

FIRST REGULAR SESSION

SENATE BILL NO. 2

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNEIDER.

Pre-filed December 1, 1998, and 1,000 copies ordered printed.

S0443.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 364.120, 365.140, 385.050, 408.083, 408.170 and 408.320, RSMo 1994, relating to prepayment of certain loans, and to enact six new sections relating to the same subject.

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

Section A. Sections 364.120, 365.140, 385.050, 408.083, 408.170 and 408.320, RSMo 1994, are repealed and six new sections enacted in lieu thereof, to be known as sections 364.120, 365.140, 385.050, 408.083, 408.170 and 408.320, to read as follows:

364.120. 1. A premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly installments equal in amount for a period of one year. For repayment in greater or lesser periods

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

or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.

4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit[, which shall represent at least as great a proportion of the interest or discount as the sum of the periodic balances, after the month in which prepayment is made, bears to the sum of all periodic balances under the schedule of installments in the agreement; except that, if the initial term of the contract is greater than sixty-one months, the interest earned shall be computed to the date of prepayment on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding. Where the amount of the refund credit is less than one dollar, no refund need be made]. **The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.**

365.140. Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall [represent at least as great a proportion of the time price differential as the sum of the monthly time balances beginning one month after prepayment is made bears to the sum of all the monthly time balances under the schedule of payment in the contract after deducting from the refund an acquisition cost of fifteen dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of the time price differential earned shall be computed to the date of prepayment on the basis of the rate originally contracted for on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080. Where the amount of credit is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080.**

385.050. 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination

of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the ["sum of the digits" formula with respect to decreasing term credit life insurance and credit accident and sickness insurance, and the pro rata unearned gross premium with respect to level term credit life insurance] **actuarial method of calculating refunds.**

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

408.083. Notwithstanding any other provision of law to the contrary, all credit contracts with interest or time price differential calculated on an add-on basis entered into after August [13, 1988, with an initial term greater than sixty-one months] **28, 1997**, the proceeds of which are used for personal, family or household purposes, shall provide that the amount of interest or time price differential earned upon prepayment in full will be computed on the basis of the rate or rate formula originally contracted for on the actual unpaid principal balances for the time actually outstanding.

408.170. [1.] If a note or loan contract providing for amount of interest, added to the principal of the loan is prepaid in full [(by cash, renewal, or refinancing) one month or more before the final installment date, the lender shall either:

(1) Recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding; or

(2) If the initial term of the contract is sixty-one months or less, give a refund of a portion of the amount of interest originally contracted for which shall be computed as follows: The amount of the refund shall be at least as great a proportion of such amount of interest as the sum of the full monthly balances of the contract scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the monthly balances of the contract, both sums to be determined according to the payment schedule provided by the contract; except that, if prepayment in full occurs during the first installment period, interest shall be recomputed and charged only for the actual number of days elapsed. When the period before the first installment

is more or less than one month, the portion of the interest earned for such period shall be determined by counting each day in such period as one-thirtieth of a month and one three hundred and sixtieth of a year.

2. No refund shall be required for any partial prepayment.

3. The word "refund" as used herein shall mean a credit or deduction from the amount of interest originally contracted for] **at any time by cash, renewal or refinancing, the buyer shall receive a refund which shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a note or loan contract is prepaid.**

408.320. Notwithstanding the provisions of any retail time contract to the contrary, any buyer may prepay in full at any time before maturity the debt of any retail time contract and on so paying such debt shall receive a refund credit thereof for such anticipation of payments. The amount of such refund shall [represent at least as great a proportion of the time charge as the sum of the monthly time balances, beginning one month after prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract after deducting from such refund an acquisition cost of twelve dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of time charge earned shall be computed to the date of prepayment on the basis of the rate originally contracted for computed on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 5 of section 408.280. Where the amount of credit is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail time contract is prepaid.**