

FIRST REGULAR SESSION

SENATE BILL NO. 254

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PEARCE.

Read 1st time February 4, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1380S.011

AN ACT

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

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Section A. Section 408.140, RSMo, is repealed and one new section
2 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
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 [five] **ten** percent of the principal
8 amount loaned not to exceed [seventy-five] **one hundred** dollars may be charged
9 by the lender; however, no such fee shall be permitted on any extension,
10 refinance, restructure or renewal of any such loan, unless any investigation is
11 made on the 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

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

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] **one hundred** 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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