

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 186
91ST GENERAL ASSEMBLY

Reported from the Committee on Banks and Financial Institutions, May 14, 2001, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 186 Do Pass.

TED WEDEL, Chief Clerk

0610L.04C

AN ACT

To repeal sections 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530 and 408.500, RSMo 2000, relating to financial institutions, and to enact in lieu thereof twenty-three new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530 and 408.500, RSMo 2000, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.525, 367.527, 367.530, 367.531, 367.532, 367.550, 367.555, 367.560, 367.567, 367.570, 408.500 and 408.510, 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]

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

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 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.

367.215. The director of finance shall not issue a renewal license to any person or entity licensed under the provisions of sections 367.100 to 367.200 unless the audit report is furnished as required by section 367.210. **In lieu of the requirements of sections 367.205 to 367.215, the licensee may post a surety bond in the amount of one hundred thousand dollars. The bond shall be in a form satisfactory to the director and shall be issued by a bonding or insurance company authorized to do business in the state to secure compliance with all laws relative to consumer credit. If, in the opinion of the director, the bond shall at any time appear to be inadequate, insecure, exhausted, or otherwise doubtful, additional bond in a form and with surety satisfactory to the director shall be filed within fifteen days after the director gives notice to the licensee. A licensee may, in lieu of filing any bond required under this section, provide the director with a one hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any bank, trust company, savings and loan or credit union operating in Missouri.**

367.500. As used in sections 367.500 to [367.530] **367.533**, unless the context otherwise requires, the following terms mean:

(1) "Borrower", [the owner of any titled personal property who pledges such property to a title lender] **a person who borrows money** pursuant to a title loan agreement;

(2) "Capital", the assets of a person less the liabilities of that person. Assets and liabilities shall be measured according to generally accepted accounting principles;

(3) "Certificate of title", a state-issued certificate of title or certificate of ownership for personal property[, which certificate is deposited with a title lender as security for a title loan pursuant to a title loan agreement];

(4) "Director", the director of the division of finance of the department of economic development or its successor agency;

(5) "Person", any resident of the state of Missouri or any business entity formed under Missouri law or duly qualified to do business in Missouri;

(6) "Pledged property", personal property, ownership of which is evidenced and delineated by a [state-issued certificate of] title;

(7) "Title lending office" or "**title loan office**", a location at which, or premises in which, a title lender regularly conducts business;

(8) "Title lender", a person [who has] qualified to [engage in the business of making] **make** title loans pursuant to sections 367.500 to [367.530 and] **367.533** who maintains at least one title lending office within [the boundaries of] the state of Missouri, which office is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

(9) "Title loan agreement", a written agreement between a borrower and a title lender in a form which complies with the requirements of sections 367.500 to [367.530] **367.533**. The title lender shall [retain physical possession of the certificate of title for the entire length of the title loan agreement and for all renewals or extensions thereof, except to the extent necessary to] perfect [the title lender's] **its** lien pursuant to sections 301.600 to 301.660, RSMo, but [shall] **need** not [be required to] retain physical possession of the titled personal property at any time[. The money advanced to the borrower under a title loan agreement shall not be considered a debt of the borrower for any purpose and the borrower shall have no personal liability under a title loan agreement]; and

(10) "[Title] **Titled** personal property", any personal property **excluding property qualified to be a personal dwelling** the ownership of which is evidenced[and delineated] by a [state-issued] certificate of title.

367.503. 1. The [division of finance] **director** shall [have responsibility to] administer and regulate [the provisions of] sections 367.500 to [367.530] **367.533**. The director, deputy director, other assistants and examiners, and all special agents and other employees shall keep all information [obtained from persons applying for a certificate of registration as a title lender and from all persons licensed as a title lender confidential and shall not disclose such information unless required by law or judicial order] **concerning title lenders confidential as required by sections 361.070 and 361.080, RSMo**.

2. No employee of the division of finance shall have any ownership or interest in any **title loan** business [entity engaged in the business of title loans,] or receive directly or indirectly any payment or gratuity from any such entity.

3. [In enacting rules affecting the business of title lending,] The director shall [not limit the number of title lending certificates of registration that may be issued, but shall only] issue as many [certificates of registration] **title loan licenses** as may be applied for by qualified applicants.

4. No rule or portion of a rule promulgated pursuant to the authority of sections 367.500 to [367.530] **367.533** shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

367.506. 1. [It is unlawful for] Any person [to act] **who acts** as a title lender [unless such person has first registered and received] **without** a [certificate of registration from the division of finance to conduct such business in the manner and form provided pursuant to this act. Violators of the registration requirement are] **title loan license is** subject to both civil and criminal penalties.

2. All title loan agreements entered into by a person who acts in violation of the [registration] **licensing** requirements [provided in] **of** sections 367.500 to [367.530] **367.533**, and all title pledges accepted by such person, shall be null and void. Any borrower who enters into a title loan agreement with a person who acts in violation of the provisions of sections 367.500 to [367.530] **367.533** shall not be bound by [the terms of] such agreement, and such borrower's only liability [to such person] shall be for the return of the principal [sum borrowed plus interest at the rate set by statute for interest on judgments].

3. The attorney general may initiate a civil action against any person [required to maintain a certificate of registration as a title lender] who acts as a title lender without [first obtaining such certificate] **a title loan license**. Such action shall be commenced in the circuit court for any county [in which such person engaged in title lending. For purposes of this section, such county shall mean any county] in which the person executed any title loan agreement and any county in which any of the pledged **titled personal** property is normally kept. The civil penalty for title lending without [first obtaining] a [certificate of registration] **title loan license** shall be [a fine of] not less than one thousand dollars and not more than five thousand dollars for each day that a person acts in violation of the [registration] **licensing** requirement. If the violation of the [registration] **licensing** requirement is intentional or knowing, the person shall be barred from applying for a [certificate of registration as a title lender] **title loan license** for a period of five years from the date of the last violation.

4. A first offense violation of the [registration] **licensing** requirement pursuant to this section shall be a class C misdemeanor. Second and subsequent offenses shall be class A misdemeanors. For purposes of jurisdiction and venue, the crime of unlawful title lending shall be deemed to have occurred in both the county in which an unlawful title loan agreement was executed and the county in which the pledged property is normally kept.

367.509. 1. [To be eligible for] A [registration certificate as a title lender, an] **title loan license** applicant must [be either a natural person resident in the state of Missouri or a business entity formed under the laws of the state of Missouri or a business entity qualified to conduct business in the state of Missouri, and] have and maintain capital of at least seventy-five thousand dollars at all times.

2. The **license** application [for a certificate of registration] shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant[;], date of formation if a business entity[;], the address of each title loan office operated or sought to be operated[;], the name and [resident] **residential** address of the owner [or], partners [or], [if a corporation or association, of the] directors, trustees and principal officers[;], and such other pertinent information as the director may require. **A corporate surety bond in the principal sum of twenty thousand dollars per**

location shall accompany each license application. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state in order to ensure the faithful performance of the obligations of the applicant and the applicant's agents and subagents in connection with title loan activities. 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 400.5-103, RSMo, in the amount of twenty thousand dollars per location, issued by any bank, trust company, savings and loan or credit union operating in Missouri in a form acceptable to the director.

3. Every person [that has not previously been issued a certificate of registration pursuant to this section to engage in the business of title lending shall, at the time of] applying for [such certificate,] **a title loan license shall** pay [the sum of] one thousand dollars as an investigation fee[, which fee shall be used to cover the costs of investigating the application]. [A registered title lender may apply] **Applicants** for [a certificate of registration for] additional title lending [office locations, and] **licenses** shall[, at the time of making such application] pay [the sum of] one thousand dollars **per additional location** as an investigation fee[, which fee shall be used to cover the costs of investigating the title lender's additional title lending office location]. [In addition to the investigative fees required pursuant to this section,] The lender shall, beginning with the first **license** renewal [of said certificate], pay annually to the director a fee of one thousand dollars for each **licensed** location [for which a certificate of registration has been issued].

4. Each [certificate] **license** shall specify the location of the [specific] title loan office [to which it applies] and shall be conspicuously displayed therein. Before any title lending office [location] may [be changed or moved by the lender] **relocate**, the director shall approve such [change of location by endorsing the certificate or] **relocation by** mailing the licensee a new [certificate] **license** to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, by a person eligible to apply for a title [lender's certificate] **loan license**, the director shall issue a [certificate to the applicant] **license** to engage in the title loan business [under and] in accordance with [the provisions of] sections 367.500 to [367.530 for a period which shall expire the last day of December next following the date of its issuance] **367.533. The licensing year shall commence on January first and end the following December thirty-first.** Each [certificate] **license** shall be uniquely numbered and shall not be transferable or assignable. Renewal [certificates] **licenses** shall be effective for a period of one year.

367.512. 1. [Any licensed title lender may engage in the business of making loans secured by a certificate of title as provided in sections 367.500 to 367.530.

2.] Every title loan, **and each extension or renewal of such title loan**, shall be [reduced to] **in** writing [in a title loan agreement. Each title loan agreement], **signed by the borrower and** shall provide [as follows and shall include the following terms] **that:**

(1) The title lender agrees to make a loan [of money] to the borrower, and the borrower agrees

to give the title lender a security interest in unencumbered titled personal property [owned by the borrower];

(2) **Whether** the borrower consents to the title lender keeping possession of the certificate of title;

(3) The borrower shall have the [exclusive] right to redeem the certificate of title by repaying the loan [of money] in full and by complying with the title loan agreement **which may be** for [an] **any** agreed period of time [but in any case] not less than thirty days;

(4) The title lender shall renew the title loan agreement [for additional thirty-day periods] upon the borrower's **written** request and the payment by the borrower of any interest [and fees] due at the time of such renewal[.]. However, upon the third renewal of [the] **any** title loan agreement, and [each] **any** subsequent renewal [thereafter], the borrower shall reduce the principal [amount of the loan] by ten percent [of the original amount of the loan] until such loan is paid in full;

(5) When the [certificate of title is redeemed] **loan is satisfied**, the title lender shall release its [security interest in the titled personal property] **lien** and return the [personal property certificate of] title to the borrower;

(6) [Upon failure of the borrower to redeem the certificate of title at the end of the original thirty-day agreement period, or at the end of any agreed-upon thirty-day renewal or renewals thereof, the borrower shall deliver the titled personal property to the title lender at the location specified in the agreement, which location shall be no more than fifteen miles from the title lender's office where the title loan agreement was executed;

(7) If the borrower [fails to deliver the titled personal property to the title lender] **defaults**, the title lender shall be allowed to take possession of the titled personal property **after compliance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo;**

[(8)] (7) Upon obtaining possession of the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**, the title lender shall be authorized to sell the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**, and to convey to the buyer thereof good title thereto[, subject to the waiting periods provided for in section 367.521; and

(9) A borrower who does not redeem a pledged certificate of title shall have no personal liability to the title lender to repay principal, interest or expenses incurred in connection with the title loan, and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement].

[3.] **2.** Any borrower who obtains a title loan [from a title lender] under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property, shall be personally liable to the title lender for the full amount stated in the title loan agreement.

367.515. [1. The maximum rate of interest that a title lender shall contract for and receive for

making and carrying any title loan authorized by sections 367.500 to 367.530 shall not exceed one and one-half percent per month on the amount of such loans. Title lenders may charge, contract for, and receive a fee, which shall not be deemed interest, to defray the ordinary cost of operations. Such fee may include the title lenders cost for investigating the title, appraisal of the titled personal property, insuring the titled personal property while in the possession of the borrower, documenting and recording the transactions, perfecting a security interest in the titled personal property, storage of titled personal property in the possession of the title lender and for all other services and costs of the lender associated with such transactions. A pro rata portion of the foregoing fee shall be fully earned, due and owing each day that the title loan agreement remains unpaid after maturity. Such interest and fees shall be deemed to be earned, due and owing as of the date of the title loan agreement and on the date of any subsequent renewal thereof.

2.] A title lender [may assess and collect a repossession charge if the borrower fails to deliver the titled personal property pursuant to the terms of the title loan agreement. This charge shall equal the actual expense incurred by the title lender to repossess the titled personal property, including attorney's fees, but shall be no greater than five hundred dollars for any single article of titled personal property] **shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140, RSMo.**

367.518. 1. Each title loan agreement shall disclose the following:

(1) All disclosures required [to be made under] **by the federal Truth in Lending Act and regulation Z;**

(2) That the transaction is a loan secured by the pledge of titled personal property **and, in at least 10-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;**

(3) The [identity of the parties to the agreement, including the] name, business address, telephone number and certificate number of the title lender, and the name[, resident] **and residential** address [and identification] of the borrower;

(4) The monthly interest rate to be charged;

(5) [The allowable fees and expenses to be charged to the borrower upon redemption of the certificate of title;

(6) The date on which the borrower's exclusive right to redeem the pledged certificate of title pursuant to section 367.521 expires] **A statement which shall be in at least 10-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day;**

[(7)] **(6)** The location where the titled personal property [is to] **may** be delivered if the [certificate of title] **loan** is not [redeemed] **paid** and the hours such location is open for receiving such deliveries; and

[(8)] **(7)** Any additional disclosures deemed necessary by the [division of finance] **director** or required pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The division of finance is directed to [promulgate] **draft** a form [of disclosure] to be used in title loan [agreements] **transactions**. Use of [the] **this** form [promulgated by the division of finance] is not mandatory[.]; however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

367.521. 1. [Except as otherwise provided in sections 367.500 to 367.530,] The borrower shall be entitled to redeem the [certificate of title upon] **security by** timely satisfaction of [all outstanding obligations agreed to in] the **terms of the** title loan agreement. Upon expiration or default of a title loan agreement [and of the renewal or renewals of the agreement, if any, the title lender shall retain possession of the certificate of title for at least twenty days. If the borrower fails to redeem the certificate of title before the lapse of the twenty-day holding period, the pledgor shall thereby forfeit all right, title and interest in and to the titled personal property to the title lender, who shall thereby acquire an absolute right of title to the titled personal property, and the title lender shall have the sole right and authority to sell or dispose of the pledged property pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The title lender has, upon default by the pledgor of any obligation pursuant to the title loan agreement, the right to take possession of the titled personal property.

3. In taking possession, the title pledge lender or the lender's agent may proceed without judicial process if this can be done without breach of the peace; or, if necessary, may proceed by action to obtain judicial process. Any repossession conducted without the knowledge and cooperation of the owner shall comply with the requirements of subsection 12 of section 304.155, RSMo.

4. If the title lender takes possession of the titled personal property, either personally or through its agent, at any time during the twenty-day holding period provided herein, the title lender shall retain possession, either personally or through its agent, of the titled personal property until the expiration of the twenty-day holding period.

5. If during the twenty-day holding period, the borrower redeems the certificate of title by paying all outstanding principal, interest, and other fees stated in the title pledge agreement, and, if applicable, repossession fees and storage fees, the borrower shall be given possession of the certificate of title and the titled personal property, without further charge.

6. If the borrower fails to redeem the titled personal property during the twenty-day holding period, the borrower shall thereby forfeit all right, title, and interest in and to the titled personal property and certificate of title, to the title lender, who shall thereby acquire an absolute right of title and ownership to the titled personal property. The title lender shall then have the sole right and authority to sell or dispose of the unredeemed titled personal property.

7. If the borrower loses the title pledge agreement or other evidence of the transaction, the borrower shall not thereby forfeit the right to redeem the pledged property, but may promptly, before the lapse of the redemption date, make affidavit for such loss, describing the pledged property, which affidavit shall, in all respects, replace and be substituted for the lost evidence of the transaction], **the title lender**

may proceed against the collateral pursuant to chapter 400, RSMo, and with sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo.

367.524. 1. Every title lender shall keep a consecutively numbered record of each [and every] title loan agreement executed, which number shall be placed on the corresponding title loan agreement itself. Such record shall include the following:

- (1) A clear and accurate description of the titled personal property, including its vehicle identification or serial number, license plate number, [if applicable,] year, make, model, type, and color;
- (2) The date of the title loan agreement;
- (3) The amount of the loan [made pursuant to the title loan agreement];
- (4) The date of maturity of the loan; and
- (5) The name, [race, sex, height,] date of birth, Social Security number, [resident] **residential** address, and the type [and unique identification number] of [the] photo identification of the borrower.

2. The title lender shall [make a good and useable] photocopy [of] the photo identification of the borrower or shall take an instant photograph of the borrower, [which] **and shall attach such** photocopy or photograph [shall be attached] to the lender's copy of the title loan agreement **and all renewals**.

3. The borrower shall sign the title loan agreement and shall be provided with a copy of such agreement. The title lender, or the lender's employee or agent shall also sign the title loan agreement. **The title lender shall provide each customer with and retain a photocopy of the pledged title at the time the note is signed.**

4. The title lender shall keep the numbered records and copies of its title loan agreements, **including a copy of the notice required pursuant to subsection 1 of section 367.525**, for a period of no less than two years from the date of the closing of the last transaction reflected therein. [The date of the last transaction, as used in this subsection, means in the case where a borrower redeemed the pledged certificate of title, the date of such redemption, and in the case where a borrower does not redeem the pledged certificate of title, the date on which the title lender sells the titled personal property.] A title lender who ceases engaging in the business of making title loans shall keep these records for [a period of no less than] **at least** two years from the date the lender ceased engaging in the business. **A title lender must notify the director to request an examination at least ten days before ceasing business.**

5. The records required [to be maintained] by this section shall be made available for inspection by any employee of the division of finance upon request during ordinary business hours without warrant or court order.

367.525. 1. Before accepting a title loan application, the lender shall provide the borrower the following notice in at least 10-point bold type and receipt thereof shall be acknowledged by signature of the borrower:

(Name of Lender)

NOTICE TO BORROWER

(1.) Your automobile title will be pledged as security for the loan. If the loan is not repaid in full, including all finance charges, you may lose your automobile.

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

I have read the above "NOTICE TO BORROWER" and I understand that if I do not repay this loan that I may lose my automobile.

Borrower

Date

2. If the loan is secured by titled personal property other than an automobile, the lender shall either provide a form with the proper word describing the security or else shall strike the word "automobile" from the three places it appears, write or print in the type of titled personal property serving as security and have the customer initial all three places.

3. The title lender shall post in a conspicuous location in each licensed office, in at least 14-point bold type the maximum rates that such title lender is currently charging on any loans made and the statement:

NOTICE:

Borrowing from this lender places your automobile at risk. If this loan is not repaid in full, including all finance charges, you may lose your automobile.

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

3. When making or negotiating loans, the title lender shall take into consideration in determining the size and duration of a loan contract the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract.

367.527. 1. A title lender shall not:

(1) Accept a pledge from a person under eighteen years of age[,] or from anyone who appears to be intoxicated;

(2) [Make any agreement giving the title lender any recourse against the borrower other than the title lender's right to take possession of the titled personal property and certificate of title upon the borrower's default or failure to redeem, sell or otherwise dispose of the titled personal property in accordance with provisions of this act, except as otherwise expressly permitted in sections 367.500 to 367.530;

(3) Enter into a title agreement in which the amount of money loaned in consideration of the pledge of any single certificate of title] **make a loan which** exceeds five thousand dollars;

[(4)] (3) Accept any waiver[, in writing or otherwise,] of any right or protection [accorded] of a borrower [pursuant to sections 367.500 to 367.530];

[(5)] (4) Fail to exercise reasonable care to protect from loss or damage certificates of title or titled personal property in the physical possession of the title lender;

[(6)] (5) Purchase titled personal property in the operation of its business;

[(7)] (6) Enter into a title loan agreement unless the borrower presents clear title [to titled personal property] at the time that the loan is made [and such title is retained in the physical possession of the title pledge lender; or];

[(8)] (7) Knowingly violate any provision of sections 367.500 to [367.530] **367.533** or any rule promulgated [pursuant to authority granted by this act] **thereunder**;

(8) **Violate any provision of sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo; or**

(9) **Store repossessed titled personal property at a location more than fifteen miles from the office where the title loan agreement was executed.**

2. If a title lender enters into a transaction contrary to this section, [any lien obtained by the title lender] **the loan and the lien** shall be void.

367.530. 1. Every [person engaged in the business of title lending] **title lender** shall [provide] **maintain** a [safe] **fireproof** place for the [keeping of the] pledged certificates of title and **a safe place** for [the keeping of] pledged property delivered to **or repossessed by** the title lender [pursuant to the terms of any title loan agreement].

2. Every [person engaged in the business of title lending] **title lender** shall maintain premises liability insurance in an amount of not less than one million dollars per occurrence for the benefit of customers and employees [who visit or work at the title lending office], which insurance shall provide coverage for, among other risks, injuries caused by the criminal acts of third parties.

3. A [person engaged in the business of title lending] **title lender** shall **not** be [immune from liability] **liable** for any loss or injury occasioned or caused by the use of pledged property unless the pledged property is actually in the **title lender's** possession [of the title pledge lender].

4. A [person engaged in the business of title lending] **title lender** shall be strictly liable to the borrower for any loss to pledged property in the **title lender's** possession [of the title lender, but only if

the borrower makes a redemption of the pledged property prior to the expiration of the twenty-day holding period provided in section 367.521].

367.531. The provisions of sections 408.552 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, are applicable to all transactions pursuant to sections 367.500 to 367.533.

367.532. 1. Any title lender which fails, refuses or neglects to comply with sections 367.500 to 367.533, sections 408.551 to 408.557, RSMo, sections 408.560 to 408.562, RSMo, or any laws relating to title loans or commits any criminal act may have its license suspended or revoked by order of the director after a hearing before said director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the title lender at least ten days prior to the hearing.

2. Whenever it shall appear to the director that any title lender is failing, refusing or neglecting to make a good faith effort to comply with the provisions of sections 367.500 to 367.533, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

367.550. As used in sections 367.550 to 367.570, the following terms shall mean:

(1) "Deferred presentment service", a transaction pursuant to a written agreement between an individual and a person licensed by the division of finance pursuant to the provisions of section 408.500, RSMo, or sections 367.100 to 367.215 to offer to advance money against a check which is held by the lender until a date specified; and

(2) "Licensee", a person licensed to provide deferred presentment services by the division of finance pursuant to the provisions of section 408.500, RSMo, or sections 367.100 to 367.215.

367.555. Any individual who executes a deferred presentment service transaction may rescind the transaction at no cost at any time prior to the close of business on the business day immediately following the date of the transaction by paying to the licensee, in the form of cash or other immediately available funds, the amount of money advanced to the individual.

367.560. Each licensee shall conspicuously post in its place of business a notice of the fees imposed for the deferred presentment service.

367.567. Each deferred presentment service transaction must be documented by a written agreement and signed by both the maker of the check and the licensee. The written agreement must contain the name of the licensee, the transaction date, the amount of the check and a statement of the total amount of fees charged. The written agreement must authorize the

licensee to defer presentment or negotiation of the check until a specific date.

367.570. A licensee shall not defer presentment or negotiation of any check for more than thirty-one calendar days after the date the check is received by the licensee.

408.500. 1. Lenders [exclusively], **other than banks, trust companies, credit unions, savings banks and savings and loan companies**, in the business of making unsecured loans [under] of five hundred dollars [and who are not otherwise registered under this chapter shall be registered with] **or less shall obtain a license from** the director of the division of finance [upon the payment of]. An annual [registration] **license** fee of three hundred dollars **per location shall be required**. The license year shall commence on January first each year and the license fee may be prorated for expired months. [Such lenders shall not charge, contract for or receive on such loans interest or any fee of any type or kind whatsoever which exceed the approved rate as provided in this subsection. Lenders shall file a rate schedule with the director who, upon review, shall approve rates comparable with those lawfully charged in the marketplace for similar loans. In determining marketplace interest rates, the director shall consider the appropriateness of rate requests made by lenders and rates allowed on similar loans in the states contiguous to Missouri. If the director takes no action upon a filed rate schedule within thirty days of receipt, then it shall be deemed approved as filed. The director, on January first and July first of each year, shall consider the filing of new interest rate schedules to reflect changes in the marketplace. The director may promulgate rules regarding the computation and payment of interest, contract statements, payment receipts and advertising for loans made under the provisions of this section.] The provisions of this section shall not apply to pawnbroker loans [and small], **consumer credit** loans as authorized under chapter 367, RSMo, **nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.**

2. **Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140.** Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in [excess of the rate established under] **violation of** this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in [excess of the rate established under] **violation of** this section shall be guilty of a class A misdemeanor.

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

4. **Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least 14-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:**

NOTICE:

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

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least 10-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

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

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

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the fifth renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by ten percent of the original amount of the loan until such loan is paid in full.

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

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

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

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

408.510. Notwithstanding any other law to the contrary, the phrase "consumer installment loans" means secured or unsecured loans of any amount and payable in not less than four

substantially equal installments over a period of not less than one hundred twenty days. The phrase "consumer installment lender" means a person licensed to make consumer installment loans. A consumer installment lender shall be licensed in the same manner and upon the same terms as a lender making consumer credit loans. Such consumer installment lenders shall contract for and receive interest and fees in accordance with sections 408.100 and 408.140. Consumer installment lenders shall be subject to the provisions of sections 408.551 to 408.562.

Unofficial

Bill

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