval or rejection at
3 an election which is hereby ordered and which shall be held

4 and conducted on Tuesday next following the first Monday in
5 November, 2026, pursuant to the laws and constitutional
6 provisions of this state for the submission of referendum
7 measures by the general assembly, and this act shall become
8 effective when approved by a majority of the votes cast
9 thereon at such election and not otherwise.

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