

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 13

102ND GENERAL ASSEMBLY

0530S.02C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, and 408.500, RSMo, and to enact in lieu thereof fourteen new sections relating to the regulation of certain financial institutions, with existing penalty provisions.

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

Section A. Sections 361.020, 361.098, 361.160, 361.260,
2 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640,
3 408.145, and 408.500, RSMo, are repealed and fourteen new
4 sections enacted in lieu thereof, to be known as sections
5 361.020, 361.098, 361.106, 361.160, 361.260, 361.262, 361.715,
6 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, and
7 408.500, to read as follows:

361.020. 1. The division of finance shall have charge
2 of the execution of the laws relating to banks, trust
3 companies, and the banking business of this state; [credit
4 unions; and] of the laws relating to persons[,
5 copartnerships and corporations] **and entities** engaged in the
6 small loan **or consumer credit** business in this state; **of the**
7 **laws relating to persons and entities engaged in the**
8 **mortgage loan business in this state; and of the laws**
9 **relating to persons and entities engaged in any other**
10 **financial services related business over which the division**
11 **of finance is granted express authority.**

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

12 2. The director of finance may institute, in the name
13 of the state of Missouri, and defend suits in the courts of
14 this state and the United States.

 361.098. 1. The members of the state banking and
2 savings and loan board shall receive as compensation for
3 their services the sum of one hundred dollars per day while
4 discharging their duties, and shall be entitled to receive
5 their necessary traveling and other expenses incurred while
6 actually engaged in the performance of their duties as such
7 members, **which shall be paid out of the division of finance**
8 **fund.**

9 2. [A majority of the members] **Any three members** of
10 the board shall constitute a quorum for the transaction of
11 any business, for the performance of any duty or for the
12 exercise of any power of the board.

13 3. The board may meet and exercise its powers in any
14 place in this state and shall meet at any time upon the call
15 of its chairman or of the director of the division of
16 finance or of any two members of the board.

17 4. The board shall have an official seal bearing the
18 inscription, "State Banking and Savings and Loan Board of
19 the State of Missouri", which shall be judicially noticed.

20 **5. The division of finance may provide administrative**
21 **services to the board to assist the board with fulfilling**
22 **its statutory responsibilities.**

 361.106. 1. For purposes of this section, the
2 following terms mean:

3 (1) "Bulletin", an informal written communication to
4 inform or educate individuals or entities licensed,
5 chartered, or regulated by the division of finance and the
6 general public about a regulatory topic or issue. A

7 bulletin is informational in nature and is not an evaluation
8 of specific facts and circumstances;

9 (2) "Industry letter", a written communication from
10 the director of finance in response to a specific individual
11 or entity chartered, licensed, or regulated by the division
12 of finance, and that provides the division of finance's
13 position on a particular regulatory topic or issue with
14 respect to a specific set of facts and circumstances.

15 2. Notwithstanding any other provision of law to the
16 contrary, the director of finance may at his or her
17 discretion issue bulletins addressing the business of the
18 individuals and entities licensed, chartered, or regulated
19 by the division in this state. Bulletins do not have the
20 force or effect of law and shall not be considered
21 statements of general applicability that would require
22 promulgation by rule.

23 3. Notwithstanding any other provision of law to the
24 contrary, the director of finance may at his or her
25 discretion issue industry letters in response to a written
26 request from an individual or entity licensed, chartered, or
27 regulated by the division, and that seeks the division's
28 position on an application of law. In addition to any
29 materials or information requested by the division, the
30 written request shall include:

31 (1) A brief summary of the applicable laws and rules
32 that pertain to the request;

33 (2) A detailed factual representation concerning every
34 relevant aspect of the proposed business activity or
35 activities, transaction, event, or circumstance;

36 (3) A discussion of current statutes, rules, and legal
37 principles relevant to the facts set forth;

38 (4) A statement by the person requesting the industry
39 letter of the person's own opinion in the matter and the
40 basis for such opinion; and

41 (5) A representation that the proposed business or
42 transaction in question have not commenced or, if they have
43 commenced, the present status of the proposed business or
44 transaction.

45 4. With respect to the requesting party, an industry
46 letter is binding on the division, and the requesting party
47 shall not be subject to any administrative proceeding or
48 penalty for any acts or omissions done in reliance on an
49 industry letter, so long as there is no change in any
50 material fact or law or the discovery of a material
51 misrepresentation or omission made by the requesting party.

52 5. An industry letter request and response shall be
53 confidential, but a resulting industry letter, if published
54 by the director, may contain non-identifying facts and
55 information derived from the request.

56 6. After redacting all identifying information, the
57 director may publish industry letters for informational
58 purposes. Because the division may have a different
59 position in response to similar but non-identical facts and
60 circumstances, published industry letters do not have the
61 force or effect of law, are not binding on the division, and
62 shall not be considered statements of general applicability
63 that would require promulgation by rule.

64 7. Industry letters issued under this section are
65 distinct from letters issued by the director under
66 subdivision (5) of section 362.106, which shall be governed
67 by that section.

361.160. 1. The director of finance at least once
2 each year, either personally or by a deputy or examiner

3 appointed by the director, shall visit and examine every
4 bank and trust company organized and doing business under
5 the laws of this state, and every other corporation which is
6 by law required to report to the director; except, for banks
7 or trust companies receiving a Camel/MOECA 1 or Camel/MOECA
8 2 rating from the division of finance, the director of
9 finance at least once each eighteen calendar months, or for
10 a private trust company at least once each thirty-six
11 months, either personally or by a deputy or examiner
12 appointed by the director, shall visit and examine such bank
13 or trust company, and the director of finance, at the
14 director's discretion, may conduct the director's
15 examination, or any part thereof, on the basis of
16 information contained in examination reports of other
17 states, the Federal Deposit Insurance Corporation or the
18 Federal Reserve Board or in audits performed by certified
19 public accountants. For purposes of this subsection, a
20 private trust company is one that does not engage in trust
21 company business with the general public or otherwise hold
22 itself out as a trustee or fiduciary for hire by
23 advertising, solicitation, or other means and instead
24 operates for the primary benefit of a family, relative of
25 same family, or single family lineage, regardless of whether
26 compensation is received or anticipated. The director shall
27 be afforded prompt and free access to any workpapers upon
28 which a certified public accountant bases an audit. A
29 certified public accountant shall retain workpapers for a
30 minimum of three years after the date of issuance of the
31 certified public accountant's report to the bank or trust
32 company. The director or the director's agent may
33 concentrate the examinations on institutions which the
34 director believes have safety or soundness concerns.

35 2. The director, or the deputy or examiners designated
36 by the director for that purpose, shall have power to
37 examine any such corporation whenever, in the director's
38 judgment, it may be deemed necessary or expedient, and shall
39 have power to examine every agency located in this state of
40 any foreign banking corporation and every branch in this
41 state of any out-of-state bank, for the purpose of
42 ascertaining whether it has violated any law of this state,
43 and for such other purposes and as to such other matters as
44 the director may prescribe.

45 3. The director and the director's deputy and
46 examiners shall have power to administer oaths to any person
47 whose testimony may be required in such examination or
48 investigation of any such corporation or agency, and to
49 compel the appearance and attendance of any person for the
50 purpose of any such examination or investigation.

51 4. On every such examination inquiry shall be made as
52 to the condition and resources of such corporation, the mode
53 of conducting and managing its affairs, the actions of its
54 directors or trustees, the investment of its funds, the
55 safety and prudence of its management, the security afforded
56 to its creditors, and whether the requirements of its
57 charter and of law have been complied with in the
58 administration of its affairs, and as to such other matters
59 as the director may prescribe.

60 5. The director may also make such special
61 investigations as the director deems necessary to determine
62 whether any individual or corporation has violated any of
63 the provisions of this law.

64 6. Such examination may be made and such inquiry
65 instituted or continued in the discretion of the director
66 after the director has taken possession of the property and

67 business of any such corporation, until it shall resume
68 business or its affairs shall be finally liquidated in
69 accordance with the provisions of this chapter.

70 7. The result of each examination shall be certified
71 by the director or the examiner upon the records of the
72 corporation examined [and the result of all examinations
73 during the biennial period shall be embodied in the report
74 to be made by the director of the department of commerce and
75 insurance to the legislature].

76 8. The director may contract with regulators in other
77 states to provide for the examination of Missouri branches
78 of out-of-state banks and branches of banks whose home state
79 is Missouri. The agreements may provide for the payment by
80 the home state of the cost of examinations conducted by the
81 host state at the request of the home state regulators.

361.260. 1. Whenever the director shall have reason
2 to believe that the capital stock of any corporation subject
3 to the provisions of this chapter is reduced by impairment
4 or otherwise, below the amount required by law, or by its
5 certificates or articles of agreement, [he] **the director**
6 shall issue a notice of charges in respect thereof.

7 2. Whenever [it shall appear to the director,] **the**
8 **director has reason to believe** from any examination **or**
9 **investigation** made by [him] **the director** or his **or her**
10 examiners, that any corporation subject to the provisions of
11 this chapter, or any director, officer, employee, agent, or
12 other person participating in the conduct of the affairs of
13 such corporation, or any foreign corporation licensed by the
14 director to do business under this chapter or chapter 362 is
15 engaging in [or], has engaged in, or [there is reasonable
16 cause to believe that the corporation or any director,
17 officer, employee, agent, or other person participating in

18 the conduct of the affairs of such corporation is about to
19 engage in,] **is about to engage in:**

20 (1) An unsafe or unsound practice in conducting the
21 business of such corporation [or is violating or has
22 violated, or there is reasonable cause to believe that the
23 corporation or any director, officer, employee, agent, or
24 other person participating in the conduct of the affairs of
25 such corporation is about to violate];

26 (2) A **violation of law, rule, or director-imposed**
27 **written** condition [imposed, in writing, by the director in
28 connection with the granting of any application or other
29 request by the corporation or];

30 (3) A **violation of** any written agreement entered into
31 with the director[,]; or

32 (4) A **violation of** the corporation's charter,

33 the director may issue and serve upon the corporation or
34 such director, officer, employee, agent, or other person a
35 notice of charges in respect thereof.

36 3. Whenever it shall appear to the director that any
37 corporation subject to the provisions of this chapter does
38 not keep its books and accounts in such manner as to enable
39 him **or her** readily to ascertain its true condition or that
40 wrong entries or unlawful uses of the funds of the
41 corporation have been made, the director may issue and serve
42 upon the corporation or any appropriate director, officer,
43 employee, agent, or other person a notice of charges in
44 respect thereof.

45 4. The notice of charges shall contain a statement of
46 the facts constituting the deficiencies, [the] alleged
47 violation or violations, improper use of funds, or [the]
48 unsafe or unsound practice or practices, and shall fix a

49 time and place at which a **contested** hearing will be held to
50 determine whether an order to cease and desist therefrom
51 should **[issue]** **be issued** against the corporation or the
52 director, officer, employee, agent, or other person
53 participating in the conduct of the affairs of such
54 corporation.

55 5. In the event the party or parties so served shall
56 fail to appear at the hearing, or shall consent to the cease
57 and desist order, or in the event the director shall find
58 that the fact of any deficiency, violation, unsafe or
59 unsound practice, inadequate recordkeeping, or improper use
60 of funds specified has been established, the director may
61 issue and serve upon the corporation or the director,
62 officer, employee, agent, or other person participating in
63 the conduct of the affairs of the corporation an order to
64 cease and desist from the actions, violations, or practices
65 charged.

66 6. The **cease and desist** order:

67 (1) May require the corporation or its directors,
68 officers, employees, agents, and other persons participating
69 in the conduct of the affairs of such corporation to cease
70 and desist from **[same and,]** **such actions, violations, or**
71 **practices;**

72 (2) **[Further,]** **May require the corporation or its**
73 **directors, officers, employees, agents, or other persons**
74 **participating in the conduct of the affairs of such**
75 **corporation** to take affirmative action to correct the
76 conditions resulting from any such actions, violations, or
77 practices**[. If the director determines that the capital of**
78 **the corporation is impaired,];**

79 (3) **[The order]** Shall require that, **if the director**
80 **determines that the capital of the corporation is impaired,**

81 the corporation make good the deficiency forthwith or within
82 a time specified in the order[.];

83 (4) **May**, if the director determines that the
84 corporation does not keep adequate records, [the order may]
85 determine and prescribe such books of account as the
86 director, in his discretion, shall require of the
87 corporation for the purpose of keeping accurate and
88 convenient records of the transactions and accounts[.]; **and**

89 (5) **Shall**, if the director [shall determine]
90 **determines** that wrong entries or unlawful uses of the funds
91 of the corporation have been made, [he shall] order that the
92 entries shall be corrected, and the sums unlawfully paid out
93 restored by the person or persons responsible for the
94 wrongful or illegal payment thereof.

95 [6.] 7. If a notice of charges served under this
96 section specifies, on the basis of particular facts and
97 circumstances, that a corporation's books and records are so
98 incomplete or inaccurate that the director is unable,
99 through the normal supervisory process, to determine the
100 financial condition of that corporation or the details or
101 purpose of any transaction or transactions that may have a
102 material effect on the financial condition of that
103 corporation, the director may issue a temporary order
104 requiring the cessation of any activity or practice which
105 gave rise, whether in whole or in part, to the incomplete or
106 inaccurate state of the books or records, or affirmative
107 action to restore such books or records to a complete and
108 accurate state, until the completion of the proceedings
109 under this section. Any temporary order issued under this
110 subsection shall become effective upon service and, unless
111 set aside, limited or suspended by a court, shall remain in
112 effect and enforceable until the earlier of the completion

113 of the proceedings initiated under this section or the date
114 on which the director determines by examination or otherwise
115 that the corporation's books and records are accurate and
116 reflect the financial condition of the corporation.

117 [7.] 8. Whenever it shall appear to the director that
118 the violation or threatened violation or the unsafe or
119 unsound practice or practices specified in the notice of
120 charges served upon the corporation or any director,
121 officer, employee, agent, or other person participating in
122 the conduct of the affairs of such corporation pursuant to
123 subsection 4 of this section, or the continuation thereof,
124 is likely to cause insolvency or significant dissipation of
125 assets or earnings of the corporation, or is likely to
126 weaken the condition of the corporation or otherwise
127 prejudice the interests of its depositors prior to the
128 completion of the proceedings conducted pursuant to said
129 subsection, the director may issue a temporary order,
130 effective immediately, requiring the corporation or such
131 director, officer, employee, agent, or other person to cease
132 and desist from any such violation or practice and to take
133 affirmative action to prevent such insolvency, dissipation,
134 condition, or prejudice pending completion of such
135 proceedings. Such order shall remain effective and
136 enforceable pending the completion of the administrative
137 proceedings pursuant to such notice and until such time as
138 the director shall dismiss the charges specified in such
139 notice or if a cease and desist order is issued against the
140 corporation or such director, officer, employee, agent, or
141 other person, until the effective date of such order. The
142 corporation, director, officer, employee, agent, or other
143 person may, within ten days after having been served with a
144 temporary cease and desist order, apply to the circuit court

145 of Cole County for an order setting aside, limiting, or
146 suspending the enforcement, operation, or effectiveness of
147 such order.

148 [8.] 9. If any corporation, or any director, officer,
149 employee, agent, or other person participating in the
150 conduct of the affairs of such corporation shall fail or
151 refuse to comply with any duly issued order provided for in
152 this chapter and chapter 362, the corporation or such
153 director, officer, employee, agent, or other person shall
154 pay a civil penalty of not more than one thousand dollars
155 per day for each day the failure or refusal shall continue.
156 The penalty shall be assessed and collected by the director
157 of the division. In determining the amount of the penalty,
158 the director shall take into account the appropriateness of
159 the penalty with respect to the size of the financial
160 resources and good faith of the corporation or person
161 charged, the gravity of the violation, the history of
162 previous violations, and such other matters as justice may
163 require. In addition to the penalty, the director may, in
164 his **or her** discretion, report the delinquency to the
165 attorney general, with a request that **[he] the attorney**
166 **general** proceed as provided in section 361.270, and in the
167 event of such request, the attorney general shall proceed.

361.262. 1. Whenever it shall appear to the director,
2 from any examination **or investigation** made by **[him] the**
3 **director** or **[his] the director's** examiners, that:

4 (1) Any director, officer, or any other person
5 participating in the conduct of the affairs of a corporation
6 subject to this chapter has **[committed any violation of]**:

7 (a) **Violated a** law or regulation **[or of]**;

8 (b) **Violated** a cease and desist order**[, or has]**;

9 (c) Violated any **director-imposed written** condition
10 [imposed in writing by the director] in connection with the
11 grant of any application or other request by such
12 corporation [or];

13 (d) **Violated** any written agreement between such
14 corporation and the director[, or has];

15 (e) Engaged or participated in any unsafe or unsound
16 practice in connection with the corporation[,]; or [has]

17 (f) Committed or engaged in any act, omission, or
18 practice [which] **that** constitutes a breach of his **or her**
19 fiduciary duty to the corporation[,]; and

20 (2) The director determines that:

21 (a) The corporation has suffered or will probably
22 suffer financial loss or other damage [or that];

23 (b) The interests of its depositors, **beneficiaries, or**
24 **other customers** could be prejudiced by reason of such
25 violation or practice or breach of fiduciary duty[,]; or
26 [that]

27 (c) The director or officer or other person has
28 received financial gain by reason of such violation or
29 practice or breach of fiduciary duty[,]; and

30 (3) **The director determines that** such violation or
31 practice or breach of fiduciary duty is:

32 (a) One involving personal dishonesty on the part of
33 such director, officer or other person[,]; or

34 (b) One [which] **that** demonstrates a willful or
35 continuing disregard for the safety or soundness of the
36 corporation[,];

37 the director may serve upon such director, officer, or other
38 person a written notice of [his] **the director's** intention to
39 remove him **or her** from office.

40 2. When it shall appear **from any examination or**
41 **investigation** to the director [from any examination made by
42 him or his examiners] that any director or officer of a
43 corporation subject to this chapter, by conduct or practice
44 with respect to another such corporation or any business
45 [institution which] **that:**

46 (1) Resulted in financial loss or other damage[, has];

47 (2) Evidenced either:

48 (a) His **or her** personal dishonesty; or

49 (b) A willful or continuing disregard for its safety
50 and soundness; and[, in addition, has]

51 (3) Evidenced his **or her** unfitness to continue as a
52 director or officer, [and whenever it shall appear to the
53 director that any other person participating in the conduct
54 of the affairs of a corporation subject to this chapter, by
55 conduct or practice with respect to such corporation or
56 other corporation or other business institution which
57 resulted in financial loss or other damage, has evidenced
58 either his personal dishonesty or willful or continuing
59 disregard for its safety and soundness and, in addition, has
60 evidenced his unfitness to participate in the conduct of the
61 affairs of such corporation,]

62 the director may serve upon such director[,] **or** officer[, or
63 other person] a written notice of intention to remove him **or**
64 **her** from office or to prohibit his **or her** further
65 participation in any manner in the conduct of the affairs of
66 the corporation or from any other banking, savings, or trust
67 institution supervised by the director.

68 3. **When it shall appear from any examination or**
69 **investigation to the director that any person participating**
70 **in the conduct of the affairs of a corporation subject to**

71 this chapter, by conduct or practice with respect to such
72 corporation or other corporation or other business
73 institution that:

74 (1) Resulted in financial loss or other damage, has

75 (2) Evidenced either:

76 (a) His or her personal dishonesty; or

77 (b) A willful or continuing disregard for its safety
78 and soundness; and

79 (3) Evidenced his or her unfitness to participate in
80 the conduct of the affairs of such corporation,

81 the director may serve upon such person a written notice of
82 intention to remove him or her from office or to prohibit
83 his or her further participation in any manner in the
84 conduct of the affairs of the corporation or from any other
85 banking, savings, or trust institution supervised by the
86 director.

87 4. Whenever it shall appear to the director to be
88 necessary for the protection of any corporation or its
89 depositors, [he] beneficiaries, or other customers, the
90 director may, by written notice to such effect served upon
91 any director, officer, or other person referred to in
92 [subsection 1 or 2] subsections 1 to 3 of this section,
93 suspend him or her from office or prohibit him or her from
94 further participation in any manner in the conduct of the
95 affairs of the corporation. Such suspension or prohibition
96 shall become effective upon service of such notice and shall
97 remain in effect pending the completion of the
98 administrative proceedings pursuant to the notice served
99 under [subsection 1 or 2] subsections 1 to 3 of this section
100 and until such time as the director shall dismiss the
101 charges specified in such notice or, if an order of removal

102 or prohibition is issued against the director or officer or
103 other person, until the effective date of any such order.
104 Copies of any such notice shall also be served upon the
105 corporation of which he **or she** is a director or officer or
106 in the conduct of whose affairs he **or she** has participated.

107 [4.] 5. Except as provided in subsection [5] 6 of this
108 section, any person who, pursuant to an order issued under
109 this section, has been removed or suspended from office in a
110 corporation or prohibited from participating in the conduct
111 of the affairs of a corporation may not, while such order is
112 in effect, continue or commence to hold any office in, or
113 participate in any manner in, the conduct of the affairs of
114 any other corporation subject to the provisions of this
115 chapter.

116 [5.] 6. If, on or after the date an order is issued
117 under this section [which] **that** removes or suspends from
118 office any person or prohibits such person from
119 participating in the conduct of the affairs of a
120 corporation, such party receives the written consent of the
121 director, subsection [4] 5 of this section shall, to the
122 extent of such consent, cease to apply to such person with
123 respect to the [corporation] **terms and conditions** described
124 in the written consent and the director shall publicly
125 disclose such consent. Any violation of subsection [4] 5 of
126 this section by any person who is subject to an order
127 described in such subsection shall be treated as a violation
128 of the order.

361.715. 1. Upon the filing of the application, the
2 filing of a certified audit, the payment of the
3 investigation fee and the approval by the director of the
4 necessary bond, the director shall cause, investigate, and
5 determine whether the character, responsibility, and general

6 fitness of the principals of the applicant or any affiliates
7 are such as to command confidence and warrant belief that
8 the business of the applicant will be conducted honestly and
9 efficiently and that the applicant is in compliance with all
10 other applicable state and federal laws. If satisfied, the
11 director shall issue to the applicant a license pursuant to
12 the provisions of sections 361.700 to 361.727. In
13 processing a renewal license, the director shall require the
14 same information and follow the same procedures described in
15 this subsection.

16 2. Each licensee shall pay to the director before the
17 issuance of the license, and annually thereafter on or
18 before April fifteenth of each year, a license fee of
19 **[three] four** hundred dollars.

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

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

15 2. The application for the license shall be in
16 writing, under oath and in the form prescribed by the
17 director. The application shall contain the name of the
18 applicant; date of incorporation, if incorporated; the
19 address where the business is or is to be conducted and
20 similar information as to any branch office of the
21 applicant; the name and resident address of the owner or
22 partners or, if a corporation or association, of the
23 directors, trustees and principal officers, and other
24 pertinent information as the director may require.

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

32 4. Each license shall specify the location of the
33 office or branch and must be conspicuously displayed
34 therein. In case the location is changed, the director
35 shall either endorse the change of location of the license
36 or mail the licensee a certificate to that effect, without
37 charge.

38 5. Upon the filing of an application, and the payment
39 of the fee, the director shall issue a license to the
40 applicant to engage in the business of a financing
41 institution under and in accordance with the provisions of
42 this chapter for a period which shall expire the last day of
43 December next following the date of its issuance. The
44 license shall not be transferable or assignable. No
45 licensee shall transact any business provided for by this
46 chapter under any other name.

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

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

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

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

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

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

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

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

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

365.030. 1. No person shall engage in the business of
2 a sales finance company in this state without a license as
3 provided in this chapter; except, that no bank, trust
4 company, savings and loan association, loan and investment
5 company or registrant under the provisions of sections
6 367.100 to 367.200 authorized to do business in this state
7 is required to obtain a license under this chapter but shall
8 comply with all of the other provisions of this chapter.

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

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

25 4. Each license shall specify the location of the
26 office or branch and must be conspicuously displayed there.
27 In case the location is changed, the director shall either
28 endorse the change of location on the license or mail the
29 licensee a certificate to that effect, without charge.

30 5. Upon the filing of the application, and the payment
31 of the fee, the director shall issue a license to the
32 applicant to engage in the business of a sales finance
33 company under and in accordance with the provisions of this
34 chapter for a period which shall expire the last day of
35 December next following the date of its issuance. The
36 license shall not be transferable or assignable. No
37 licensee shall transact any business provided for by this
38 chapter under any other name.

367.140. 1. Every lender shall, at the time of filing
2 application for certificate of registration as provided in

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

23 2. Upon receipt of such fee and application for
24 registration, and provided the bond, if required by the
25 director, has been filed, the director shall issue to the
26 lender a certificate containing the lender's name and
27 address and reciting that such lender is duly and properly
28 registered to conduct the supervised business. The lender
29 shall keep this certificate of registration posted in a
30 conspicuous place at the place of business recited in the
31 registration certificate. Where the lender engages in the
32 supervised business at or from more than one office or place
33 of business, such lender shall obtain a separate certificate
34 of registration for each such office or place of business.

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

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

5 (1) The name and address of the credit services
6 organization; and

7 (2) The name and address of any person who directly or
8 indirectly owns or controls ten percent or more of the
9 outstanding shares of stock in the credit services
10 organization.

11 2. The registration statement must also contain either:

12 (1) A full and complete disclosure of any litigation
13 or unresolved complaint filed by or with a governmental
14 authority of this state relating to the operation of the
15 credit services organization; or

16 (2) A notarized statement that states that there has
17 been no litigation or unresolved complaint filed by or with
18 a governmental authority of this state relating to the
19 operation of the credit services organization.

20 3. The credit services organization shall update the
21 statement not later than the ninetieth day after the date on
22 which a change in the information required in the statement
23 occurs.

24 4. Each credit services organization registering under
25 this section shall maintain a copy of the registration
26 statement in the office of the credit services

27 organization. The credit services organization shall allow
28 a buyer to inspect the registration statement on request.

29 5. The director of finance may charge each credit
30 services organization that files a registration statement
31 with the director of finance a reasonable fee not to exceed
32 ~~three~~ **four** hundred dollars to cover the cost of filing.
33 The director of finance may not require a credit services
34 organization to provide information other than that provided
35 in the registration statement as part of the registration
36 process.

408.145. 1. To encourage competitive equality,
2 lenders issuing credit cards in this state pursuant to the
3 authority of section 408.100 or 408.200, may ~~in addition to~~
4 ~~lawful interest, contract for, charge and collect fees for]~~
5 **issue** such credit cards **under such terms and conditions**
6 which any lender in any contiguous state is permitted to
7 ~~charge~~ **utilize** for credit cards issued in such contiguous
8 state by such state's statutes. State-chartered lenders
9 ~~charging such fees~~ **issuing credit cards** in reliance on
10 this subsection shall file a copy of the pertinent statutes
11 of one contiguous state authorizing credit card ~~fees~~ **terms**
12 **and conditions** with the director of finance or such lender's
13 principal state regulator. The director of finance or other
14 principal state regulator shall, within thirty days after
15 receipt of the filing, approve or disapprove of such ~~fees~~
16 **terms and conditions** on the sole basis of whether the
17 statutes of such contiguous state permit such ~~fees~~ **terms**
18 **and conditions**, and without regard to the restrictions
19 placed upon credit cards by subsection 2 of this section.
20 When the lender is chartered by the federal government, or
21 any agency thereunder, or is unregulated, such lender shall
22 file with and be approved by the Missouri attorney general

23 under the same provision as provided a state-chartered
24 lender.

25 2. "Credit card" as used in this section shall mean a
26 credit device defined as such in the federal Consumer Credit
27 Protection Act and regulations thereunder, except:

28 (1) The term shall be limited to credit devices which
29 permit the holder to purchase goods and service upon
30 presentation to third parties whether or not the credit card
31 also permits the holder to obtain loans of any other type;
32 and

33 (2) Such credit device shall only provide credit which
34 is not secured by real or personal property.

35 3. "Lender" as used in this section shall mean any
36 category of depository or nondepository creditor.
37 Notwithstanding the provisions of [section 408.140] **sections**
38 **408.100 to 408.190 to the contrary**, the lender shall declare
39 on each credit card contract whether the credit card [fees
40 are governed by section 408.140, or by] **is issued pursuant**
41 **to** this section.

408.500. 1. Lenders, other than banks, trust
2 companies, credit unions, savings banks and savings and loan
3 companies, in the business of making unsecured loans of five
4 hundred dollars or less shall obtain a license from the
5 director of the division of finance. An annual license fee
6 of [five] **six** hundred dollars per location shall be
7 required. The license year shall commence on January first
8 each year and the license fee may be prorated for expired
9 months. The director may establish a biennial licensing
10 arrangement but in no case shall the fees be payable for
11 more than one year at a time. The provisions of this
12 section shall not apply to pawnbroker loans, consumer credit
13 loans as authorized under chapter 367, nor to a check

14 accepted and deposited or cashed by the payee business on
15 the same or the following business day. The disclosures
16 required by the federal Truth in Lending Act and regulation
17 Z shall be provided on any loan, renewal or extension made
18 pursuant to this section and the loan, renewal or extension
19 documents shall be signed by the borrower.

20 2. Entities making loans pursuant to this section
21 shall contract for and receive simple interest and fees in
22 accordance with sections 408.100 and 408.140. Any contract
23 evidencing any fee or charge of any kind whatsoever, except
24 for bona fide clerical errors, in violation of this section
25 shall be void. Any person, firm or corporation who receives
26 or imposes a fee or charge in violation of this section
27 shall be guilty of a class A misdemeanor.

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

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

37 NOTICE:

38 This lender offers short-term loans. Please
39 read and understand the terms of the loan
40 agreement before signing.

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

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

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

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

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

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

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

77 10. Whenever it shall appear to the director that any
78 lender licensed pursuant to this section is failing,
79 refusing or neglecting to make a good faith effort to comply
80 with the provisions of this section, or any laws relating to
81 consumer loans, the director may issue an order to cease and
82 desist which order may be enforceable by a civil penalty of
83 not more than one thousand dollars per day for each day that
84 the neglect, failure or refusal shall continue. The penalty
85 shall be assessed and collected by the director. In
86 determining the amount of the penalty, the director shall
87 take into account the appropriateness of the penalty with
88 respect to the gravity of the violation, the history of
89 previous violations, and such other matters as justice may
90 require.

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