

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 694, Page 1, in the
2 Title, Line 3, by deleting the words, "unsecured loans of five hundred dollars or less" and inserting in
3 lieu thereof the words, "financial transactions"; and
4

5 Further amend said bill, Page 1, Section A, Line 3, by inserting after all of said line the following:
6

7 "408.040. 1. Judgments shall accrue interest on the judgment balance as set forth in this
8 section. The "judgment balance" is defined as the total amount of the judgment awarded on the day
9 judgment is entered including, but not limited to, principal, prejudgment interest, and all costs and
10 fees. Post-judgment payments or credits shall be applied first to post-judgment costs, then to
11 post-judgment interest, and then to the judgment balance.

12 2. In all nontort actions, interest shall be allowed on all money due upon any judgment or
13 order of any court from the date judgment is entered by the trial court until satisfaction be made by
14 payment, accord or sale of property; all such judgments and orders for money upon contracts bearing
15 more than nine percent interest shall bear the same interest borne by such contracts, and all other
16 judgments and orders for money shall bear nine percent per annum until satisfaction made as
17 aforesaid.

18 [2.] 3. Notwithstanding the provisions of subsection [1] 2 of this section, in tort actions,
19 interest shall be allowed on all money due upon any judgment or order of any court from the date
20 [of] judgment is entered by the trial court until full satisfaction. All such judgments and orders for
21 money shall bear a per annum interest rate equal to the intended Federal Funds Rate, as established
22 by the Federal Reserve Board, plus five percent, until full satisfaction is made. The judgment shall
23 state the applicable interest rate, which shall not vary once entered. In tort actions, if a claimant has
24 made a demand for payment of a claim or an offer of settlement of a claim, to the party, parties or
25 their representatives, and to such party's liability insurer if known to the claimant, and the amount of
26 the judgment or order exceeds the demand for payment or offer of settlement, then prejudgment
27 interest shall be awarded, calculated from a date ninety days after the demand or offer was received,
28 as shown by the certified mail return receipt, or from the date the demand or offer was rejected
29 without counter offer, whichever is earlier. In order to qualify as a demand or offer pursuant to this
30 section, such demand must:

- 31 (1) Be in writing and sent by certified mail return receipt requested; and
32 (2) Be accompanied by an affidavit of the claimant describing the nature of the claim, the
33 nature of any injuries claimed and a general computation of any category of damages sought by the
34 claimant with supporting documentation, if any is reasonably available; and
35 (3) For wrongful death, personal injury, and bodily injury claims, be accompanied by a list
36 of the names and addresses of medical providers who have provided treatment to the claimant or

Action Taken _____ Date _____

1 decedent for such injuries, copies of all reasonably available medical bills, a list of employers if the
 2 claimant is seeking damages for loss of wages or earning, and written authorizations sufficient to
 3 allow the party, its representatives, and liability insurer if known to the claimant to obtain records
 4 from all employers and medical care providers; and

5 (4) Reference this section and be left open for ninety days.
 6

7 Unless the parties agree in writing to a longer period of time, if the claimant fails to file a cause of
 8 action in circuit court prior to a date one hundred twenty days after the demand or offer was
 9 received, then the court shall not award prejudgment interest to the claimant. If the claimant is a
 10 minor or incompetent or deceased, the affidavit may be signed by any person who reasonably
 11 appears to be qualified to act as next friend or conservator or personal representative. If the claim is
 12 one for wrongful death, the affidavit may be signed by any person qualified pursuant to section
 13 537.080 to make claim for the death. Nothing contained herein shall limit the right of a claimant, in
 14 actions other than tort actions, to recover prejudgment interest as otherwise provided by law or
 15 contract.

16 [3.] 4. In tort actions, a judgment for prejudgment interest awarded pursuant to this
 17 [subsection] section should bear interest at a per annum interest rate equal to the intended Federal
 18 Funds Rate, as established by the Federal Reserve Board, plus three percent. The judgment shall
 19 state the applicable interest rate, which shall not vary once entered."; and
 20

21 Further amend said bill, Page 6, Section 408.506, Line 9, by inserting after all of said line the
 22 following:
 23

24 "488.305. 1. The clerk of the circuit court shall charge and collect fees for the clerk's duties
 25 as prescribed by sections 429.090 and 429.120 in such amounts as are determined pursuant to
 26 sections 488.010 to 488.020.

27 2. The clerk of the circuit court may charge and collect in cases where a garnishment is
 28 granted, a surcharge not to exceed ten dollars for the clerk's duties. Any moneys collected under this
 29 subsection shall be placed in a fund to be used at the discretion of the circuit clerk to maintain and
 30 improve case processing and record preservation.

31 525.040. 1. Notice of garnishment, served as provided in sections 525.010 to 525.480 shall
 32 have the effect of attaching all personal property, money, rights, credits, bonds, bills, notes, drafts,
 33 checks or other choses in action of the defendant in the garnishee's possession or charge, or under his
 34 or her control at the time of the service of the garnishment, or which may come into his or her
 35 possession or charge, or under his or her control, or be owing by him or her, between that time and
 36 the time of filing his or her answer, or in the case of a continuous wage garnishment, until the
 37 judgment is paid in full or until the employment relationship is terminated, whichever occurs first;
 38 but he or she shall not be liable to a judgment in money on account of such bonds, bills, notes, drafts,
 39 checks or other choses in action, unless the same shall have been converted into money since the
 40 garnishment, or he or she fail, in such time as the court may prescribe, to deliver them into court, or
 41 to the sheriff or other person designated by the court.

42 2. Writs of garnishment which would otherwise have equal priority shall have priority
 43 according to the date of service on the garnishee. If the employee's wages have been attached by
 44 more than one writ of garnishment, the employer shall inform the inferior garnisher of the existence
 45 and case number of all senior garnishments.

46 525.070. Whenever any property, effects, money or debts, belonging or owing to the
 47 defendant, shall be confessed, or found by the court or jury, to be in the hands of the garnishee, the
 48 garnishee may, at any time before final judgment, discharge himself or herself, by paying or

1 delivering the same, or so much thereof as the court shall order, to the sheriff [or], to the court, or if
 2 applicable, to the attorney for the party on whose behalf the order of garnishment issued, from all
 3 further liability on account of the property, money or debts so paid or delivered.

4 525.080. 1. If it appear that a garnishee, at or after his or her garnishment, was possessed of
 5 any property of the defendant, or was indebted to him or her, the court, or judge in vacation, may
 6 order the delivery of such property, or the payment of the amount owing by the garnishee, to the
 7 sheriff [or], into court, or to the attorney for the party on whose behalf the order of garnishment
 8 issued, at such time as the court may direct; or may permit the garnishee to retain the same, upon his
 9 or her executing a bond to the plaintiff, with security, approved by the court, to the effect that the
 10 property shall be forthcoming, or the amount paid, as the court may direct. Upon a breach of the
 11 obligation of such bond, the plaintiff may proceed against the obligors therein, in the manner
 12 prescribed in the case of a delivery bond given to the sheriff.

13 2. Notwithstanding subsection 1 of this section, when property is protected from
 14 garnishment by state or federal law including but not limited to federal restrictions on the
 15 garnishment of earnings in Title 15, U.S.C. Sections 1671 to 1677 and Old Age, Survivors and
 16 Disability Insurance benefits as provided in Title 42, U.S.C. Section 407, such property need not be
 17 delivered to the court, or to any other person, by the garnishee to the extent such protection or
 18 preemption is applicable.

19 525.230. [1. The court shall make the garnishee a reasonable allowance] The garnishee may
 20 deduct a one-time sum not to exceed twenty dollars, or the fee previously agreed upon between the
 21 garnishee and judgment debtor where the garnishee is a financial institution, for his or her trouble
 22 and expenses in answering the interrogatories and withholding the funds, to be [paid out of the funds
 23 or proceeds of the property or effects confessed in his or her hands. The reasonable allowances shall
 24 include any court costs, attorney's fees and any other bona fide expenses of the garnishee.

25 2. The court also shall allow the garnishee, in addition to the reasonable allowance for his or
 26 her trouble and expenses in answering the interrogatories, to collect an administrative fee consisting
 27 of the greater of eight dollars or two percent of the amount required to be deducted by any
 28 court-ordered garnishment or series of garnishments arising out of the same judgment debt. Such fee
 29 shall be for the trouble and expenses in administering the notice of garnishment and paying over any
 30 garnished funds available to the court. The fee shall be withheld by the employer from the
 31 employee, or by any other garnishee from any fund garnished, in addition to the moneys withheld to
 32 satisfy the court-ordered judgment. Such fee shall not be a credit against the court-ordered judgment
 33 and shall be collected first] withheld from any funds garnished, in addition to the moneys withheld to
 34 satisfy the court-ordered judgment. Such fee shall not be a credit against the court-ordered judgment
 35 and shall be collected first. The garnishee may file a motion with the court for additional costs,
 36 including attorney's fees, reasonably incurred in answering the interrogatories in which case the
 37 court may make such award as it deems reasonable. The motion shall be filed on or before the date
 38 the garnishee makes payment or delivers property subject to garnishment to the court.

39 525.310. 1. [When a judgment has been rendered against an officer, appointee or employee
 40 of the state of Missouri, or any municipal corporation or other political subdivision of the state, the
 41 judgment creditor, or his attorney or agent, may file in the office of the clerk of the court before
 42 whom the judgment was rendered, an application setting forth such facts, and that the judgment
 43 debtor is employed by the state, or a municipal corporation or other political subdivision of the state,
 44 with the name of the department of state or the municipal corporation or other political subdivision
 45 of the state which employs the judgment debtor, and the name of the treasurer, or the name and title
 46 of the paying, disbursing or auditing officer of the state, municipal corporation or other political
 47 subdivision of the state, charged with the duty of payment or audit of such salary, wages, fees or
 48 earnings of such employee, and upon the filing of such application the clerk shall issue a writ of

1 sequestration directed to the sheriff or other officer authorized to execute writs in the county in
 2 which such paying, disbursing or auditing officer may be found and the sheriff or other officer to
 3 whom the writ is directed shall serve a true copy thereof upon such paying, disbursing or auditing
 4 officer named therein, which shall have the effect of attaching any and all salary, wages, fees or
 5 earnings of the judgment debtor, which are not made exempt by virtue of the exemption statutes of
 6 this state and are not in excess of the amount due on the judgment and costs, then due and payable,
 7 from the date of the writ to the return day thereof.

8 2. The paying, disbursing or auditing officer charged with the duty of payment or audit of
 9 the salary, wages, fees or earnings of the judgment debtor shall deliver to the sheriff or officer
 10 serving the writ the amount, not to exceed the amount due upon the judgment and costs, of the salary,
 11 wages, fees or earnings of the judgment debtor not made exempt by virtue of the exemption statutes
 12 of this state, as the same shall become due to the judgment debtor. The paying, disbursing or
 13 auditing officer shall pay to the judgment debtor the remaining portion of his salary, wages, fees or
 14 earnings, as the same shall become due to the judgment debtor. The sheriff, or officer serving the
 15 writ, shall provide to the paying, disbursing or auditing officer along with the writ sufficient
 16 information to compute the amount which shall be delivered to the sheriff or officer serving the writ.
 17 Neither the state, municipal corporation or other political subdivision of the state, nor the paying,
 18 disbursing or auditing officer shall be liable for the payment of any amount above the amount
 19 delivered to the sheriff or officer serving the writ if the computation of the amount delivered is in
 20 accordance with the information provided with the writ.

21 3. The sheriff or officer serving such writ shall endorse thereon the day and date he received
 22 the same, and upon receiving any amount in connection with the writ, shall issue his receipt to such
 23 paying, disbursing or auditing officer therefor. All amounts delivered to the sheriff, or officer
 24 serving said writ, in connection with the writ, or so much thereof as shall be necessary therefor, shall
 25 be applied to the payment of the judgment debt, interest and costs in the same manner as in the case
 26 of garnishment under execution. The sheriff or other officer serving the writ shall make his return to
 27 the writ showing the manner of serving the same, and he shall be allowed the same fees therefor as
 28 provided for levy of execution, and the writ shall be returnable in the same manner as the execution
 29 issued out of the court in which the judgment was rendered. Nothing in this section shall deprive the
 30 judgment debtor of any exemptions to which he may be entitled under the exemption laws of this
 31 state, and the same may be claimed by him to the sheriff or other officer serving the writ at any time
 32 on or before the return day of the writ in the manner provided under the exemption laws of this state.
 33 It shall be the duty of such sheriff or other officer serving the writ, at the time of the service thereof,
 34 to apprise the judgment debtor of his exemption rights, either in person or by registered letter
 35 directed to the judgment debtor to his last known address.] The provisions of this section constitute a
 36 waiver of sovereign immunity with respect to garnishment of the pay of state, municipal, or other
 37 political subdivision employees. The state, municipal, or other political subdivision employer served
 38 with a garnishment shall have the same duties and obligations as those imposed upon a private
 39 employer when served with garnishment.

40 2. Pay of any officer, appointee, or employee of the state of Missouri, or any municipal
 41 corporation or other political subdivision of the state, shall be subject to garnishment to the same
 42 extent as in any other garnishment. All garnishments against such employee shall proceed in the
 43 same manner as any other garnishment, except as provided in subsection 3 of this section.

44 3. Service of legal process to which a department, municipal corporation, or other political
 45 subdivision of the state is subject under this section may be accomplished by certified mail, return
 46 receipt requested, or by personal service upon:

47 (1) The appropriate agent designated for receipt of such service of process; or

48 (2) The head of such department, municipal corporation, or other political subdivision of the

1 state if no agent has been so designated.

2 Section B. The repeal and reenactment of sections 408.040, 488.305, 525.040, 525.070,
3 525.080, 525.230, and 525.310 of this act shall become effective on January 15, 2015."; and

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