

FIRST REGULAR SESSION

HOUSE BILL NO. 107

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MEINERS.

Pre-filed December 11, 2006 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0281L.01I

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to unsolicited checks or other negotiable instruments.

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

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be
2 known as section 407.438, to read as follows:

**407.438. 1. This section shall be known and may be cited as the "Unsolicited Loan
2 Consumer Protection Act".**

**3 2. No consumer credit may be extended by any creditor through the use of a check
4 or other negotiable instrument which has been sent by the creditor to the consumer in
5 connection with a solicitation by the creditor for such extension of credit, unless the
6 consumer has submitted an application for, or otherwise requested, such extension of
7 credit before receiving the check or instrument.**

**8 3. If any creditor violates subsection 2 of this section and includes an unsolicited
9 check or other negotiable instrument in a solicitation to a consumer for an extension of
10 credit which the consumer has not applied for or requested, the consumer shall not be
11 liable for the amount of any such check or negotiable instrument unless the consumer
12 actually receives and negotiates such check or instrument. Notwithstanding any other
13 provision of law to the contrary:**

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.

14 **(1) The issuance of a check or other negotiable instrument by a creditor in violation**
15 **of subsection 2 of this section creates a rebuttable presumption that such check or**
16 **instrument was not received or negotiated by the consumer to whom it was issued; and**

17 **(2) The burden of proof, in any action by a creditor to enforce liability of the**
18 **consumer for the amount of any such check or instrument, shall be upon the creditor to**
19 **show that such check or instrument was received and negotiated by the consumer with the**
20 **knowledge that such negotiation was creating a liability for such amount.**

21 **4. No information on any liability alleged by a creditor to have been established**
22 **through the issuance of a check or other negotiable instrument in violation of subsection**
23 **2 of this section may be reported to or received by any consumer reporting agency or**
24 **included in any consumer report, as such terms are defined in 15 U.S.C Section 1681a, as**
25 **amended.**

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