

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 13

102ND GENERAL ASSEMBLY

2023

05308.02T

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## AN ACT

To repeal sections 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, and 408.500, RSMo, and to enact in lieu thereof fourteen new sections relating to the regulation of certain financial institutions, with existing penalty provisions.

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

Section A. Sections 361.020, 361.098, 361.160, 361.260,  
2 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640,  
3 408.145, and 408.500, RSMo, are repealed and fourteen new  
4 sections enacted in lieu thereof, to be known as sections  
5 361.020, 361.098, 361.106, 361.160, 361.260, 361.262, 361.715,  
6 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, and  
7 408.500, to read as follows:

361.020. 1. The division of finance shall have charge  
2 of the execution of the laws relating to banks, trust  
3 companies, and the banking business of this state; [credit  
4 unions; and] of the laws relating to persons[,  
5 copartnerships and corporations] **and entities** engaged in the  
6 small loan **or consumer credit** business in this state; **of the**  
7 **laws relating to persons and entities engaged in the**  
8 **mortgage loan business in this state; and of the laws**  
9 **relating to persons and entities engaged in any other**

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

10 **financial services related business over which the division**  
11 **of finance is granted express authority.**

12 2. The director of finance may institute, in the name  
13 of the state of Missouri, and defend suits in the courts of  
14 this state and the United States.

361.098. 1. The members of the state banking and  
2 savings and loan board shall receive as compensation for  
3 their services the sum of one hundred dollars per day while  
4 discharging their duties, and shall be entitled to receive  
5 their necessary traveling and other expenses incurred while  
6 actually engaged in the performance of their duties as such  
7 members, **which shall be paid out of the division of finance**  
8 **fund.**

9 2. [A majority of the members] **Any three members** of  
10 the board shall constitute a quorum for the transaction of  
11 any business, for the performance of any duty or for the  
12 exercise of any power of the board.

13 3. The board may meet and exercise its powers in any  
14 place in this state and shall meet at any time upon the call  
15 of its chairman or of the director of the division of  
16 finance or of any two members of the board.

17 4. The board shall have an official seal bearing the  
18 inscription, "State Banking and Savings and Loan Board of  
19 the State of Missouri", which shall be judicially noticed.

20 **5. The division of finance may provide administrative**  
21 **services to the board to assist the board with fulfilling**  
22 **its statutory responsibilities.**

361.106. 1. For purposes of this section, the  
2 following terms mean:

3 (1) "Bulletin", an informal written communication to  
4 inform or educate individuals or entities licensed,  
5 chartered, or regulated by the division of finance and the

6 general public about a regulatory topic or issue. A  
7 bulletin is informational in nature and is not an evaluation  
8 of specific facts and circumstances;

9 (2) "Industry letter", a written communication from  
10 the director of finance in response to a specific individual  
11 or entity chartered, licensed, or regulated by the division  
12 of finance, and that provides the division of finance's  
13 position on a particular regulatory topic or issue with  
14 respect to a specific set of facts and circumstances.

15 2. Notwithstanding any other provision of law to the  
16 contrary, the director of finance may at his or her  
17 discretion issue bulletins addressing the business of the  
18 individuals and entities licensed, chartered, or regulated  
19 by the division in this state. Bulletins do not have the  
20 force or effect of law and shall not be considered  
21 statements of general applicability that would require  
22 promulgation by rule.

23 3. Notwithstanding any other provision of law to the  
24 contrary, the director of finance may at his or her  
25 discretion issue industry letters in response to a written  
26 request from an individual or entity licensed, chartered, or  
27 regulated by the division, and that seeks the division's  
28 position on an application of law. In addition to any  
29 materials or information requested by the division, the  
30 written request shall include:

31 (1) A brief summary of the applicable laws and rules  
32 that pertain to the request;

33 (2) A detailed factual representation concerning every  
34 relevant aspect of the proposed business activity or  
35 activities, transaction, event, or circumstance;

36 (3) A discussion of current statutes, rules, and legal  
37 principles relevant to the facts set forth;

38           (4) A statement by the person requesting the industry  
39 letter of the person's own opinion in the matter and the  
40 basis for such opinion; and

41           (5) A representation that the proposed business or  
42 transaction in question have not commenced or, if they have  
43 commenced, the present status of the proposed business or  
44 transaction.

45           4. With respect to the requesting party, an industry  
46 letter is binding on the division, and the requesting party  
47 shall not be subject to any administrative proceeding or  
48 penalty for any acts or omissions done in reliance on an  
49 industry letter, so long as there is no change in any  
50 material fact or law or the discovery of a material  
51 misrepresentation or omission made by the requesting party.

52           5. An industry letter request and response shall be  
53 confidential, but a resulting industry letter, if published  
54 by the director, may contain non-identifying facts and  
55 information derived from the request.

56           6. After redacting all identifying information, the  
57 director may publish industry letters for informational  
58 purposes. Because the division may have a different  
59 position in response to similar but non-identical facts and  
60 circumstances, published industry letters do not have the  
61 force or effect of law, are not binding on the division, and  
62 shall not be considered statements of general applicability  
63 that would require promulgation by rule.

64           7. Industry letters issued under this section are  
65 distinct from letters issued by the director under  
66 subdivision (5) of section 362.106, which shall be governed  
67 by that section.

361.160. 1. The director of finance at least once  
2 each year, either personally or by a deputy or examiner

3 appointed by the director, shall visit and examine every  
4 bank and trust company organized and doing business under  
5 the laws of this state, and every other corporation which is  
6 by law required to report to the director; except, for banks  
7 or trust companies receiving a Camel/MOECA 1 or Camel/MOECA  
8 2 rating from the division of finance, the director of  
9 finance at least once each eighteen calendar months, or for  
10 a private trust company at least once each thirty-six  
11 months, either personally or by a deputy or examiner  
12 appointed by the director, shall visit and examine such bank  
13 or trust company, and the director of finance, at the  
14 director's discretion, may conduct the director's  
15 examination, or any part thereof, on the basis of  
16 information contained in examination reports of other  
17 states, the Federal Deposit Insurance Corporation or the  
18 Federal Reserve Board or in audits performed by certified  
19 public accountants. For purposes of this subsection, a  
20 private trust company is one that does not engage in trust  
21 company business with the general public or otherwise hold  
22 itself out as a trustee or fiduciary for hire by  
23 advertising, solicitation, or other means and instead  
24 operates for the primary benefit of a family, relative of  
25 same family, or single family lineage, regardless of whether  
26 compensation is received or anticipated. The director shall  
27 be afforded prompt and free access to any workpapers upon  
28 which a certified public accountant bases an audit. A  
29 certified public accountant shall retain workpapers for a  
30 minimum of three years after the date of issuance of the  
31 certified public accountant's report to the bank or trust  
32 company. The director or the director's agent may  
33 concentrate the examinations on institutions which the  
34 director believes have safety or soundness concerns.

35           2. The director, or the deputy or examiners designated  
36 by the director for that purpose, shall have power to  
37 examine any such corporation whenever, in the director's  
38 judgment, it may be deemed necessary or expedient, and shall  
39 have power to examine every agency located in this state of  
40 any foreign banking corporation and every branch in this  
41 state of any out-of-state bank, for the purpose of  
42 ascertaining whether it has violated any law of this state,  
43 and for such other purposes and as to such other matters as  
44 the director may prescribe.

45           3. The director and the director's deputy and  
46 examiners shall have power to administer oaths to any person  
47 whose testimony may be required in such examination or  
48 investigation of any such corporation or agency, and to  
49 compel the appearance and attendance of any person for the  
50 purpose of any such examination or investigation.

51           4. On every such examination inquiry shall be made as  
52 to the condition and resources of such corporation, the mode  
53 of conducting and managing its affairs, the actions of its  
54 directors or trustees, the investment of its funds, the  
55 safety and prudence of its management, the security afforded  
56 to its creditors, and whether the requirements of its  
57 charter and of law have been complied with in the  
58 administration of its affairs, and as to such other matters  
59 as the director may prescribe.

60           5. The director may also make such special  
61 investigations as the director deems necessary to determine  
62 whether any individual or corporation has violated any of  
63 the provisions of this law.

64           6. Such examination may be made and such inquiry  
65 instituted or continued in the discretion of the director  
66 after the director has taken possession of the property and

67 business of any such corporation, until it shall resume  
68 business or its affairs shall be finally liquidated in  
69 accordance with the provisions of this chapter.

70 7. The result of each examination shall be certified  
71 by the director or the examiner upon the records of the  
72 corporation examined [and the result of all examinations  
73 during the biennial period shall be embodied in the report  
74 to be made by the director of the department of commerce and  
75 insurance to the legislature].

76 8. The director may contract with regulators in other  
77 states to provide for the examination of Missouri branches  
78 of out-of-state banks and branches of banks whose home state  
79 is Missouri. The agreements may provide for the payment by  
80 the home state of the cost of examinations conducted by the  
81 host state at the request of the home state regulators.

361.260. 1. Whenever the director shall have reason  
2 to believe that the capital stock of any corporation subject  
3 to the provisions of this chapter is reduced by impairment  
4 or otherwise, below the amount required by law, or by its  
5 certificates or articles of agreement, [he] **the director**  
6 shall issue a notice of charges in respect thereof.

7 2. Whenever [it shall appear to the director,] **the**  
8 **director has reason to believe** from any examination **or**  
9 **investigation** made by [him] **the director** or his **or her**  
10 examiners, that any corporation subject to the provisions of  
11 this chapter, or any director, officer, employee, agent, or  
12 other person participating in the conduct of the affairs of  
13 such corporation, or any foreign corporation licensed by the  
14 director to do business under this chapter or chapter 362 is  
15 engaging in [or], has engaged in, or [there is reasonable  
16 cause to believe that the corporation or any director,  
17 officer, employee, agent, or other person participating in

18 the conduct of the affairs of such corporation is about to  
19 engage in,] **is about to engage in:**

20 (1) An unsafe or unsound practice in conducting the  
21 business of such corporation [or is violating or has  
22 violated, or there is reasonable cause to believe that the  
23 corporation or any director, officer, employee, agent, or  
24 other person participating in the conduct of the affairs of  
25 such corporation is about to violate];

26 (2) A **violation of law, rule, or director-imposed**  
27 **written** condition [imposed, in writing, by the director in  
28 connection with the granting of any application or other  
29 request by the corporation or];

30 (3) A **violation of** any written agreement entered into  
31 with the director[,]; or

32 (4) A **violation of** the corporation's charter,

33 the director may issue and serve upon the corporation or  
34 such director, officer, employee, agent, or other person a  
35 notice of charges in respect thereof.

36 3. Whenever it shall appear to the director that any  
37 corporation subject to the provisions of this chapter does  
38 not keep its books and accounts in such manner as to enable  
39 him **or her** readily to ascertain its true condition or that  
40 wrong entries or unlawful uses of the funds of the  
41 corporation have been made, the director may issue and serve  
42 upon the corporation or any appropriate director, officer,  
43 employee, agent, or other person a notice of charges in  
44 respect thereof.

45 4. The notice of charges shall contain a statement of  
46 the facts constituting the deficiencies, [the] alleged  
47 violation or violations, improper use of funds, or [the]  
48 unsafe or unsound practice or practices, and shall fix a



49 time and place at which a **contested** hearing will be held to  
50 determine whether an order to cease and desist therefrom  
51 should **[issue] be issued** against the corporation or the  
52 director, officer, employee, agent, or other person  
53 participating in the conduct of the affairs of such  
54 corporation.

55 5. In the event the party or parties so served shall  
56 fail to appear at the hearing, or shall consent to the cease  
57 and desist order, or in the event the director shall find  
58 that the fact of any deficiency, violation, unsafe or  
59 unsound practice, inadequate recordkeeping, or improper use  
60 of funds specified has been established, the director may  
61 issue and serve upon the corporation or the director,  
62 officer, employee, agent, or other person participating in  
63 the conduct of the affairs of the corporation an order to  
64 cease and desist from the actions, violations, or practices  
65 charged.

66 6. The **cease and desist** order:

67 (1) May require the corporation or its directors,  
68 officers, employees, agents, and other persons participating  
69 in the conduct of the affairs of such corporation to cease  
70 and desist from **[same and,] such actions, violations, or**  
71 **practices;**

72 (2) **[Further,] May require the corporation or its**  
73 **directors, officers, employees, agents, or other persons**  
74 **participating in the conduct of the affairs of such**  
75 **corporation** to take affirmative action to correct the  
76 conditions resulting from any such actions, violations, or  
77 practices**[. If the director determines that the capital of**  
78 **the corporation is impaired,];**

79 (3) **[The order]** Shall require that, **if the director**  
80 **determines that the capital of the corporation is impaired,**

81 the corporation make good the deficiency forthwith or within  
82 a time specified in the order[.];

83 (4) **May**, if the director determines that the  
84 corporation does not keep adequate records, [the order may]  
85 determine and prescribe such books of account as the  
86 director, in his discretion, shall require of the  
87 corporation for the purpose of keeping accurate and  
88 convenient records of the transactions and accounts[.]; **and**

89 (5) **Shall**, if the director [shall determine]  
90 **determines** that wrong entries or unlawful uses of the funds  
91 of the corporation have been made, [he shall] order that the  
92 entries shall be corrected, and the sums unlawfully paid out  
93 restored by the person or persons responsible for the  
94 wrongful or illegal payment thereof.

95 [6.] 7. If a notice of charges served under this  
96 section specifies, on the basis of particular facts and  
97 circumstances, that a corporation's books and records are so  
98 incomplete or inaccurate that the director is unable,  
99 through the normal supervisory process, to determine the  
100 financial condition of that corporation or the details or  
101 purpose of any transaction or transactions that may have a  
102 material effect on the financial condition of that  
103 corporation, the director may issue a temporary order  
104 requiring the cessation of any activity or practice which  
105 gave rise, whether in whole or in part, to the incomplete or  
106 inaccurate state of the books or records, or affirmative  
107 action to restore such books or records to a complete and  
108 accurate state, until the completion of the proceedings  
109 under this section. Any temporary order issued under this  
110 subsection shall become effective upon service and, unless  
111 set aside, limited or suspended by a court, shall remain in  
112 effect and enforceable until the earlier of the completion

113 of the proceedings initiated under this section or the date  
114 on which the director determines by examination or otherwise  
115 that the corporation's books and records are accurate and  
116 reflect the financial condition of the corporation.

117 [7.] 8. Whenever it shall appear to the director that  
118 the violation or threatened violation or the unsafe or  
119 unsound practice or practices specified in the notice of  
120 charges served upon the corporation or any director,  
121 officer, employee, agent, or other person participating in  
122 the conduct of the affairs of such corporation pursuant to  
123 subsection 4 of this section, or the continuation thereof,  
124 is likely to cause insolvency or significant dissipation of  
125 assets or earnings of the corporation, or is likely to  
126 weaken the condition of the corporation or otherwise  
127 prejudice the interests of its depositors prior to the  
128 completion of the proceedings conducted pursuant to said  
129 subsection, the director may issue a temporary order,  
130 effective immediately, requiring the corporation or such  
131 director, officer, employee, agent, or other person to cease  
132 and desist from any such violation or practice and to take  
133 affirmative action to prevent such insolvency, dissipation,  
134 condition, or prejudice pending completion of such  
135 proceedings. Such order shall remain effective and  
136 enforceable pending the completion of the administrative  
137 proceedings pursuant to such notice and until such time as  
138 the director shall dismiss the charges specified in such  
139 notice or if a cease and desist order is issued against the  
140 corporation or such director, officer, employee, agent, or  
141 other person, until the effective date of such order. The  
142 corporation, director, officer, employee, agent, or other  
143 person may, within ten days after having been served with a  
144 temporary cease and desist order, apply to the circuit court

145 of Cole County for an order setting aside, limiting, or  
146 suspending the enforcement, operation, or effectiveness of  
147 such order.

148 [8.] 9. If any corporation, or any director, officer,  
149 employee, agent, or other person participating in the  
150 conduct of the affairs of such corporation shall fail or  
151 refuse to comply with any duly issued order provided for in  
152 this chapter and chapter 362, the corporation or such  
153 director, officer, employee, agent, or other person shall  
154 pay a civil penalty of not more than one thousand dollars  
155 per day for each day the failure or refusal shall continue.  
156 The penalty shall be assessed and collected by the director  
157 of the division. In determining the amount of the penalty,  
158 the director shall take into account the appropriateness of  
159 the penalty with respect to the size of the financial  
160 resources and good faith of the corporation or person  
161 charged, the gravity of the violation, the history of  
162 previous violations, and such other matters as justice may  
163 require. In addition to the penalty, the director may, in  
164 his **or her** discretion, report the delinquency to the  
165 attorney general, with a request that **[he] the attorney**  
166 **general** proceed as provided in section 361.270, and in the  
167 event of such request, the attorney general shall proceed.

361.262. 1. Whenever it shall appear to the director,  
2 from any examination **or investigation** made by **[him] the**  
3 **director** or **[his] the director's** examiners, that:

4 (1) Any director, officer, or any other person  
5 participating in the conduct of the affairs of a corporation  
6 subject to this chapter has **[committed any violation of]**:

7 (a) **Violated a** law or regulation **[or of]**;

8 (b) **Violated** a cease and desist order**[, or has]**;

9           (c) Violated any **director-imposed written** condition  
10 [imposed in writing by the director] in connection with the  
11 grant of any application or other request by such  
12 corporation [or];

13           (d) **Violated** any written agreement between such  
14 corporation and the director[, or has];

15           (e) Engaged or participated in any unsafe or unsound  
16 practice in connection with the corporation[,]; or [has]

17           (f) Committed or engaged in any act, omission, or  
18 practice [which] **that** constitutes a breach of his **or her**  
19 fiduciary duty to the corporation[,]; and

20           (2) The director determines that:

21           (a) The corporation has suffered or will probably  
22 suffer financial loss or other damage [or that];

23           (b) The interests of its depositors, **beneficiaries, or**  
24 **other customers** could be prejudiced by reason of such  
25 violation or practice or breach of fiduciary duty[,]; or  
26 [that]

27           (c) The director or officer or other person has  
28 received financial gain by reason of such violation or  
29 practice or breach of fiduciary duty[,]; and

30           (3) **The director determines that** such violation or  
31 practice or breach of fiduciary duty is:

32           (a) One involving personal dishonesty on the part of  
33 such director, officer or other person[,]; or

34           (b) One [which] **that** demonstrates a willful or  
35 continuing disregard for the safety or soundness of the  
36 corporation[,];

37 the director may serve upon such director, officer, or other  
38 person a written notice of [his] **the director's** intention to  
39 remove him **or her** from office.

40           2. When it shall appear **from any examination or**  
41 **investigation** to the director [from any examination made by  
42 him or his examiners] that any director or officer of a  
43 corporation subject to this chapter, by conduct or practice  
44 with respect to another such corporation or any business  
45 [institution which] **that:**

46           (1) Resulted in financial loss or other damage[, has];

47           (2) Evidenced either:

48           (a) His **or her** personal dishonesty; or

49           (b) A willful or continuing disregard for its safety  
50 and soundness; and[, in addition, has]

51           (3) Evidenced his **or her** unfitness to continue as a  
52 director or officer, [and whenever it shall appear to the  
53 director that any other person participating in the conduct  
54 of the affairs of a corporation subject to this chapter, by  
55 conduct or practice with respect to such corporation or  
56 other corporation or other business institution which  
57 resulted in financial loss or other damage, has evidenced  
58 either his personal dishonesty or willful or continuing  
59 disregard for its safety and soundness and, in addition, has  
60 evidenced his unfitness to participate in the conduct of the  
61 affairs of such corporation,]

62 the director may serve upon such director[, ] **or** officer[, or  
63 other person] a written notice of intention to remove him **or**  
64 **her** from office or to prohibit his **or her** further  
65 participation in any manner in the conduct of the affairs of  
66 the corporation or from any other banking, savings, or trust  
67 institution supervised by the director.

68           3. **When it shall appear from any examination or**  
69 **investigation to the director that any person participating**  
70 **in the conduct of the affairs of a corporation subject to**

71 this chapter, by conduct or practice with respect to such  
72 corporation or other corporation or other business  
73 institution that:

74 (1) Resulted in financial loss or other damage, has

75 (2) Evidenced either:

76 (a) His or her personal dishonesty; or

77 (b) A willful or continuing disregard for its safety  
78 and soundness; and

79 (3) Evidenced his or her unfitness to participate in  
80 the conduct of the affairs of such corporation,

81 the director may serve upon such person a written notice of  
82 intention to remove him or her from office or to prohibit  
83 his or her further participation in any manner in the  
84 conduct of the affairs of the corporation or from any other  
85 banking, savings, or trust institution supervised by the  
86 director.

87 4. Whenever it shall appear to the director to be  
88 necessary for the protection of any corporation or its  
89 depositors, [he] beneficiaries, or other customers, the  
90 director may, by written notice to such effect served upon  
91 any director, officer, or other person referred to in  
92 [subsection 1 or 2] subsections 1 to 3 of this section,  
93 suspend him or her from office or prohibit him or her from  
94 further participation in any manner in the conduct of the  
95 affairs of the corporation. Such suspension or prohibition  
96 shall become effective upon service of such notice and shall  
97 remain in effect pending the completion of the  
98 administrative proceedings pursuant to the notice served  
99 under [subsection 1 or 2] subsections 1 to 3 of this section  
100 and until such time as the director shall dismiss the  
101 charges specified in such notice or, if an order of removal

102 or prohibition is issued against the director or officer or  
103 other person, until the effective date of any such order.  
104 Copies of any such notice shall also be served upon the  
105 corporation of which he **or she** is a director or officer or  
106 in the conduct of whose affairs he **or she** has participated.

107 [4.] 5. Except as provided in subsection [5] 6 of this  
108 section, any person who, pursuant to an order issued under  
109 this section, has been removed or suspended from office in a  
110 corporation or prohibited from participating in the conduct  
111 of the affairs of a corporation may not, while such order is  
112 in effect, continue or commence to hold any office in, or  
113 participate in any manner in, the conduct of the affairs of  
114 any other corporation subject to the provisions of this  
115 chapter.

116 [5.] 6. If, on or after the date an order is issued  
117 under this section [which] **that** removes or suspends from  
118 office any person or prohibits such person from  
119 participating in the conduct of the affairs of a  
120 corporation, such party receives the written consent of the  
121 director, subsection [4] 5 of this section shall, to the  
122 extent of such consent, cease to apply to such person with  
123 respect to the [corporation] **terms and conditions** described  
124 in the written consent and the director shall publicly  
125 disclose such consent. Any violation of subsection [4] 5 of  
126 this section by any person who is subject to an order  
127 described in such subsection shall be treated as a violation  
128 of the order.

361.715. 1. Upon the filing of the application, the  
2 filing of a certified audit, the payment of the  
3 investigation fee and the approval by the director of the  
4 necessary bond, the director shall cause, investigate, and  
5 determine whether the character, responsibility, and general



6 fitness of the principals of the applicant or any affiliates  
7 are such as to command confidence and warrant belief that  
8 the business of the applicant will be conducted honestly and  
9 efficiently and that the applicant is in compliance with all  
10 other applicable state and federal laws. If satisfied, the  
11 director shall issue to the applicant a license pursuant to  
12 the provisions of sections 361.700 to 361.727. In  
13 processing a renewal license, the director shall require the  
14 same information and follow the same procedures described in  
15 this subsection.

16 2. Each licensee shall pay to the director before the  
17 issuance of the license, and annually thereafter on or  
18 before April fifteenth of each year, a license fee of  
19 **[three] four** hundred dollars.

20 3. The director may assess a reasonable charge, not to  
21 exceed **[three] four** hundred dollars, for any application to  
22 amend and reissue an existing license.

364.030. 1. No person shall engage in the business of  
2 a financing institution in this state without a license  
3 therefor as provided in this chapter; except, however, that  
4 no bank, trust company, loan and investment company,  
5 licensed sales finance company, registrant under the  
6 provisions of sections 367.100 to 367.200, or person who  
7 makes only occasional purchases of retail time contracts or  
8 accounts under retail charge agreements and which purchases  
9 are not being made in the course of repeated or successive  
10 purchase of retail installment contracts from the same  
11 seller, shall be required to obtain a license under this  
12 chapter but shall comply with all the laws of this state  
13 applicable to the conduct and operation of a financing  
14 institution.

15           2. The application for the license shall be in  
16 writing, under oath and in the form prescribed by the  
17 director. The application shall contain the name of the  
18 applicant; date of incorporation, if incorporated; the  
19 address where the business is or is to be conducted and  
20 similar information as to any branch office of the  
21 applicant; the name and resident address of the owner or  
22 partners or, if a corporation or association, of the  
23 directors, trustees and principal officers, and other  
24 pertinent information as the director may require.

25           3. The license fee for each calendar year or part  
26 thereof shall be the sum of **[five] six** hundred dollars for  
27 each place of business of the licensee in this state which  
28 shall be paid into the general revenue fund. The director  
29 may establish a biennial licensing arrangement but in no  
30 case shall the fees be payable for more than one year at a  
31 time.

32           4. Each license shall specify the location of the  
33 office or branch and must be conspicuously displayed  
34 therein. In case the location is changed, the director  
35 shall either endorse the change of location of the license  
36 or mail the licensee a certificate to that effect, without  
37 charge.

38           5. Upon the filing of an application, and the payment  
39 of the fee, the director shall issue a license to the  
40 applicant to engage in the business of a financing  
41 institution under and in accordance with the provisions of  
42 this chapter for a period which shall expire the last day of  
43 December next following the date of its issuance. The  
44 license shall not be transferable or assignable. No  
45 licensee shall transact any business provided for by this  
46 chapter under any other name.

364.105. 1. No person shall engage in the business of  
2 a premium finance company in this state without first  
3 registering as a premium finance company with the director.

4 2. The annual registration fee shall be **[five] six**  
5 hundred dollars payable to the director as of the first day  
6 of July of each year. The director may establish a biennial  
7 licensing arrangement but in no case shall the fees be  
8 payable for more than one year at a time.

9 3. Registration shall be made on forms prepared by the  
10 director and shall contain the following information:

11 (1) Name, business address and telephone number of the  
12 premium finance company;

13 (2) Name and business address of corporate officers  
14 and directors or principals or partners;

15 (3) A sworn statement by an appropriate officer,  
16 principal or partner of the premium finance company that:

17 (a) The premium finance company is financially capable  
18 to engage in the business of insurance premium financing; and

19 (b) If a corporation, that the corporation is  
20 authorized to transact business in this state;

21 (4) If any material change occurs in the information  
22 contained in the registration form, a revised statement  
23 shall be submitted to the director accompanied by an  
24 additional fee of three hundred dollars.

365.030. 1. No person shall engage in the business of  
2 a sales finance company in this state without a license as  
3 provided in this chapter; except, that no bank, trust  
4 company, savings and loan association, loan and investment  
5 company or registrant under the provisions of sections  
6 367.100 to 367.200 authorized to do business in this state  
7 is required to obtain a license under this chapter but shall  
8 comply with all of the other provisions of this chapter.

9           2. The application for the license shall be in  
10 writing, under oath and in the form prescribed by the  
11 director. The application shall contain the name of the  
12 applicant; date of incorporation, if incorporated; the  
13 address where the business is or is to be conducted and  
14 similar information as to any branch office of the  
15 applicant; the name and resident address of the owner or  
16 partners or, if a corporation or association, of the  
17 directors, trustees and principal officers, and such other  
18 pertinent information as the director may require.

19           3. The license fee for each calendar year or part  
20 thereof shall be the sum of **[five] six** hundred dollars for  
21 each place of business of the licensee in this state. The  
22 director may establish a biennial licensing arrangement but  
23 in no case shall the fees be payable for more than one year  
24 at a time.

25           4. Each license shall specify the location of the  
26 office or branch and must be conspicuously displayed there.  
27 In case the location is changed, the director shall either  
28 endorse the change of location on the license or mail the  
29 licensee a certificate to that effect, without charge.

30           5. Upon the filing of the application, and the payment  
31 of the fee, the director shall issue a license to the  
32 applicant to engage in the business of a sales finance  
33 company under and in accordance with the provisions of this  
34 chapter for a period which shall expire the last day of  
35 December next following the date of its issuance. The  
36 license shall not be transferable or assignable. No  
37 licensee shall transact any business provided for by this  
38 chapter under any other name.

367.140. 1. Every lender shall, at the time of filing  
2 application for certificate of registration as provided in

3 section 367.120 hereof, pay the sum of [five] **six** hundred  
4 dollars as an annual registration fee for the period ending  
5 the thirtieth day of June next following the date of payment  
6 and in full payment of all expenses for investigations,  
7 examinations and for the administration of sections 367.100  
8 to 367.200, except as provided in section 367.160, and  
9 thereafter a like fee shall be paid on or before June  
10 thirtieth of each year; provided, that if a lender is  
11 supervised by the commissioner of finance under any other  
12 law, the charges for examination and supervision required to  
13 be paid under said law shall be in lieu of the annual fee  
14 for registration and examination required under this  
15 section. The fee shall be made payable to the director of  
16 revenue. If the initial registration fee for any  
17 certificate of registration is for a period of less than  
18 twelve months, the registration fee shall be prorated  
19 according to the number of months that said period shall  
20 run. The director may establish a biennial licensing  
21 arrangement but in no case shall the fees be payable for  
22 more than one year at a time.

23 2. Upon receipt of such fee and application for  
24 registration, and provided the bond, if required by the  
25 director, has been filed, the director shall issue to the  
26 lender a certificate containing the lender's name and  
27 address and reciting that such lender is duly and properly  
28 registered to conduct the supervised business. The lender  
29 shall keep this certificate of registration posted in a  
30 conspicuous place at the place of business recited in the  
31 registration certificate. Where the lender engages in the  
32 supervised business at or from more than one office or place  
33 of business, such lender shall obtain a separate certificate  
34 of registration for each such office or place of business.

35           3. Certificates of registration shall not be  
36 assignable or transferable except that the lender named in  
37 any such certificate may obtain a change of address of the  
38 place of business therein set forth. Each certificate of  
39 registration shall remain in full force and effect until  
40 surrendered, revoked, or suspended as herein provided.

          407.640. 1. A credit services organization shall file  
2 a registration statement with the director of finance before  
3 conducting business in this state. The registration  
4 statement must contain:

5           (1) The name and address of the credit services  
6 organization; and

7           (2) The name and address of any person who directly or  
8 indirectly owns or controls ten percent or more of the  
9 outstanding shares of stock in the credit services  
10 organization.

11           2. The registration statement must also contain either:

12           (1) A full and complete disclosure of any litigation  
13 or unresolved complaint filed by or with a governmental  
14 authority of this state relating to the operation of the  
15 credit services organization; or

16           (2) A notarized statement that states that there has  
17 been no litigation or unresolved complaint filed by or with  
18 a governmental authority of this state relating to the  
19 operation of the credit services organization.

20           3. The credit services organization shall update the  
21 statement not later than the ninetieth day after the date on  
22 which a change in the information required in the statement  
23 occurs.

24           4. Each credit services organization registering under  
25 this section shall maintain a copy of the registration  
26 statement in the office of the credit services

27 organization. The credit services organization shall allow  
28 a buyer to inspect the registration statement on request.

29 5. The director of finance may charge each credit  
30 services organization that files a registration statement  
31 with the director of finance a reasonable fee not to exceed  
32 ~~three~~ **four** hundred dollars to cover the cost of filing.  
33 The director of finance may not require a credit services  
34 organization to provide information other than that provided  
35 in the registration statement as part of the registration  
36 process.

408.145. 1. To encourage competitive equality,  
2 lenders issuing credit cards in this state pursuant to the  
3 authority of section 408.100 or 408.200, may ~~in addition to~~  
4 ~~lawful interest, contract for, charge and collect fees for]~~  
5 **issue** such credit cards **under such terms and conditions**  
6 which any lender in any contiguous state is permitted to  
7 ~~charge~~ **utilize** for credit cards issued in such contiguous  
8 state by such state's statutes. State-chartered lenders  
9 ~~charging such fees~~ **issuing credit cards** in reliance on  
10 this subsection shall file a copy of the pertinent statutes  
11 of one contiguous state authorizing credit card ~~fees~~ **terms**  
12 **and conditions** with the director of finance or such lender's  
13 principal state regulator. The director of finance or other  
14 principal state regulator shall, within thirty days after  
15 receipt of the filing, approve or disapprove of such ~~fees~~  
16 **terms and conditions** on the sole basis of whether the  
17 statutes of such contiguous state permit such ~~fees~~ **terms**  
18 **and conditions**, and without regard to the restrictions  
19 placed upon credit cards by subsection 2 of this section.  
20 When the lender is chartered by the federal government, or  
21 any agency thereunder, or is unregulated, such lender shall  
22 file with and be approved by the Missouri attorney general

23 under the same provision as provided a state-chartered  
24 lender.

25 2. "Credit card" as used in this section shall mean a  
26 credit device defined as such in the federal Consumer Credit  
27 Protection Act and regulations thereunder, except:

28 (1) The term shall be limited to credit devices which  
29 permit the holder to purchase goods and service upon  
30 presentation to third parties whether or not the credit card  
31 also permits the holder to obtain loans of any other type;  
32 and

33 (2) Such credit device shall only provide credit which  
34 is not secured by real or personal property.

35 3. "Lender" as used in this section shall mean any  
36 category of depository or nondepository creditor.  
37 Notwithstanding the provisions of [section 408.140] **sections**  
38 **408.100 to 408.190 to the contrary**, the lender shall declare  
39 on each credit card contract whether the credit card [fees  
40 are governed by section 408.140, or by] **is issued pursuant**  
41 **to** 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 [five] **six** hundred dollars per location shall be  
7 required. The license year shall commence on January first  
8 each year and the license fee may be prorated for expired  
9 months. The director may establish a biennial licensing  
10 arrangement but in no case shall the fees be payable for  
11 more than one year at a time. The provisions of this  
12 section shall not apply to pawnbroker loans, consumer credit  
13 loans as authorized under chapter 367, nor to a check



14 accepted and deposited or cashed by the payee business on  
15 the same or the following business day. The disclosures  
16 required by the federal Truth in Lending Act and regulation  
17 Z shall be provided on any loan, renewal or extension made  
18 pursuant to this section and the loan, renewal or extension  
19 documents shall be signed by the borrower.

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

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

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

37 NOTICE:

38 This lender offers short-term loans. Please  
39 read and understand the terms of the loan  
40 agreement before signing.

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

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

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

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

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

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

68           9. Any lender licensed pursuant to this section who  
69           fails, refuses or neglects to comply with the provisions of  
70           this section, or any laws relating to consumer loans or  
71           commits any criminal act may have its license suspended or  
72           revoked by the director of finance after a hearing before  
73           the director on an order of the director to show cause why  
74           such order of suspension or revocation should not be entered  
75           specifying the grounds therefor which shall be served on the  
76           licensee at least ten days prior to the hearing.

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

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