

FIRST REGULAR SESSION

SENATE BILL NO. 496

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL.

Read 1st time February 13, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1675S.011

AN ACT

To repeal sections 364.030, 364.105, 365.030, 367.140, 367.509, and 408.500, RSMo, and to enact in lieu thereof six new sections relating to the licensing, regulation and activities of lenders.

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

Section A. Sections 364.030, 364.105, 365.030, 367.140, 367.509, and 408.500, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 364.030, 364.105, 365.030, 367.140, 367.509, and 408.500, to read as follows:

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

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 other pertinent information as the director may

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

16 require.

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

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

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

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

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

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

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

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

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

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

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

20 (4) If any material change occurs in the information contained in the registration

21 form, a revised statement shall be submitted to the director accompanied by an
22 additional fee of one hundred dollars.

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

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

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

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

22 5. Upon the filing of the application, and the payment of the fee, the director
23 shall issue a license to the applicant to engage in the business of a sales finance
24 company under and in accordance with the provisions of this chapter for a period which
25 shall expire the last day of December next following the date of its issuance. The license
26 shall not be transferable or assignable. No licensee shall transact any business provided
27 for by this chapter under any other 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 hundred dollars
3 as an annual registration fee for the period ending the thirtieth day of June next
4 following the date of payment and in full payment of all expenses for investigations,
5 examinations and for the administration of sections 367.100 to 367.200, except as
6 provided in section 367.160, and thereafter a like fee shall be paid on or before June
7 thirtieth of each year; provided, that if a lender is supervised by the commissioner of

8 finance under any other law, the charges for examination and supervision required to
9 be paid under said law shall be in lieu of the annual fee for registration and examination
10 required under this section. The fee shall be made payable to the director of revenue. If
11 the initial registration fee for any certificate of registration is for a period of less than
12 twelve months, the registration fee shall be prorated according to the number of months
13 that said period shall run. **The director may establish a biennial licensing**
14 **arrangement but in no case shall the fees be payable for more than one year**
15 **at a time.**

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

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

367.509. 1. A title loan license applicant must have and maintain capital of at
2 least seventy-five thousand dollars at all times.

3 2. The license application shall be in writing, under oath and in the form
4 prescribed by the director. The application shall contain the name of the applicant, date
5 of formation if a business entity, the address of each title loan office operated or sought
6 to be operated, the name and residential address of the owner, partners, directors,
7 trustees and principal officers, and such other pertinent information as the director may
8 require. A corporate surety bond in the principal sum of twenty thousand dollars per
9 location shall accompany each license application. The bond shall be in a form
10 satisfactory to the director and shall be issued by a bonding company or insurance
11 company authorized to do business in this state in order to ensure the faithful
12 performance of the obligations of the applicant and the applicant's agents and subagents
13 in connection with title loan activities. An applicant or licensee may, in lieu of filing any
14 bond required pursuant to this section, provide the director with an irrevocable letter of
15 credit as defined in section 400.5-103, RSMo, in the amount of twenty thousand dollars
16 per location, issued by any bank, trust company, savings and loan or credit union

17 operating in Missouri in a form acceptable to the director.

18 3. Every person applying for a title loan license shall pay one thousand dollars
19 as an investigation fee. Applicants for additional title lending licenses shall pay one
20 thousand dollars per additional location as an investigation fee. The lender shall,
21 beginning with the first license renewal, pay annually to the director a fee of one
22 thousand dollars for each licensed location.

23 4. Each license shall specify the location of the title loan office and shall be
24 conspicuously displayed therein. Before any title lending office may relocate, the director
25 shall approve such relocation by mailing the licensee a new license to that effect, without
26 charge.

27 5. Upon the filing of the application, and the payment of the fee, by a person
28 eligible to apply for a title loan license, the director shall issue a license to engage in the
29 title loan business in accordance with sections 367.500 to 367.533. The licensing year
30 shall commence on January first and end the following December thirty-first. **The**
31 **director may establish a biennial licensing arrangement but in no case shall**
32 **the fees be payable for more than one year at a time.** Each license shall be
33 uniquely numbered and shall not be transferable or assignable. [Renewal licenses shall
34 be effective for a period of one year.]

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

14 2. Entities making loans pursuant to this section shall contract for and receive
15 simple interest and fees in accordance with sections 408.100 and 408.140. Any contract
16 evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors,
17 in violation of this section shall be void. Any person, firm or corporation who receives
18 or imposes a fee or charge in violation of this section shall be guilty of a class A

55 10. Whenever it shall appear to the director that any lender licensed pursuant
56 to this section is failing, refusing or neglecting to make a good faith effort to comply with
57 the provisions of this section, or any laws relating to consumer loans, the director may
58 issue an order to cease and desist which order may be enforceable by a civil penalty of
59 not more than one thousand dollars per day for each day that the neglect, failure or
60 refusal shall continue. The penalty shall be assessed and collected by the director. In
61 determining the amount of the penalty, the director shall take into account the
62 appropriateness of the penalty with respect to the gravity of the violation, the history
63 of previous violations, and such other matters as justice may require.

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