

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 254**  
97TH GENERAL ASSEMBLY

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Reported from the Committee on Financial and Governmental Organizations and Elections, March 14, 2013, with recommendation that the Senate Committee Substitute do pass.

1380S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal section 408.140, RSMo, and to enact in lieu thereof one new section relating to loan fees.

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

Section A. Section 408.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 408.140, to read as follows:

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

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

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

(3) If the contract so provides, a charge for late payment on each

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

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 the lesser  
59 of [twenty-five] **seventy-five** dollars or [five] **ten** percent of the credit advanced  
60 from time to time from the line of credit; such credit advance fee may be added  
61 to the open-end credit outstanding along with any interest, and shall not be  
62 considered the unlawful compounding of interest as that term is defined in  
63 section 408.120;

64 (11) A deficiency waiver addendum, guaranteed asset protection, or a  
65 similar product purchased as part of a loan transaction with collateral and at the  
66 borrower's consent, provided the cost of the product is disclosed in the loan  
67 contract, is reasonable, and the requirements of section 408.380 are met.

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

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

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