

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 64

## 98TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE DUGGER.

0558H.01IP

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal section 408.140, RSMo, and to enact in lieu thereof one new section relating to open-end credit 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Section A. Section 408.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 408.140, to read as follows: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 ten percent of the principal amount loaned not to exceed [seventy-five] **one hundred** 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;

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.

16 (3) If the contract so provides, a charge for late payment on each installment or minimum  
17 payment in default for a period of not less than fifteen days in an amount not to exceed five  
18 percent of each installment due or the minimum payment due or fifteen dollars, whichever is  
19 greater, not to exceed fifty dollars. If the contract so provides, a charge for late payment on each  
20 twenty-five dollars or less installment in default for a period of not less than fifteen days shall  
21 not exceed five dollars;

22 (4) If the contract so provides, a charge for late payment for a single payment note in  
23 default for a period of not less than fifteen days in an amount not to exceed five percent of the  
24 payment due; provided that, the late charge for a single payment note shall not exceed fifty  
25 dollars;

26 (5) Charges or premiums for insurance written in connection with any loan against loss  
27 of or damage to property or against liability arising out of ownership or use of property as  
28 provided in section 367.170; however, notwithstanding any other provision of law, with the  
29 consent of the borrower, such insurance may cover property all or part of which is pledged as  
30 security for the loan, and charges or premiums for insurance providing life, health, accident, or  
31 involuntary unemployment coverage;

32 (6) Reasonable towing costs and expenses of retaking, holding, preparing for sale, and  
33 selling any personal property in accordance with section 400.9;

34 (7) Charges assessed by any institution for processing a refused instrument plus a  
35 handling fee of not more than twenty-five dollars;

36 (8) If the contract or promissory note, signed by the borrower, provides for attorney fees,  
37 and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the  
38 amount due and payable under such contract or promissory note, together with any court costs  
39 assessed. The attorney fees shall only be applicable where the contract or promissory note is  
40 referred for collection to an attorney, and is not handled by a salaried employee of the holder of  
41 the contract;

42 (9) Provided the debtor agrees in writing, the lender may collect a fee in advance for  
43 allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more  
44 than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are  
45 made until the first loan payment is collected and no more than one deferral in a twelve-month  
46 period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed  
47 loans only and does not affect any other subdivision;

48 (10) If the open-end credit contract is tied to a transaction account in a depository  
49 institution, such account is in the institution's assets and such contract provides for loans of  
50 thirty-one days or longer which are "open-end credit", as such term is defined in the federal  
51 Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit

52 advance fee of up to the lesser of seventy-five dollars or ten percent of the credit advanced from  
53 time to time from the line of credit; such credit advance fee may be added to the open-end credit  
54 outstanding along with any interest, and shall not be considered the unlawful compounding of  
55 interest as that term is defined in section 408.120;

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

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

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

✓