

FIRST REGULAR SESSION

[CORRECTED]

[TRULY AGREED TO AND FINALLY PASSED]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 345

98TH GENERAL ASSEMBLY

2015

1672S.02T

AN ACT

To repeal sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.140, 408.500, and 443.719, RSMo, and to enact in lieu thereof ten new sections relating to financial transactions, with an existing penalty provision.

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

Section A. Sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.140, 408.500, and 443.719, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.140, 408.500, and 443.719, to read as follows:

361.707. 1. Each application for a license pursuant to sections 361.700 to 361.727 shall be in writing and under oath to the director in such form as he may prescribe. The application shall state the full name and business address of:

(1) The proprietor, if the applicant is an individual;
(2) Every member, if the applicant is a partnership or association;
(3) The corporation and each officer and director thereof, if the applicant is a corporation.

2. Each application for a license shall be accompanied by an investigation fee of **[one] three** hundred dollars. If the license is granted the investigation fee shall be applied to the license fee for the first year. No investigation fee shall be refunded.

361.715. 1. Upon the filing of the application, the filing of a certified

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

2 audit, the payment of the investigation fee and the approval by the director of the
3 necessary bond, the director shall cause, investigate, and determine whether the
4 character, responsibility, and general fitness of the principals of the applicant or
5 any affiliates are such as to command confidence and warrant belief that the
6 business of the applicant will be conducted honestly and efficiently and that the
7 applicant is in compliance with all other applicable state and federal laws. If
8 satisfied, the director shall issue to the applicant a license pursuant to the
9 provisions of sections 361.700 to 361.727. In processing a renewal license, the
10 director shall require the same information and follow the same procedures
11 described in this subsection.

12 2. Each licensee shall pay to the director before the issuance of the
13 license, and annually thereafter on or before April fifteenth of each year, a license
14 fee of ~~[one]~~ **three** hundred dollars.

15 3. The director may assess a reasonable charge, not to exceed ~~[one]~~ **three**
16 hundred dollars, for any application to amend and reissue an existing license.

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

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

18 3. The license fee for each calendar year or part thereof shall be the sum
19 of ~~[three]~~ **five** hundred dollars for each place of business of the licensee in this
20 state which shall be paid into the general revenue fund. The director may
21 establish a biennial licensing arrangement but in no case shall the fees be

22 payable for more than one year at a time.

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

27 5. Upon the filing of an application, and the payment of the fee, the
28 director shall issue a license to the applicant to engage in the business of a
29 financing institution under and in accordance with the provisions of this chapter
30 for a period which shall expire the last day of December next following the date
31 of its issuance. The license shall not be transferable or assignable. No licensee
32 shall transact any business provided for by this chapter under any other name.

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

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

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

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

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

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

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

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

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

 365.030. 1. No person shall engage in the business of a sales finance
2 company in this state without a license as provided in this chapter; except, that
3 no bank, trust company, savings and loan association, loan and investment

4 company or registrant under the provisions of sections 367.100 to 367.200
5 authorized to do business in this state is required to obtain a license under this
6 chapter but shall comply with all of the other provisions of this chapter.

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

14 3. The license fee for each calendar year or part thereof shall be the sum
15 of [three] **five** hundred dollars for each place of business of the licensee in this
16 state. The director may establish a biennial licensing arrangement but in no case
17 shall the fees be payable for more than one year at a time.

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

22 5. Upon the filing of the application, and the payment of the fee, the
23 director shall issue a license to the applicant to engage in the business of a sales
24 finance company under and in accordance with the provisions of this chapter for
25 a period which shall expire the last day of December next following the date of
26 its issuance. The license shall not be transferable or assignable. No licensee
27 shall transact any business provided for by this chapter under any other name.

367.140. 1. Every lender shall, at the time of filing application for
2 certificate of registration as provided in section 367.120 hereof, pay the sum of
3 [three] **five** hundred dollars as an annual registration fee for the period ending
4 the thirtieth day of June next following the date of payment and in full payment
5 of all expenses for investigations, examinations and for the administration of
6 sections 367.100 to 367.200, except as provided in section 367.160, and thereafter
7 a like fee shall be paid on or before June thirtieth of each year; provided, that if
8 a lender is supervised by the commissioner of finance under any other law, the
9 charges for examination and supervision required to be paid under said law shall
10 be in lieu of the annual fee for registration and examination required under this
11 section. The fee shall be made payable to the director of revenue. If the initial
12 registration fee for any certificate of registration is for a period of less than

13 twelve months, the registration fee shall be prorated according to the number of
14 months that said period shall run. The director may establish a biennial
15 licensing arrangement but in no case shall the fees be payable for more than one
16 year at a time.

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

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

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

4 (1) The name and address of the credit services organization; and
5 (2) The name and address of any person who directly or indirectly owns
6 or controls ten percent or more of the outstanding shares of stock in the credit
7 services organization.

8 2. The registration statement must also contain either:

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

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

15 3. The credit services organization shall update the statement not later
16 than the ninetieth day after the date on which a change in the information
17 required in the statement occurs.

18 4. Each credit services organization registering under this section shall

19 maintain a copy of the registration statement in the office of the credit services
20 organization. The credit services organization shall allow a buyer to inspect the
21 registration statement on request.

22 5. The director of finance may charge each credit services organization
23 that files a registration statement with the director of finance a reasonable fee
24 not to exceed **[one] three** hundred dollars to cover the cost of filing. The director
25 of finance may not require a credit services organization to provide information
26 other than that provided in the registration statement as part of the registration
27 process.

 408.140. 1. No further or other charge or amount whatsoever shall be
2 directly or indirectly charged, contracted for or received for interest, service
3 charges or other fees as an incident to any such extension of credit except as
4 provided and regulated by sections 367.100 to 367.200 and except:

5 (1) On loans for thirty days or longer which are other than "open-end
6 credit" as such term is defined in the federal Consumer Credit Protection Act and
7 regulations thereunder, a fee, not to exceed ten percent of the principal amount
8 loaned not to exceed **[seventy-five] one hundred** dollars may be charged by the
9 lender; however, no such fee shall be permitted on any extension, refinance,
10 restructure or renewal of any such loan, unless any investigation is made on the
11 application to extend, refinance, restructure or renew the loan;

12 (2) The lawful fees actually and necessarily paid out by the lender to any
13 public officer for filing, recording, or releasing in any public office any instrument
14 securing the loan, which fees may be collected when the loan is made or at any
15 time thereafter; however, premiums for insurance in lieu of perfecting a security
16 interest required by the lender may be charged if the premium does not exceed
17 the fees which would otherwise be payable;

18 (3) If the contract so provides, a charge for late payment on each
19 installment or minimum payment in default for a period of not less than fifteen
20 days in an amount not to exceed five percent of each installment due or the
21 minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty
22 dollars. If the contract so provides, a charge for late payment on each twenty-five
23 dollars or less installment in default for a period of not less than fifteen days
24 shall not exceed five dollars;

25 (4) If the contract so provides, a charge for late payment for a single
26 payment note in default for a period of not less than fifteen days in an amount
27 not to exceed five percent of the payment due; provided that, the late charge for

28 a single payment note shall not exceed fifty dollars;

29 (5) Charges or premiums for insurance written in connection with any
30 loan against loss of or damage to property or against liability arising out of
31 ownership or use of property as provided in section 367.170; however,
32 notwithstanding any other provision of law, with the consent of the borrower,
33 such insurance may cover property all or part of which is pledged as security for
34 the loan, and charges or premiums for insurance providing life, health, accident,
35 or involuntary unemployment coverage;

36 (6) Reasonable towing costs and expenses of retaking, holding, preparing
37 for sale, and selling any personal property in accordance with section 400.9;

38 (7) Charges assessed by any institution for processing a refused
39 instrument plus a handling fee of not more than twenty-five dollars;

40 (8) If the contract or promissory note, signed by the borrower, provides for
41 attorney fees, and if it is necessary to bring suit, such attorney fees may not
42 exceed fifteen percent of the amount due and payable under such contract or
43 promissory note, together with any court costs assessed. The attorney fees shall
44 only be applicable where the contract or promissory note is referred for collection
45 to an attorney, and is not handled by a salaried employee of the holder of the
46 contract;

47 (9) Provided the debtor agrees in writing, the lender may collect a fee in
48 advance for allowing the debtor to defer up to three monthly loan payments, so
49 long as the fee is no more than the lesser of fifty dollars or ten percent of the loan
50 payments deferred, no extensions are made until the first loan payment is
51 collected and no more than one deferral in a twelve-month period is agreed to and
52 collected on any one loan; this subdivision applies to nonprecomputed loans only
53 and does not affect any other subdivision;

54 (10) If the open-end credit contract is tied to a transaction account in a
55 depository institution, such account is in the institution's assets and such
56 contract provides for loans of thirty-one days or longer which are "open-end
57 credit", as such term is defined in the federal Consumer Credit Protection Act and
58 regulations thereunder, the creditor may charge a credit advance fee of up to the
59 lesser of seventy-five dollars or ten percent of the credit advanced from time to
60 time from the line of credit; such credit advance fee may be added to the open-end
61 credit outstanding along with any interest, and shall not be considered the
62 unlawful compounding of interest as that term is defined in section 408.120;

63 (11) A deficiency waiver addendum, guaranteed asset protection, or a

64 similar product purchased as part of a loan transaction with collateral and at the
65 borrower's consent, provided the cost of the product is disclosed in the loan
66 contract, is reasonable, and the requirements of section 408.380 are met.

67 2. Other provisions of law to the contrary notwithstanding, an open-end
68 credit contract under which a credit card is issued by a company, financial
69 institution, savings and loan or other credit issuing company whose credit card
70 operations are located in Missouri may charge an annual fee, provided that no
71 finance charge shall be assessed on new purchases other than cash advances if
72 such purchases are paid for within twenty-five days of the date of the periodic
73 statement therefor.

74 3. Notwithstanding any other provision of law to the contrary, in addition
75 to charges allowed pursuant to section 408.100, an open-end credit contract
76 provided by a company, financial institution, savings and loan or other credit
77 issuing company which is regulated pursuant to this chapter may charge an
78 annual fee not to exceed fifty dollars.

408.500. 1. Lenders, other than banks, trust companies, credit unions,
2 savings banks and savings and loan companies, in the business of making
3 unsecured loans of five hundred dollars or less shall obtain a license from the
4 director of the division of finance. An annual license fee of ~~[three]~~ **five** hundred
5 dollars per location shall be required. The license year shall commence on
6 January first each year and the license fee may be prorated for expired
7 months. The director may establish a biennial licensing arrangement but in no
8 case shall the fees be payable for more than one year at a time. The provisions
9 of this section shall not apply to pawnbroker loans, consumer credit loans as
10 authorized under chapter 367, nor to a check accepted and deposited or cashed
11 by the payee business on the same or the following business day. The disclosures
12 required by the federal Truth in Lending Act and regulation Z shall be provided
13 on any loan, renewal or extension made pursuant to this section and the loan,
14 renewal or extension documents shall be signed by the borrower.

15 2. Entities making loans pursuant to this section shall contract for and
16 receive simple interest and fees in accordance with sections 408.100 and
17 408.140. Any contract evidencing any fee or charge of any kind whatsoever,
18 except for bona fide clerical errors, in violation of this section shall be void. Any
19 person, firm or corporation who receives or imposes a fee or charge in violation
20 of this section shall be guilty of a class A misdemeanor.

21 3. Notwithstanding any other law to the contrary, cost of collection

22 expenses, which include court costs and reasonable attorneys fees, awarded by the
23 court in suit to recover on a bad check or breach of contract shall not be
24 considered as a fee or charge for purposes of this section.

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

28 NOTICE:

29 This lender offers short-term loans. Please read and understand
30 the terms of the loan agreement before signing.

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

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

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

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

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

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

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

58 10. Whenever it shall appear to the director that any lender licensed
59 pursuant to this section is failing, refusing or neglecting to make a good faith
60 effort to comply with the provisions of this section, or any laws relating to
61 consumer loans, the director may issue an order to cease and desist which order
62 may be enforceable by a civil penalty of not more than one thousand dollars per
63 day for each day that the neglect, failure or refusal shall continue. The penalty
64 shall be assessed and collected by the director. In determining the amount of the
65 penalty, the director shall take into account the appropriateness of the penalty
66 with respect to the gravity of the violation, the history of previous violations, and
67 such other matters as justice may require.

 443.719. 1. In order to meet the written test requirement under sections
2 443.701 to 443.893, an individual shall pass, in accordance with the standards
3 established under this section, a qualified written test developed by the NMLSR
4 based upon reasonable standards, **and designated as the NMLSR'S National**
5 **Test Component with Uniform State Content for Mortgage Loan**
6 **Originator licensing.**

7 2. A written test shall not be treated as a qualified written test for
8 purposes of subsection 1 of this section unless the test adequately measures the
9 applicant's knowledge and comprehension in appropriate subject areas, including:

- 10 (1) Ethics;
- 11 (2) Federal law and regulation pertaining to mortgage origination;
- 12 (3) State law and regulation pertaining to mortgage origination;
- 13 (4) Federal and state law and regulation on fraud, consumer protection,
14 the nontraditional mortgage marketplace, and fair lending issues.

15 3. Nothing in this section shall prohibit a test provider approved by the
16 NMLSR from providing a test at the location of the employer of the applicant or
17 the location of any subsidiary or affiliate of the employer of the applicant, or the
18 location of any person with which the applicant holds an exclusive arrangement
19 to conduct the business of a mortgage loan originator.

20 4. An applicant for licensure as a mortgage loan originator shall
21 demonstrate minimum competence as follows:

- 22 (1) An individual shall not be considered to have passed a qualified
23 written test unless the individual achieves a test score of not less than seventy-
24 five percent correct answers to questions;
- 25 (2) An individual may retake a test two times with each consecutive
26 taking occurring at least thirty days after the preceding test;

27 (3) After failing three consecutive tests, an individual shall wait at least
28 six months before taking the test again;

29 (4) A licensed mortgage loan originator who fails to maintain a valid
30 license for a period of five years or longer shall retake the test, not taking into
31 account any time during which such individual is a registered mortgage loan
32 originator.

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