

FIRST REGULAR SESSION

# HOUSE BILL NO. 518

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHAUL.

1326H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal section 400.3-309, RSMo, and to enact in lieu thereof one new section relating to the enforcement of instruments by persons not in possession.

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

Section A. Section 400.3-309, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 400.3-309, to read as follows:

400.3-309. (a) A person not in possession of an instrument is entitled to enforce the instrument if:

(i) The person ~~[was in possession of the instrument and]~~ **seeking to enforce the instrument:**

**(A) Was entitled to enforce the instrument when loss of possession occurred; or**

**(B) Has directly or indirectly acquired ownership of the instrument from a person who was** entitled to enforce ~~the~~ **instrument** when loss of possession occurred~~ed~~ ;

(ii) The loss of possession was not the result of a transfer by the person or a lawful seizure~~ed~~ ; and

(iii) The person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under subsection (a) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, Section 400.3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless

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.

18 it finds that the person required to pay the instrument is adequately protected against loss that  
19 might occur by reason of a claim by another person to enforce the instrument. Adequate  
20 protection may be provided by any reasonable means.

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