

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 587
98TH GENERAL ASSEMBLY

1409H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, RSMo, and to enact in lieu thereof eight new sections relating to licensing fees paid to the director of the division of finance.

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

Section A. Sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 2 and 408.500, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known 3 as sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, to 4 read as follows:

361.707. 1. Each application for a license pursuant to sections 361.700 to 361.727 shall 2 be in writing and under oath to the director in such form as he may prescribe. The application 3 shall state the full name and business address of:

- 4 (1) The proprietor, if the applicant is an individual;
- 5 (2) Every member, if the applicant is a partnership or association;
- 6 (3) The corporation and each officer and director thereof, if the applicant is a 7 corporation.

8 2. Each application for a license shall be accompanied by an investigation fee of [one] 9 **three** hundred dollars. If the license is granted the investigation fee shall be applied to the 10 license fee for the first year. No investigation fee shall be refunded.

361.715. 1. Upon the filing of the application, the filing of a certified audit, the payment 2 of the investigation fee and the approval by the director of the necessary bond, the director shall 3 cause, investigate, and determine whether the character, responsibility, and general fitness of the 4 principals of the applicant or any affiliates are such as to command confidence and warrant belief 5 that the business of the applicant will be conducted honestly and efficiently and that the applicant

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 is in compliance with all other applicable state and federal laws. If satisfied, the director shall
7 issue to the applicant a license pursuant to the provisions of sections 361.700 to 361.727. In
8 processing a renewal license, the director shall require the same information and follow the same
9 procedures described in this subsection.

10 2. Each licensee shall pay to the director before the issuance of the license, and annually
11 thereafter on or before April fifteenth of each year, a license fee of [one] **three** hundred dollars.

12 3. The director may assess a reasonable charge, not to exceed [one] **three** hundred
13 dollars, for any application to amend and reissue an existing license.

364.030. 1. No person shall engage in the business of a financing institution in this state
2 without a license therefor as provided in this chapter; except, however, that no bank, trust
3 company, loan and investment company, licensed sales finance company, registrant under the
4 provisions of sections 367.100 to 367.200, or person who makes only occasional purchases of
5 retail time contracts or accounts under retail charge agreements and which purchases are not
6 being made in the course of repeated or successive purchase of retail installment contracts from
7 the same seller, shall be required to obtain a license under this chapter but shall comply with all
8 the laws of this state applicable to the conduct and operation of a financing institution.

9 2. The application for the license shall be in writing, under oath and in the form
10 prescribed by the director. The application shall contain the name of the applicant; date of
11 incorporation, if incorporated; the address where the business is or is to be conducted and similar
12 information as to any branch office of the applicant; the name and resident address of the owner
13 or partners or, if a corporation or association, of the directors, trustees and principal officers, and
14 other pertinent information as the director may require.

15 3. The license fee for each calendar year or part thereof shall be the sum of [three] **five**
16 hundred dollars for each place of business of the licensee in this state which shall be paid into
17 the general revenue fund. The director may establish a biennial licensing arrangement but in no
18 case shall the fees be payable for more than one year at a time.

19 4. Each license shall specify the location of the office or branch and must be
20 conspicuously displayed therein. In case the location is changed, the director shall either endorse
21 the change of location of the license or mail the licensee a certificate to that effect, without
22 charge.

23 5. Upon the filing of an application, and the payment of the fee, the director shall issue
24 a license to the applicant to engage in the business of a financing institution under and in
25 accordance with the provisions of this chapter for a period which shall expire the last day of
26 December next following the date of its issuance. The license shall not be transferable or
27 assignable. No licensee shall transact any business provided for by this chapter under any other
28 name.

364.105. 1. No person shall engage in the business of a premium finance company in this state without first registering as a premium finance company with the director.

2. The annual registration fee shall be [three] **five** hundred dollars payable to the director as of the first day of July of each year. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

3. Registration shall be made on forms prepared by the director and shall contain the following information:

(1) Name, business address and telephone number of the premium finance company;

(2) Name and business address of corporate officers and directors or principals or partners;

(3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(a) The premium finance company is financially capable to engage in the business of insurance premium financing; and

(b) If a corporation, that the corporation is authorized to transact business in this state;

(4) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the director accompanied by an additional fee of [one] **three** hundred dollars.

365.030. 1. No person shall engage in the business of a sales finance company in this state without a license as provided in this chapter; except, that no bank, trust company, savings and loan association, loan and investment company or registrant under the provisions of sections 367.100 to 367.200 authorized to do business in this state is required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter.

2. The application for the license 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 incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident 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.

3. The license fee for each calendar year or part thereof shall be the sum of [three] **five** hundred dollars for each place of business of the licensee in this state. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location is changed, the director shall either endorse

18 the change of location on the license or mail the licensee a certificate to that effect, without
19 charge.

20 5. Upon the filing of the application, and the payment of the fee, the director shall issue
21 a license to the applicant to engage in the business of a sales finance company under and in
22 accordance with the provisions of this chapter for a period which shall expire the last day of
23 December next following the date of its issuance. The license shall not be transferable or
24 assignable. No licensee shall transact any business provided for by this chapter under any other
25 name.

367.140. 1. Every lender shall, at the time of filing application for certificate of
2 registration as provided in section 367.120 hereof, pay the sum of [three] **five** hundred dollars
3 as an annual registration fee for the period ending the thirtieth day of June next following the
4 date of payment and in full payment of all expenses for investigations, examinations and for the
5 administration of sections 367.100 to 367.200, except as provided in section 367.160, and
6 thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a
7 lender is supervised by the commissioner of finance under any other law, the charges for
8 examination and supervision required to be paid under said law shall be in lieu of the annual fee
9 for registration and examination required under this section. The fee shall be made payable to
10 the director of revenue. If the initial registration fee for any certificate of registration is for a
11 period of less than twelve months, the registration fee shall be prorated according to the number
12 of months that said period shall run. The director may establish a biennial licensing arrangement
13 but in no case shall the fees be payable for more than one year at a time.

14 2. Upon receipt of such fee and application for registration, and provided the bond, if
15 required by the director, has been filed, the director shall issue to the lender a certificate
16 containing the lender's name and address and reciting that such lender is duly and properly
17 registered to conduct the supervised business. The lender shall keep this certificate of
18 registration posted in a conspicuous place at the place of business recited in the registration
19 certificate. Where the lender engages in the supervised business at or from more than one office
20 or place of business, such lender shall obtain a separate certificate of registration for each such
21 office or place of business.

22 3. Certificates of registration shall not be assignable or transferable except that the lender
23 named in any such certificate may obtain a change of address of the place of business therein set
24 forth. Each certificate of registration shall remain in full force and effect until surrendered,
25 revoked, or suspended as herein provided.

407.640. 1. A credit services organization shall file a registration statement with the
2 director of finance before conducting business in this state. The registration statement must
3 contain:

- 4 (1) The name and address of the credit services organization; and
5 (2) The name and address of any person who directly or indirectly owns or controls ten
6 percent or more of the outstanding shares of stock in the credit services organization.
- 7 2. The registration statement must also contain either:
- 8 (1) A full and complete disclosure of any litigation or unresolved complaint filed by or
9 with a governmental authority of this state relating to the operation of the credit services
10 organization; or
- 11 (2) A notarized statement that states that there has been no litigation or unresolved
12 complaint filed by or with a governmental authority of this state relating to the operation of the
13 credit services organization.
- 14 3. The credit services organization shall update the statement not later than the ninetieth
15 day after the date on which a change in the information required in the statement occurs.
- 16 4. Each credit services organization registering under this section shall maintain a copy
17 of the registration statement in the office of the credit services organization. The credit services
18 organization shall allow a buyer to inspect the registration statement on request.
- 19 5. The director of finance may charge each credit services organization that files a
20 registration statement with the director of finance a reasonable fee not to exceed [one] **three**
21 hundred dollars to cover the cost of filing. The director of finance may not require a credit
22 services organization to provide information other than that provided in the registration statement
23 as part of the registration process.

408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and
2 savings and loan companies, in the business of making unsecured loans of five hundred dollars
3 or less shall obtain a license from the director of the division of finance. An annual license fee
4 of [three] **five** hundred dollars per location shall be required. The license year shall commence
5 on January first each year and the license fee may be prorated for expired months. The director
6 may establish a biennial licensing arrangement but in no case shall the fees be payable for more
7 than one year at a time. The provisions of this section shall not apply to pawnbroker loans,
8 consumer credit loans as authorized under chapter 367, nor to a check accepted and deposited
9 or cashed by the payee business on the same or the following business day. The disclosures
10 required by the federal Truth in Lending Act and regulation Z shall be provided on any loan,
11 renewal or extension made pursuant to this section and the loan, renewal or extension documents
12 shall be signed by the borrower.

13 2. Entities making loans pursuant to this section shall contract for and receive simple
14 interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any
15 fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this

16 section shall be void. Any person, firm or corporation who receives or imposes a fee or charge
17 in violation of this section shall be guilty of a class A misdemeanor.

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

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

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

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

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

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

33 6. The lender shall renew the loan upon the borrower's written request and the payment
34 of any interest and fees due at the time of such renewal; however, upon the first renewal of the
35 loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal
36 amount of the loan by not less than five percent of the original amount of the loan until such loan
37 is paid in full. However, no loan may be renewed more than six times.

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

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

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

50 10. Whenever it shall appear to the director that any lender licensed pursuant to this
51 section is failing, refusing or neglecting to make a good faith effort to comply with the provisions

52 of this section, or any laws relating to consumer loans, the director may issue an order to cease
53 and desist which order may be enforceable by a civil penalty of not more than one thousand
54 dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall
55 be assessed and collected by the director. In determining the amount of the penalty, the director
56 shall take into account the appropriateness of the penalty with respect to the gravity of the
57 violation, the history of previous violations, and such other matters as justice may require.

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