

FIRST REGULAR SESSION

# HOUSE BILL NO. 586

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OWEN.

0655H.011

DANA RADEMAN MILLER, Chief Clerk

## 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, and 408.500, RSMo, and to enact in lieu thereof thirteen new sections relating to the division of finance, with 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361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 361.020, 361.098, 361.106, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, to read as follows:

361.020. 1. The division of finance shall have charge of the execution of:

(1) The laws relating to banks, trust companies, and the banking business of this state; ~~[credit unions; and of]~~

(2) The laws relating to persons ~~[, copartnerships and corporations]~~ **or entities** engaged in the small loan **or consumer credit** business in this state;

(3) **The laws relating to persons and entities engaged in the mortgage loan business in this state; and**

(4) **The laws relating to persons and entities engaged in any other financial-services-related business over which the division of finance is granted express authority.**

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

361.098. 1. The members of the state banking and savings and loan board shall receive as compensation for their services the sum of one hundred dollars per day while

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.

3 discharging their duties[;] and shall be entitled to receive their necessary traveling and other  
4 expenses incurred while actually engaged in the performance of their duties as such members,  
5 **which shall be paid out of the division of finance fund.**

6 2. ~~[A majority of the]~~ **Any three** members of the board shall constitute a quorum for  
7 the transaction of any business, for the performance of any duty, or for the exercise of any  
8 power of the board.

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

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

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

**361.106. 1. As used in this section, the following terms mean:**

2 (1) **"Bulletin", an informal written communication to inform or educate**  
3 **individuals or entities licensed, chartered, or regulated by the division of finance and the**  
4 **general public about a regulatory topic or issue. A "bulletin" is informational in nature**  
5 **and is not an evaluation of specific facts and circumstances;**

6 (2) **"Industry letter", a written communication from the director of finance in**  
7 **response to a specific individual or entity chartered, licensed, or regulated by the**  
8 **division of finance that provides the position of the division of finance on a particular**  
9 **regulatory topic or issue with respect to a specific set of facts and circumstances.**

10 2. **Notwithstanding any law to the contrary, the director of finance may at his or**  
11 **her discretion issue bulletins addressing the business of the individuals and entities**  
12 **licensed, chartered, or regulated by the division in this state. Bulletins shall not have the**  
13 **force or effect of law and shall not be considered statements of general applicability that**  
14 **would require promulgation by rule.**

15 3. **Notwithstanding any law to the contrary, the director of finance may at his or**  
16 **her discretion issue industry letters in response to a written request from an individual**  
17 **or entity licensed, chartered, or regulated by the division that seeks the position of the**  
18 **division of finance on the application of law. In addition to any materials or information**  
19 **requested by the division, the written request for an industry letter shall include:**

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

21 (2) **A detailed statement of facts regarding every relevant aspect of the proposed**  
22 **business activity, transaction, event, or circumstance;**

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

25           **(4) A statement by the person or entity requesting the industry letter of the**  
26 **person's own opinion regarding the matter and the basis for such opinion; and**

27           **(5) A statement that the proposed business activity or transaction has not**  
28 **commenced or, if it has commenced, the present status of the proposed business activity**  
29 **or transaction.**

30           **4. With respect to the requesting person or entity, an industry letter is binding**  
31 **on the division. The requesting person or entity shall not be subject to any**  
32 **administrative proceeding or penalty for any acts or omissions done in reliance on an**  
33 **industry letter, so long as no change in any material fact or law has occurred and so long**  
34 **as the requesting person or entity did not misrepresent or omit a material fact.**

35           **5. An industry letter request and response shall be confidential, but the director**  
36 **may publish an industry letter with nonidentifying facts and information from the**  
37 **request.**

38           **6. After redacting all identifying information, the director may publish industry**  
39 **letters for informational purposes. Because the division may have a different position in**  
40 **response to similar but nonidentical facts and circumstances, published industry letters**  
41 **shall not have the force or effect of law, shall not be binding on the division, and shall**  
42 **not be considered statements of general applicability that would require promulgation**  
43 **by rule.**

44           **7. Industry letters issued under this section are distinct from letters issued by the**  
45 **director under subsection 5 of section 362.106, and this section shall not apply to section**  
46 **362.106.**

361.160. 1. The director of finance at least once each year, either personally or by a  
2 deputy or examiner appointed by the director, shall visit and examine every bank and trust  
3 company organized and doing business under the laws of this state, and every other  
4 corporation which is by law required to report to the director; except, for banks or trust  
5 companies receiving a Camel/MOECA 1 or Camel/MOECA 2 rating from the division of  
6 finance, the director of finance at least once each eighteen calendar months, or for a private  
7 trust company at least once each thirty-six months, either personally or by a deputy or  
8 examiner appointed by the director, shall visit and examine such bank or trust company, and  
9 the director of finance, at the director's discretion, may conduct the director's examination, or  
10 any part thereof, on the basis of information contained in examination reports of other states,  
11 the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits  
12 performed by certified public accountants. For purposes of this subsection, a private trust  
13 company is one that does not engage in trust company business with the general public or  
14 otherwise hold itself out as a trustee or fiduciary for hire by advertising, solicitation, or other  
15 means and instead operates for the primary benefit of a family, relative of same family, or

16 single family lineage, regardless of whether compensation is received or anticipated. The  
17 director shall be afforded prompt and free access to any workpapers upon which a certified  
18 public accountant bases an audit. A certified public accountant shall retain workpapers for a  
19 minimum of three years after the date of issuance of the certified public accountant's report to  
20 the bank or trust company. The director or the director's agent may concentrate the  
21 examinations on institutions which the director believes have safety or soundness concerns.

22         2. The director, or the deputy or examiners designated by the director for that  
23 purpose, shall have power to examine any such corporation whenever, in the director's  
24 judgment, it may be deemed necessary or expedient, and shall have power to examine every  
25 agency located in this state of any foreign banking corporation and every branch in this state  
26 of any out-of-state bank, for the purpose of ascertaining whether it has violated any law of  
27 this state, and for such other purposes and as to such other matters as the director may  
28 prescribe.

29         3. The director and the director's deputy and examiners shall have power to  
30 administer oaths to any person whose testimony may be required in such examination or  
31 investigation of any such corporation or agency, and to compel the appearance and attendance  
32 of any person for the purpose of any such examination or investigation.

33         4. On every such examination inquiry shall be made as to the condition and resources  
34 of such corporation, the mode of conducting and managing its affairs, the actions of its  
35 directors or trustees, the investment of its funds, the safety and prudence of its management,  
36 the security afforded to its creditors, and whether the requirements of its charter and of law  
37 have been complied with in the administration of its affairs, and as to such other matters as  
38 the director may prescribe.

39         5. The director may also make such special investigations as the director deems  
40 necessary to determine whether any individual or corporation has violated any of the  
41 provisions of this law.

42         6. Such examination may be made and such inquiry instituted or continued in the  
43 discretion of the director after the director has taken possession of the property and business  
44 of any such corporation, until it shall resume business or its affairs shall be finally liquidated  
45 in accordance with the provisions of this chapter.

46         7. The result of each examination shall be certified by the director or the examiner  
47 upon the records of the corporation examined [~~and the result of all examinations during the~~  
48 ~~biennial period shall be embodied in the report to be made by the director of the department~~  
49 ~~of commerce and insurance to the legislature].~~

50         8. The director may contract with regulators in other states to provide for the  
51 examination of Missouri branches of out-of-state banks and branches of banks whose home

52 state is Missouri. The agreements may provide for the payment by the home state of the cost  
53 of examinations conducted by the host state at the request of the home state regulators.

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

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

13 (1) An unsafe or unsound practice in conducting the business of such corporation ~~or~~  
14 ~~is violating or has violated, or there is reasonable cause to believe that the corporation or any~~  
15 ~~director, officer, employee, agent, or other person participating in the conduct of the affairs of~~  
16 ~~such corporation is about to violate~~;

17 (2) A **violation of law, rule, or director-imposed written** condition ~~imposed, in~~  
18 ~~writing, by the director in connection with the granting of any application or other request by~~  
19 ~~the corporation or~~;

20 (3) A **violation of** any written agreement entered into with the director~~;~~; or

21 (4) A **violation of** the corporation's charter,  
22

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

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

31 4. The notice of charges shall contain a statement of the facts constituting the  
32 deficiencies, ~~the~~ alleged violation or violations, improper use of funds, or ~~the~~ unsafe or  
33 unsound practice or practices~~;~~ and shall fix a time and place at which a **contested** hearing  
34 will be held to determine whether an order to cease and desist therefrom should ~~issue~~ **be**

35 **issued** against the corporation or the director, officer, employee, agent, or other person  
36 participating in the conduct of the affairs of such corporation.

37         5. In the event the party or parties so served shall fail to appear at the hearing, or shall  
38 consent to the cease and desist order, or in the event the director shall find that the fact of any  
39 deficiency, violation, unsafe or unsound practice, inadequate recordkeeping, or improper use  
40 of funds specified has been established, the director may issue and serve upon the corporation  
41 or the director, officer, employee, agent, or other person participating in the conduct of the  
42 affairs of the corporation an order to cease and desist from the actions, violations, or practices  
43 charged.

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

45         **(1)** May require the corporation or its directors, officers, employees, agents, and other  
46 persons participating in the conduct of the affairs of such corporation to cease and desist from  
47 ~~same and, further,~~ **such actions, violations, or practices;**

48         **(2)** May require the corporation or its directors, officers, employees, agents, and  
49 other persons participating in the conduct of the affairs of such corporation to take  
50 affirmative action to correct the conditions resulting from any such actions, violations, or  
51 practices[-];

52         **(3)** Shall require that, if the director determines that the capital of the corporation is  
53 impaired, ~~the order shall require that~~ the corporation make good the deficiency forthwith or  
54 within a time specified in the order[-];

55         **(4)** May, if the director determines that the corporation does not keep adequate  
56 records, ~~the order may~~ determine and prescribe such books of account as the director, in his  
57 or her discretion, shall require of the corporation for the purpose of keeping accurate and  
58 convenient records of the transactions and accounts[-]; and

59         **(5)** Shall, if the director ~~shall determine~~ determines that wrong entries or unlawful  
60 uses of the funds of the corporation have been made, ~~he shall~~ order that the entries shall be  
61 corrected[-] and that the sums unlawfully paid out be restored by the person or persons  
62 responsible for the wrongful or illegal payment thereof.

63         ~~6.~~ 7. If a notice of charges served under this section specifies, on the basis of  
64 particular facts and circumstances, that a corporation's books and records are so incomplete or  
65 inaccurate that the director is unable, through the normal supervisory process, to determine  
66 the financial condition of that corporation or the details or purpose of any transaction or  
67 transactions that may have a material effect on the financial condition of that corporation, the  
68 director may issue a temporary order requiring the cessation of any activity or practice which  
69 gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or  
70 records, or affirmative action to restore such books or records to a complete and accurate  
71 state, until the completion of the proceedings under this section. Any temporary order issued

72 under this subsection shall become effective upon service and, unless set aside, limited or  
73 suspended by a court, shall remain in effect and enforceable until the earlier of the completion  
74 of the proceedings initiated under this section or the date on which the director determines by  
75 examination or otherwise that the corporation's books and records are accurate and reflect the  
76 financial condition of the corporation.

77 ~~[7-]~~ **8.** Whenever it shall appear to the director that the violation or threatened  
78 violation or the unsafe or unsound practice or practices specified in the notice of charges  
79 served upon the corporation or any director, officer, employee, agent, or other person  
80 participating in the conduct of the affairs of such corporation pursuant to subsection 4 of this  
81 section, or the continuation thereof, is likely to cause insolvency or significant dissipation of  
82 assets or earnings of the corporation, or is likely to weaken the condition of the corporation or  
83 otherwise prejudice the interests of its depositors prior to the completion of the proceedings  
84 conducted pursuant to said subsection, the director may issue a temporary order, effective  
85 immediately, requiring the corporation or such director, officer, employee, agent, or other  
86 person to cease and desist from any such violation or practice and to take affirmative action to  
87 prevent such insolvency, dissipation, condition, or prejudice pending completion of such  
88 proceedings. Such order shall remain effective and enforceable pending the completion of the  
89 administrative proceedings pursuant to such notice and until such time as the director shall  
90 dismiss the charges specified in such notice or if a cease and desist order is issued against the  
91 corporation or such director, officer, employee, agent, or other person, until the effective date  
92 of such order. The corporation, director, officer, employee, agent, or other person may, within  
93 ten days after having been served with a temporary cease and desist order, apply to the circuit  
94 court of Cole County for an order setting aside, limiting, or suspending the enforcement,  
95 operation, or effectiveness of such order.

96 ~~[8-]~~ **9.** If any corporation, or any director, officer, employee, agent, or other person  
97 participating in the conduct of the affairs of such corporation shall fail or refuse to comply  
98 with any duly issued order provided for in this chapter and chapter 362, the corporation or  
99 such director, officer, employee, agent, or other person shall pay a civil penalty of not more  
100 than one thousand dollars per day for each day the failure or refusal shall continue. The  
101 penalty shall be assessed and collected by the director of the division. In determining the  
102 amount of the penalty, the director shall take into account the appropriateness of the penalty  
103 with respect to the size of the financial resources and good faith of the corporation or person  
104 charged, the gravity of the violation, the history of previous violations, and such other matters  
105 as justice may require. In addition to the penalty, the director may, in his **or her** discretion,  
106 report the delinquency to the attorney general, with a request that ~~[he]~~ **the attorney general**  
107 proceed as provided in section 361.270, and in the event of such request, the attorney general  
108 shall proceed.

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

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

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

6 (b) **Violated** a cease and desist order~~[-, or has violated]~~;

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

10 (d) **Violated** any written agreement between such corporation and the director~~[-, or~~  
 11 ~~has]~~;

12 (e) Engaged or participated in any unsafe or unsound practice in connection with the  
 13 corporation~~[-, or has]~~; **or**

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

16 (2) The director determines that:

17 (a) The corporation has suffered or will probably suffer financial loss or other  
 18 damage ~~[or that]~~;

19 (b) The interests of its depositors, **beneficiaries, or other customers** could be  
 20 prejudiced by reason of such violation or practice or breach of fiduciary duty~~[-]~~; or ~~[that]~~

21 (c) The director ~~[or]~~, officer, or other person has received financial gain by reason of  
 22 ~~[such]~~ **his or her** violation or practice or breach of fiduciary duty~~[-]~~; and

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

25 (a) One involving personal dishonesty on the part of such director, officer, or other  
 26 person~~[-]~~; or

27 (b) One ~~[which]~~ **that** demonstrates a willful or continuing disregard for the safety or  
 28 soundness of the corporation,

29

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

32 2. ~~[When]~~ **If** it ~~[shall appear]~~ **appears** to the director, from any examination ~~[made by~~  
 33 ~~him or his examiners]~~ **or investigation**, that **the conduct or practice of** any director or  
 34 officer of a corporation subject to this chapter, ~~[by conduct or practice]~~ with respect to  
 35 ~~[another]~~ such corporation or ~~[any]~~ **other corporation or** business institution ~~[which]~~:

36 (1) Resulted in financial loss or other damage~~[-, has]~~;

37 (2) Evidenced either ~~[his]~~:



38 (a) Personal dishonesty; or

39 (b) A willful or continuing disregard for ~~[its]~~ **the corporation's** safety and soundness;  
40 and~~[,] in addition, has]~~

41 (3) Evidenced his **or her** unfitness to continue as a director or officer ~~[and whenever~~  
42 ~~it shall appear to the director that any other person participating in the conduct of the affairs of~~  
43 ~~a corporation subject to this chapter, by conduct or practice with respect to such corporation~~  
44 ~~or other corporation or other business institution which resulted in financial loss or other~~  
45 ~~damage, has evidenced either his personal dishonesty or willful or continuing disregard for its~~  
46 ~~safety and soundness and, in addition, has evidenced his unfitness to participate in the~~  
47 ~~conduct of the affairs of such corporation],~~

48

49 **then** the director may serve upon such director~~[,] or officer[,] or other person]~~ a written notice  
50 of intention to remove him **or her** from office or to prohibit his **or her** further participation in  
51 any manner in the conduct of the affairs of the corporation or from any other banking,  
52 savings, or trust institution supervised by the director.

53 **3. If it appears to the director, from any examination or investigation, that the**  
54 **conduct or practice of any person participating in the affairs of a corporation subject to**  
55 **this chapter, with respect to the corporation or other corporation or business institution:**

56 (1) **Resulted in financial loss or other damage;**

57 (2) **Evidenced either:**

58 (a) **Personal dishonesty; or**

59 (b) **A willful or continuing disregard for safety and sound practices; and**

60 (3) **Evidenced the person's unfitness to participate in the affairs of the**  
61 **corporation,**

62

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

67 ~~[3-]~~ 4. Whenever it shall appear to the director to be necessary for the protection of  
68 any corporation or its depositors, ~~[he]~~ **beneficiaries, or other customers, the director** may,  
69 by written notice to such effect served upon any director, officer, or other person referred to in  
70 subsection 1, 2, or ~~[2]~~ **3** of this section, suspend him **or her** from office or prohibit him **or her**  
71 from further participation in any manner in the conduct of the affairs of the corporation. Such  
72 suspension or prohibition shall become effective upon service of such notice and shall remain  
73 in effect pending the completion of the administrative proceedings pursuant to the notice  
74 served under subsection 1, 2, or ~~[2]~~ **3** of this section and until such time as the director shall

75 dismiss the charges specified in such notice or, if an order of removal or prohibition is issued  
76 against the director or officer or other person, until the effective date of any such order.  
77 Copies of any such notice shall also be served upon the corporation of which he **or she** is a  
78 director or officer or in the conduct of whose affairs he **or she** has participated.

79 ~~[4.]~~ **5.** Except as provided in subsection ~~[5]~~ **6** of this section, any person who,  
80 pursuant to an order issued under this section, has been removed or suspended from office in  
81 a corporation or prohibited from participating in the conduct of the affairs of a corporation  
82 may not, while such order is in effect, continue or commence to hold any office in, or  
83 participate in any manner in, the conduct of the affairs of any other corporation subject to the  
84 provisions of this chapter.

85 ~~[5-]~~ **6.** If, on or after the date an order is issued under this section ~~[which]~~ **that**  
86 removes or suspends from office any person or prohibits such person from participating in the  
87 conduct of the affairs of a corporation~~[-]~~ **and** such party receives the written consent of the  
88 director, subsection ~~[4]~~ **5** of this section shall, to the extent of such consent, cease to apply to  
89 such person with respect to the ~~[corporation]~~ **terms and conditions** described in the written  
90 consent and the director shall publicly disclose such consent. Any violation of subsection ~~[4]~~  
91 **5** of this section by any person who is subject to an order described in such subsection shall be  
92 treated as a violation of the order.

361.715. 1. Upon the filing of the application, the filing of a certified audit, the  
2 payment of the investigation fee and the approval by the director of the necessary bond, the  
3 director shall cause, investigate, and determine whether the character, responsibility, and  
4 general fitness of the principals of the applicant or any affiliates are such as to command  
5 confidence and warrant belief that the business of the applicant will be conducted honestly  
6 and efficiently and that the applicant is in compliance with all other applicable state and  
7 federal laws. If satisfied, the director shall issue to the applicant a license pursuant to the  
8 provisions of sections 361.700 to 361.727. In processing a renewal license, the director shall  
9 require the same information and follow the same procedures described in this subsection.

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

13 3. The director may assess a reasonable charge, not to exceed ~~[three]~~ **four** hundred  
14 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  
2 state without a license therefor as provided in this chapter; except, however, that no bank,  
3 trust company, loan and investment company, licensed sales finance company, registrant  
4 under the provisions of sections 367.100 to 367.200, or person who makes only occasional  
5 purchases of retail time contracts or accounts under retail charge agreements and which

6 purchases are not being made in the course of repeated or successive purchase of retail  
7 installment contracts from the same seller, shall be required to obtain a license under this  
8 chapter but shall comply with all the laws of this state applicable to the conduct and operation  
9 of a financing institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 5. Upon the filing of the application, and the payment of the fee, the director shall  
21 issue a license to the applicant to engage in the business of a sales finance company under and  
22 in accordance with the provisions of this chapter for a period which shall expire the last day  
23 of 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  
25 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 [~~five~~] **six** hundred dollars as  
3 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  
5 the 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  
9 fee for registration and examination required under this section. The fee shall be made  
10 payable to the director of revenue. If the initial registration fee for any certificate of  
11 registration is for a period of less than twelve months, the registration fee shall be prorated  
12 according to the number of months that said period shall run. The director may establish a  
13 biennial licensing arrangement, but in no case shall the fees be payable for more than one year  
14 at a time.

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

23       3. Certificates of registration shall not be assignable or transferable except that the  
24 lender named in any such certificate may obtain a change of address of the place of business  
25 therein set forth. Each certificate of registration shall remain in full force and effect until  
26 surrendered, 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  
6 ten 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  
9 or 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  
13 the credit services organization.

14       3. The credit services organization shall update the statement not later than the  
15 ninetieth day after the date on which a change in the information required in the statement  
16 occurs.



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

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

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

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

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

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

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

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

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