

SECOND REGULAR SESSION

# SENATE BILL NO. 780

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MATHEWSON.

Read 1st time January 6, 2000, and 1,000 copies ordered printed.

3427S.011

TERRY L. SPIELER, Secretary.

## AN ACT

To repeal section 367.100, RSMo 1994, and sections 408.100 and 443.849, RSMo Supp. 1999, relating to loans, and to enact in lieu thereof three new sections relating to the same subject.

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

Section A. Section 367.100, RSMo 1994, and sections 408.100 and 443.849, RSMo Supp. 1999, are repealed and three new sections enacted in lieu thereof, to be known as sections 367.100, 408.100 and 443.849, to read as follows:

367.100. As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean loans for [the benefit of or use by an individual or individuals:

(a) Secured by a security agreement or any other lien on tangible personal property or by the assignment of wages, salary or other compensation; or

(b) Unsecured and whether with or without comakers, guarantors, endorsers or sureties] **personal, family or household purposes in amounts of five hundred dollars or more;**

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and

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

any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director of the division of finance of Missouri, or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action.

408.100. This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are **in amounts of less than five hundred dollars unless made by a bank, savings and loan or credit union nor which are** secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties.

443.849. [1. Any person who is licensed pursuant to the provisions of sections 443.800 to 443.893, if such person is appointed or elected to any position requiring the receipt of payment, management or use of any money belonging to a residential mortgage licensee engaged in the activities of originating, servicing or purchasing mortgage loans or whose duties permit such person to have access to, or custody of, any of the licensee's money or securities or custody of any money or securities belonging to third parties or whose duties permit such person to regularly make entries in the books or other records of a licensee, shall before assuming such person's duties, maintain a surety bond in the amount of twenty thousand dollars by a fidelity insurance company licensed to do business in this state or a letter of credit in such amount issued by a financial institution that is insured by the Federal Deposit Insurance Corporation.

2. Each bond shall be for any loss the licensee may sustain in money or other property through the commission of any dishonest or criminal act or omission by any person required to be bonded, whether committed alone or in concert with another. The bond shall be in the form and amount approved by the director. The director may at any time require a licensee to have one or more additional bonds. A true copy of every bond, including all riders and endorsements executed subsequent to the effective date of the bond, shall be filed at all times with the director. Each bond shall provide that a cancellation thereof shall not become effective unless and until thirty days' notice, in writing, shall first be given to the director, unless the director had previously approved the cancellation. If the director believes the licensee's business is being conducted in an unsafe manner due to the lack of bonds or the inadequacy of bonds, the director may proceed against the licensee as provided in section 443.879.

3. All licensees shall maintain a bond in accordance with this section. Each bond shall be for the recovery of any expenses, damages or fees owed to, or levied by, the director in accordance with this section. The bond shall be payable when the licensee fails to comply with any provision

of sections 443.800 to 443.893 and shall be in the form of a surety or licensure bond in the amount and form as prescribed by the director pursuant to rules and regulations. The bond shall be payable to the director and shall be issued by some insurance company authorized to do business in this state. A copy of the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be placed on file with the director within ten days of the execution thereof.

4. The director may promulgate rules with respect to bonding requirements for residential mortgage licenses as are reasonable and necessary to accomplish the purposes of sections 443.800 to 443.893.] **A corporate surety bond in the principal sum of twenty thousand dollars shall accompany each application for a license. The bond shall be in form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the applicant and the agents and subagents of the applicant in connection with the activities or originating, servicing or acquiring mortgage loans, including payment to providers of third party services. An applicant or licensee may, in lieu of filing any bond required pursuant to this section, provide the director with an irrevocable letter of credit, as defined in section 400.5-102, RSMo, issued by any financial institution.**

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