

SECOND REGULAR SESSION

HOUSE BILL NO. 964

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BURNETT (Sponsor), LeVOTA AND MUCKLER (Co-sponsors).

Read 1st time January 7, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3230L.011

AN ACT

To repeal section 408.505, RSMo, and to enact in lieu thereof one new section relating to payday loans.

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

Section A. Section 408.505, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 408.505, to read as follows:

408.505. 1. This section shall apply to:

(1) Unsecured loans made by lenders licensed or who should have been licensed pursuant to section 408.500;

(2) Any person that the Missouri division of finance determines that has entered into a transaction that, in substance, is a disguised loan; and

(3) Any person that the Missouri division of finance determines has engaged in subterfuge for the purpose of avoiding the provisions of this section.

2. All loans made pursuant to this section and section 408.500, shall have a minimum term of fourteen days and a maximum term of thirty-one days, regardless of whether the loan is an original loan or renewed loan.

3. [A lender may only charge simple interest and fees in accordance with sections 408.100 and 408.140. No other charges of any nature shall be permitted except as provided by this section, including any charges for cashing the loan proceeds if they are given in check form. However, no borrower shall be required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized pursuant to this section for the entire term of that loan and all renewals authorized by section

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

17 408.500 and this section.] **A lender may charge the following amounts with respect to loans**
18 **subject to this section:**

19 **(1) Not more than fifteen dollars per one hundred dollars of principal amount of**
20 **the loan for the first thirty days of the loan; and**

21 **(2) Not more than three percent per month of the outstanding loan balance for any**
22 **loan continued or extended after the thirtieth day after the original date of the loan,**
23 **whether made by the original lender or offered, made, or arranged by any person or entity**
24 **on behalf of the original lender or any person or entity affiliated with the lender.**

25

26 **No other charges of any nature shall be permitted except as provided by this section,**
27 **including any charges for cashing the loan proceeds if they are given in check form.**

28 4. [A loan made pursuant to the provisions of section 408.500 and this section shall be
29 deemed completed and shall not be considered a renewed loan when the lender presents the
30 instrument for payment or the payee redeems the instrument by paying the full amount of the
31 instrument to the lender. Once the payee has completed the loan, the payee may enter into a new
32 loan with a lender.

33 5. Except as provided in subsection 3 of this section,] No loan made pursuant to this
34 section shall be repaid by the proceeds of another loan made by the same lender or any person
35 or entity affiliated with the lender. A lender, person or entity affiliated with the lender shall not
36 have more than five hundred dollars in loans made pursuant to section 408.500 and this section
37 outstanding to the same borrower at any one time. A lender complies with this subsection if:

38 (1) The consumer certifies in writing that the consumer does not have any outstanding
39 small loans with the lender which in the aggregate exceeds five hundred dollars, and is not
40 repaying the loan with the proceeds of another loan made by the same lender; and

41 (2) The lender does not know, or have reason to believe, that the consumer's written
42 certification is false.

43 [6.] 5. On a consumer loan transaction where cash is advanced in exchange for a personal
44 check, a return check charge may be charged in the amounts provided by sections 408.653 and
45 408.654, as applicable.

46 [7.] 6. No state or public employee or official, including a judge of any court of this state,
47 shall enforce the provisions of any contract for payment of money subject to this section which
48 violates the provisions of section 408.500 and this section.

49 [8.] 7. A person does not commit the crime of passing a bad check pursuant to section
50 570.120, RSMo, if at the time the payee accepts a check or similar sight order for the payment
51 of money, he or she does so with the understanding that the payee will not present it for payment
52 until later and the payee knows or has reason to believe that there are insufficient funds on

53 deposit with the drawee at the time of acceptance. However, this section shall not apply if the
54 person's account on which the instrument was written was closed by the consumer before the
55 agreed-upon date of negotiation or the consumer has stopped payment on the check.

56 [9.] **8.** A lender shall not use a device or agreement that would have the effect of
57 charging or collecting more fees, charges, or interest than allowed by this section, including, but
58 not limited to:

59 (1) Entering into a different type of transaction;

60 (2) Entering into a sales lease back arrangement;

61 (3) Catalog sales;

62 (4) Entering into any other transaction with the consumer that is designed to evade the
63 applicability of this section.

64 [10.] **9.** The provisions of this section shall only apply to entities subject to the
65 provisions of section 408.500 and this section.