

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By _____

AMEND House Amendment No. _____ to House Committee Substitute for Senate Committee Substitute for Senate Bill No. 187, Page 1, Line 30, by inserting after all of said line the following:

"Further amend said bill, Page 48, Section 365.030, Line 25, 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, 408.101, 408.140, and 408.170, and such loan shall be subject to all provisions of sections 408.100, 408.101, 408.140, and 408.170.

367.515. A title lender shall contract for and receive simple interest and fees in accordance with sections 408.100, 408.101, and 408.140, and such interest and fees shall be subject to all provisions of sections 408.100, 408.101, and 408.140."; and

Further amend said bill, Page 50, Section 407.640, Line 24, by inserting after all of said section and line the following:

"408.101. 1. 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 combined interest, fees, and finance charges shall not exceed an annual percentage rate of thirty-six percent.

2. No person, firm, or corporation shall use any device or subterfuge to intentionally evade the requirements of this chapter to:

(1) Offer, make, assist a borrower in obtaining, or broker a loan at an annual percentage rate prohibited by this section;

(2) Make a loan disguised as a personal property sale and leaseback transaction;

(3) Disguise loan proceeds as cash rebates for the pretextual installment sale of goods or services;

(4) Make, assist a borrower in obtaining, or broker an offer of credit, in whole or in part, from a third party or while acting as an agent for a third party, regardless of whether the third party

Action Taken _____ Date _____

1 is exempt from licensing or if the approval, acceptance, or ratification by the third party is necessary
 2 to create a legal obligation for the third party; or

3 (5) Charge, if authorized under any applicable section of Missouri law, any application fee
 4 for providing credit or any fee for participation in a credit plan without including the fee in the
 5 calculation of the annual percentage rate required under this section."; and

6
 7 Further amend said bill, Pages 50-52, Section 408.500, Lines 1-62, by deleting all of said lines and
 8 inserting in lieu thereof the following:

9
 10 "408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and
 11 savings and loan companies, in the business of making unsecured loans of [~~five~~]six hundred dollars
 12 or less shall obtain a license from the director of the division of finance. An annual license fee of
 13 five hundred dollars per location shall be required. The license year shall commence on January
 14 first each year and the license fee may be prorated for expired months. The director may establish a
 15 biennial licensing arrangement but in no case shall the fees be payable for more than one year at a
 16 time. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as
 17 authorized under chapter 367, nor to a check accepted and deposited or cashed by the payee
 18 business on the same or the following business day. The disclosures required by the federal Truth in
 19 Lending Act, 15 U.S.C. Section 1601 et seq., and regulation Z shall be provided on any loan,
 20 renewal or extension made pursuant to this section and the loan, renewal or extension documents
 21 shall be signed by the borrower.

22 2. Entities making loans pursuant to this section shall contract for and receive simple
 23 interest and fees in accordance with sections 408.100, 408.101, and 408.140, and such loans shall be
 24 subject to all provisions of sections 408.100, 408.101, and 408.140. Any contract evidencing any
 25 fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section
 26 shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation
 27 of this section shall be guilty of a class A misdemeanor.

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

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

34 NOTICE:

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

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

1 (1) This lender offers short-term loans. Please read and understand the terms of the loan
2 agreement before signing.

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

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

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

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

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

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

30 408.505. 1. This section shall apply to:

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

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

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

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

1 3. A lender may only charge simple interest and fees in accordance with sections 408.100,
2 408.101, and 408.140, and such interest and fees shall be subject to all provisions of sections
3 408.100, 408.101, and 408.140. No other charges of any nature shall be permitted except as
4 provided by this section, including any charges for cashing the loan proceeds if they are given in
5 check form. [~~However, no borrower shall be required to pay a total amount of accumulated interest~~
6 ~~and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized~~
7 ~~pursuant to this section for the entire term of that loan and all renewals authorized by section~~
8 ~~408.500 and this section.~~]

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

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

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

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

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

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

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

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

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

1 (2) Entering into a sales lease back arrangement;
 2 (3) Catalog sales;
 3 (4) Entering into any other transaction with the consumer that is designed to evade the
 4 applicability of this section.

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

7 408.510. ~~[Notwithstanding any other law to the contrary,]~~ 1. For purposes of this section,
 8 ~~the [phrase]~~ following terms mean:

9 (1) "Consumer installment lender", a person licensed to make consumer installment loans;
 10 (2) "Consumer installment loans" ~~[means]~~, secured or unsecured loans of any amount and
 11 payable in not less than four substantially equal installments over a period of not less than one
 12 hundred twenty days. ~~[The phrase "consumer installment lender" means a person licensed to make~~
 13 ~~consumer installment loans.]~~

14 2. A consumer installment lender shall be licensed in the same manner and upon the same
 15 terms as a lender making consumer credit loans. ~~[Such]~~

16 3. A consumer installment ~~[lenders]~~ lender shall contract for and receive interest and fees in
 17 accordance with sections 408.100, 408.101, 408.140, and 408.170~~[-Consumer installment lenders]~~,
 18 and such interest and fees shall be subject to [the] all provisions of sections 408.100, 408.101,
 19 408.140, and 408.170 and sections 408.551 to 408.562."; and"; and

20
 21 Further amend said bill by amending the title, enacting clause, and intersectional references
 22 accordingly.

23
 24 THIS AMENDS 0845H03.02H