

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 726,
Page 10, Section 335.233, Line 7, by inserting after all of said section and line the following:

“367.105. Any person making or offering a consumer credit loan shall contract for and receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and shall be subject to all provisions of such sections.

367.515. A title lender shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140 and shall be subject to all provisions of such sections.”; and

Further amend said bill, Page 16, Section 408.052, Line 49, by inserting after all of said section and line, the following:

“408.100. 1. This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties provided that the interest, fees, and finance charges shall not exceed an annual percentage rate of thirty-six percent.

2. A person shall not engage in any device or subterfuge intended to evade the requirements of this chapter through any method including, but not limited to, mail, telephone, internet, or any electronic means, including:

(1) Offering, making, assisting a borrower to obtain, or brokering a loan at an annual percentage rate prohibited by this section, making loans disguised as personal property sales and leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale of goods or services;

(2) Making, assisting a borrower to obtain, or brokering an offer of credit, or in whole or in part, from a third party, or acting as an agent for a third party, regardless of whether the third party is exempt from licensing or whether approval, acceptance, or ratification by the third party is

1 necessary to create a legal obligation for the third party; or

2 (3) Charging any application fee for the provision of credit or any fee for participation in a
3 credit plan, if such a fee is authorized under any applicable section of Missouri law, without
4 including the fees in the calculation of the annual percentage rate of the credit in accordance with
5 the allowable rate set forth in this section.

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

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

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

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

30 NOTICE:

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

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

36 (1) This lender offers short-term loans. Please read and understand the terms of the loan

1 agreement before signing.

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

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

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

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

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

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

29 408.505. 1. This section shall apply to:

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

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

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

36 2. All loans made pursuant to this section and section 408.500, shall have a minimum

1 term of fourteen days and a maximum term of thirty-one days, regardless of whether the loan is an
2 original loan or renewed loan.

3 3. A lender may only charge simple interest and fees in accordance with sections 408.100
4 and 408.140 and shall be subject to all provisions of such sections. No other charges of any
5 nature shall be permitted except as provided by this section, including any charges for cashing the
6 loan proceeds if they are given in check form. [However, no borrower shall be required to pay a
7 total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan
8 amount on any single loan authorized pursuant to this section for the entire term of that loan and
9 all renewals authorized by section 408.500 and this section.]

10 4. A loan made pursuant to the provisions of section 408.500 and this section shall be
11 deemed completed and shall not be considered a renewed loan when the lender presents the
12 instrument for payment or the payee redeems the instrument by paying the full amount of the
13 instrument to the lender. Once the payee has completed the loan, the payee may enter into a new
14 loan with a lender.

15 5. Except as provided in subsection 3 of this section, no loan made pursuant to this
16 section shall be repaid by the proceeds of another loan made by the same lender or any person or
17 entity affiliated with the lender. A lender, person or entity affiliated with the lender shall not have
18 more than five hundred dollars in loans made pursuant to section 408.500 and this section
19 outstanding to the same borrower at any one time. A lender complies with this subsection if:

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

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

25 6. On a consumer loan transaction where cash is advanced in exchange for a personal
26 check, a return check charge may be charged in the amounts provided by sections 408.653 and
27 408.654, as applicable.

28 7. No state or public employee or official, including a judge of any court of this state,
29 shall enforce the provisions of any contract for payment of money subject to this section which
30 violates the provisions of section 408.500 and this section.

31 8. A person does not commit the crime of passing a bad check pursuant to section 570.120
32 if at the time the payee accepts a check or similar sight order for the payment of money, he or she
33 does so with the understanding that the payee will not present it for payment until later and the
34 payee knows or has reason to believe that there are insufficient funds on deposit with the drawee
35 at the time of acceptance. However, this section shall not apply if the person's account on which
36 the instrument was written was closed by the consumer before the agreed-upon date of negotiation

1 or the consumer has stopped payment on the check.

2 9. A lender shall not use a device or agreement that would have the effect of charging or
3 collecting more fees, charges, or interest than allowed by this section, including, but not limited
4 to:

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

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

7 (3) Catalog sales;

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

10 10. The provisions of this section shall only apply to entities subject to the provisions of
11 section 408.500 and this section.

12 408.510. Notwithstanding any other law to the contrary, the phrase "consumer installment
13 loans" means secured or unsecured loans of any amount and payable in not less than four
14 substantially equal installments over a period of not less than one hundred twenty days. The
15 phrase "consumer installment lender" means a person licensed to make consumer installment
16 loans. A consumer installment lender shall be licensed in the same manner and upon the same
17 terms as a lender making consumer credit loans. Such consumer installment lenders shall contract
18 for and receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and
19 shall be subject to all provisions of such sections. Consumer installment lenders shall be subject
20 to the provisions of sections 408.551 to 408.562.”; and

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22 Further amend said bill by amending the title, enacting clause, and intersectional references
23 accordingly.
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