

# SENATE BILL NO. 1071

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

3157S.01H

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2 408.510, RSMo, are repealed and six new sections enacted in  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 and  
42 understand the terms of the loan agreement before signing.

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

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

50 (2) You may cancel this loan without costs  
51 by returning the full principal balance to the  
52 lender by the close of the lender's next full  
53 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, 2024, 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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