

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 23, Page 29, Section 144.070, Line 121, by inserting after all of the said section and line the following:

"361.020. 1. The division of finance shall have charge of the execution of:

(1) The laws relating to banks, trust companies, and the banking business of this state;  
[credit unions; and of]

(2) The laws relating to persons[~~co-partnerships and corporations~~] or entities engaged in the small loan or consumer credit business in this state;

(3) The laws relating to persons and entities engaged in the mortgage loan business in this state; and

(4) The laws relating to persons and entities engaged in any other financial-services-related business over which the division of finance is granted express authority.

2. The director of finance may institute, in the name of the state of Missouri, and defend suits in the courts of this state and the United States.

361.098. 1. The members of the state banking and savings and loan board shall receive as compensation for their services the sum of one hundred dollars per day while discharging their duties[~~;~~] and shall be entitled to receive their necessary traveling and other expenses incurred while actually engaged in the performance of their duties as such members, which shall be paid out of the division of finance fund.

2. [A majority of the] Any three members of the board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the board.

3. The board may meet and exercise its powers in any place in this state and shall meet at any time upon the call of its chairman or of the director of the division of finance or of any two members of the board.

4. The board shall have an official seal bearing the inscription, "State Banking and Savings and Loan Board of the State of Missouri", which shall be judicially noticed.

5. The division of finance may provide administrative services to the board to assist the board with fulfilling its statutory responsibilities.

361.106. 1. As used in this section, the following terms mean:

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1       (1) "Bulletin", an informal written communication to inform or educate individuals or  
2 entities licensed, chartered, or regulated by the division of finance and the general public about a  
3 regulatory topic or issue. A "bulletin" is informational in nature and is not an evaluation of specific  
4 facts and circumstances;

5       (2) "Industry letter", a written communication from the director of finance in response to a  
6 specific individual or entity chartered, licensed, or regulated by the division of finance that provides  
7 the position of the division of finance on a particular regulatory topic or issue with respect to a  
8 specific set of facts and circumstances.

9       2. Notwithstanding any law to the contrary, the director of finance may at his or her  
10 discretion issue bulletins addressing the business of the individuals and entities licensed, chartered,  
11 or regulated by the division in this state. Bulletins shall not have the force or effect of law and shall  
12 not be considered statements of general applicability that would require promulgation by rule.

13       3. Notwithstanding any law to the contrary, the director of finance may at his or her  
14 discretion issue industry letters in response to a written request from an individual or entity licensed,  
15 chartered, or regulated by the division that seeks the position of the division of finance on the  
16 application of law. In addition to any materials or information requested by the division, the written  
17 request for an industry letter shall include:

18           (1) A brief summary of the applicable laws and rules that pertain to the request;

19           (2) A detailed statement of facts regarding every relevant aspect of the proposed business  
20 activity, transaction, event, or circumstance;

21           (3) A discussion of current statutes, rules, and legal principles relevant to the facts set forth;

22           (4) A statement by the person or entity requesting the industry letter of the person's own  
23 opinion regarding the matter and the basis for such opinion; and

24           (5) A statement that the proposed business activity or transaction has not commenced or, if  
25 it has commenced, the present status of the proposed business activity or transaction.

26       4. With respect to the requesting person or entity, an industry letter is binding on the  
27 division. The requesting person or entity shall not be subject to any administrative proceeding or  
28 penalty for any acts or omissions done in reliance on an industry letter, so long as no change in any  
29 material fact or law has occurred and so long as the requesting person or entity did not misrepresent  
30 or omit a material fact.

31       5. An industry letter request and response shall be confidential, but the director may publish  
32 an industry letter with nonidentifying facts and information from the request.

33       6. After redacting all identifying information, the director may publish industry letters for  
34 informational purposes. Because the division may have a different position in response to similar  
35 but nonidentical facts and circumstances, published industry letters shall not have the force or effect  
36 of law, shall not be binding on the division, and shall not be considered statements of general  
37 applicability that would require promulgation by rule.

38       7. Industry letters issued under this section are distinct from letters issued by the director  
39 under subsection 5 of section 362.106, and this section shall not apply to section 362.106.

1           361.160. 1. The director of finance at least once each year, either personally or by a deputy  
2 or examiner appointed by the director, shall visit and examine every bank and trust company  
3 organized and doing business under the laws of this state, and every other corporation which is by  
4 law required to report to the director; except, for banks or trust companies receiving a  
5 Camel/MOECA 1 or Camel/MOECA 2 rating from the division of finance, the director of finance at  
6 least once each eighteen calendar months, or for a private trust company at least once each thirty-six  
7 months, either personally or by a deputy or examiner appointed by the director, shall visit and  
8 examine such bank or trust company, and the director of finance, at the director's discretion, may  
9 conduct the director's examination, or any part thereof, on the basis of information contained in  
10 examination reports of other states, the Federal Deposit Insurance Corporation or the Federal  
11 Reserve Board or in audits performed by certified public accountants. For purposes of this  
12 subsection, a private trust company is one that does not engage in trust company business with the  
13 general public or otherwise hold itself out as a trustee or fiduciary for hire by advertising,  
14 solicitation, or other means and instead operates for the primary benefit of a family, relative of same  
15 family, or single family lineage, regardless of whether compensation is received or anticipated. The  
16 director shall be afforded prompt and free access to any workpapers upon which a certified public  
17 accountant bases an audit. A certified public accountant shall retain workpapers for a minimum of  
18 three years after the date of issuance of the certified public accountant's report to the bank or trust  
19 company. The director or the director's agent may concentrate the examinations on institutions  
20 which the director believes have safety or soundness concerns.

21           2. The director, or the deputy or examiners designated by the director for that purpose, shall  
22 have power to examine any such corporation whenever, in the director's judgment, it may be  
23 deemed necessary or expedient, and shall have power to examine every agency located in this state  
24 of any foreign banking corporation and every branch in this state of any out-of-state bank, for the  
25 purpose of ascertaining whether it has violated any law of this state, and for such other purposes and  
26 as to such other matters as the director may prescribe.

27           3. The director and the director's deputy and examiners shall have power to administer oaths  
28 to any person whose testimony may be required in such examination or investigation of any such  
29 corporation or agency, and to compel the appearance and attendance of any person for the purpose  
30 of any such examination or investigation.

31           4. On every such examination inquiry shall be made as to the condition and resources of  
32 such corporation, the mode of conducting and managing its affairs, the actions of its directors or  
33 trustees, the investment of its funds, the safety and prudence of its management, the security  
34 afforded to its creditors, and whether the requirements of its charter and of law have been complied  
35 with in the administration of its affairs, and as to such other matters as the director may prescribe.

36           5. The director may also make such special investigations as the director deems necessary to  
37 determine whether any individual or corporation has violated any of the provisions of this law.

38           6. Such examination may be made and such inquiry instituted or continued in the discretion  
39 of the director after the director has taken possession of the property and business of any such

1 corporation, until it shall resume business or its affairs shall be finally liquidated in accordance with  
2 the provisions of this chapter.

3 7. The result of each examination shall be certified by the director or the examiner upon the  
4 records of the corporation examined ~~[and the result of all examinations during the biennial period~~  
5 ~~shall be embodied in the report to be made by the director of the department of commerce and~~  
6 ~~insurance to the legislature].~~

7 8. The director may contract with regulators in other states to provide for the examination of  
8 Missouri branches of out-of-state banks and branches of banks whose home state is Missouri. The  
9 agreements may provide for the payment by the home state of the cost of examinations conducted  
10 by the host state at the request of the home state regulators.

11 361.260. 1. Whenever the director shall have reason to believe that the capital stock of any  
12 corporation subject to the provisions of this chapter is reduced by impairment or otherwise, below  
13 the amount required by law, or by its certificates or articles of agreement, ~~[he]~~ the director shall  
14 issue a notice of charges in respect thereof.

15 2. Whenever ~~[it shall appear to]~~ the director has reason to believe, from any examination or  
16 investigation made by ~~[him]~~ the director or his or her examiners, that any corporation subject to the  
17 provisions of this chapter, or any director, officer, employee, agent, or other person participating in  
18 the conduct of the affairs of such corporation, or any foreign corporation licensed by the director to  
19 do business under this chapter or chapter 362 is engaging in ~~[or]~~, has engaged in, or ~~[there is~~  
20 ~~reasonable cause to believe that the corporation or any director, officer, employee, agent, or other~~  
21 ~~person participating in the conduct of the affairs of such corporation]~~ is about to engage in~~;~~];

22 (1) An unsafe or unsound practice in conducting the business of such corporation ~~[or is~~  
23 ~~violating or has violated, or there is reasonable cause to believe that the corporation or any director,~~  
24 ~~officer, employee, agent, or other person participating in the conduct of the affairs of such~~  
25 ~~corporation is about to violate]~~;

26 (2) A violation of law, rule, or director-imposed written condition ~~[imposed, in writing, by~~  
27 ~~the director in connection with the granting of any application or other request by the corporation~~  
28 ~~or]~~;

29 (3) A violation of any written agreement entered into with the director~~;~~]; or

30 (4) A violation of the corporation's charter,

31  
32 the director may issue and serve upon the corporation or such director, officer, employee, agent, or  
33 other person a notice of charges in respect thereof.

34 3. Whenever it shall appear to the director that any corporation subject to the provisions of  
35 this chapter does not keep its books and accounts in such manner as to enable him or her readily to  
36 ascertain its true condition or that wrong entries or unlawful uses of the funds of the corporation  
37 have been made, the director may issue and serve upon the corporation or any appropriate director,  
38 officer, employee, agent, or other person a notice of charges in respect thereof.

1           4. The notice of charges shall contain a statement of the facts constituting the deficiencies,  
 2 ~~[the]~~ alleged violation or violations, improper use of funds, or ~~[the]~~ unsafe or unsound practice or  
 3 practices~~[-]~~ and shall fix a time and place at which a contested hearing will be held to determine  
 4 whether an order to cease and desist therefrom should ~~[issue]~~ be issued against the corporation or  
 5 the director, officer, employee, agent, or other person participating in the conduct of the affairs of  
 6 such corporation.

7           5. In the event the party or parties so served shall fail to appear at the hearing, or shall  
 8 consent to the cease and desist order, or in the event the director shall find that the fact of any  
 9 deficiency, violation, unsafe or unsound practice, inadequate recordkeeping, or improper use of  
 10 funds specified has been established, the director may issue and serve upon the corporation or the  
 11 director, officer, employee, agent, or other person participating in the conduct of the affairs of the  
 12 corporation an order to cease and desist from the actions, violations, or practices charged.

13           6. The cease and desist order:

14           (1) May require the corporation or its directors, officers, employees, agents, and other  
 15 persons participating in the conduct of the affairs of such corporation to cease and desist from [same  
 16 and, further,] such actions, violations, or practices;

17           (2) May require the corporation or its directors, officers, employees, agents, and other  
 18 persons participating in the conduct of the affairs of such corporation to take affirmative action to  
 19 correct the conditions resulting from any such actions, violations, or practices[-];

20           (3) Shall require that, if the director determines that the capital of the corporation is  
 21 impaired, [the order shall require that] the corporation make good the deficiency forthwith or within  
 22 a time specified in the order[-];

23           (4) May, if the director determines that the corporation does not keep adequate records, [the  
 24 order may] determine and prescribe such books of account as the director, in his or her discretion,  
 25 shall require of the corporation for the purpose of keeping accurate and convenient records of the  
 26 transactions and accounts[-]; and

27           (5) Shall, if the director [shall determine] determines that wrong entries or unlawful uses of  
 28 the funds of the corporation have been made, [he shall] order that the entries shall be corrected[-]  
 29 and that the sums unlawfully paid out be restored by the person or persons responsible for the  
 30 wrongful or illegal payment thereof.

31           ~~[6.]~~ 7. If a notice of charges served under this section specifies, on the basis of particular  
 32 facts and circumstances, that a corporation's books and records are so incomplete or inaccurate that  
 33 the director is unable, through the normal supervisory process, to determine the financial condition  
 34 of that corporation or the details or purpose of any transaction or transactions that may have a  
 35 material effect on the financial condition of that corporation, the director may issue a temporary  
 36 order requiring the cessation of any activity or practice which gave rise, whether in whole or in part,  
 37 to the incomplete or inaccurate state of the books or records, or affirmative action to restore such  
 38 books or records to a complete and accurate state, until the completion of the proceedings under this  
 39 section. Any temporary order issued under this subsection shall become effective upon service and,

1 unless set aside, limited or suspended by a court, shall remain in effect and enforceable until the  
 2 earlier of the completion of the proceedings initiated under this section or the date on which the  
 3 director determines by examination or otherwise that the corporation's books and records are  
 4 accurate and reflect the financial condition of the corporation.

5 [7.] 8. Whenever it shall appear to the director that the violation or threatened violation or  
 6 the unsafe or unsound practice or practices specified in the notice of charges served upon the  
 7 corporation or any director, officer, employee, agent, or other person participating in the conduct of  
 8 the affairs of such corporation pursuant to subsection 4 of this section, or the continuation thereof, is  
 9 likely to cause insolvency or significant dissipation of assets or earnings of the corporation, or is  
 10 likely to weaken the condition of the corporation or otherwise prejudice the interests of its  
 11 depositors prior to the completion of the proceedings conducted pursuant to said subsection, the  
 12 director may issue a temporary order, effective immediately, requiring the corporation or such  
 13 director, officer, employee, agent, or other person to cease and desist from any such violation or  
 14 practice and to take affirmative action to prevent such insolvency, dissipation, condition, or  
 15 prejudice pending completion of such proceedings. Such order shall remain effective and  
 16 enforceable pending the completion of the administrative proceedings pursuant to such notice and  
 17 until such time as the director shall dismiss the charges specified in such notice or if a cease and  
 18 desist order is issued against the corporation or such director, officer, employee, agent, or other  
 19 person, until the effective date of such order. The corporation, director, officer, employee, agent, or  
 20 other person may, within ten days after having been served with a temporary cease and desist order,  
 21 apply to the circuit court of Cole County for an order setting aside, limiting, or suspending the  
 22 enforcement, operation, or effectiveness of such order.

23 [8.] 9. If any corporation, or any director, officer, employee, agent, or other person  
 24 participating in the conduct of the affairs of such corporation shall fail or refuse to comply with any  
 25 duly issued order provided for in this chapter and chapter 362, the corporation or such director,  
 26 officer, employee, agent, or other person shall pay a civil penalty of not more than one thousand  
 27 dollars per day for each day the failure or refusal shall continue. The penalty shall be assessed and  
 28 collected by the director of the division. In determining the amount of the penalty, the director shall  
 29 take into account the appropriateness of the penalty with respect to the size of the financial  
 30 resources and good faith of the corporation or person charged, the gravity of the violation, the  
 31 history of previous violations, and such other matters as justice may require. In addition to the  
 32 penalty, the director may, in his or her discretion, report the delinquency to the attorney general,  
 33 with a request that ~~[he]~~ the attorney general proceed as provided in section 361.270, and in the event  
 34 of such request, the attorney general shall proceed.

35 361.262. 1. Whenever it shall appear to the director, from any examination or investigation  
 36 made by ~~[him]~~ the director or ~~[his]~~ the director's examiners, that:

37 (1) Any director, officer, or any other person participating in the conduct of the affairs of a  
 38 corporation subject to this chapter has ~~[committed any violation of]~~:

39 (a) Violated a law or regulation ~~[or of]~~;

(b) Violated a cease and desist order~~[-or has violated]~~;

(c) Violated any director-imposed written condition ~~[imposed in writing by the director]~~ in connection with the grant of any application or other request by such corporation ~~[or]~~;

(d) Violated any written agreement between such corporation and the director~~[-or has]~~;

(e) Engaged or participated in any unsafe or unsound practice in connection with the corporation~~[-or has]~~; or

(f) Committed or engaged in any act, omission, or practice ~~[which]~~ that constitutes a breach of his or her fiduciary duty to the corporation~~[-]~~; and

(2) The director determines that:

(a) The corporation has suffered or will probably suffer financial loss or other damage ~~[or that]~~;

(b) The interests of its depositors, beneficiaries, or other customers could be prejudiced by reason of such violation or practice or breach of fiduciary duty~~[-]~~; or ~~[that]~~

(c) The director ~~[or]~~ officer, or other person has received financial gain by reason of ~~[such]~~ his or her violation or practice or breach of fiduciary duty~~[-]~~; and

(3) The director determines that such violation or practice or breach of fiduciary duty is:

(a) One involving personal dishonesty on the part of such director, officer, or other person~~[-]~~; or

(b) One ~~[which]~~ that demonstrates a willful or continuing disregard for the safety or soundness of the corporation,

the director may serve upon such director, officer, or other person a written notice of ~~[his]~~ the director's intention to remove him or her from office.

2. ~~[When]~~ If it ~~[shall appear]~~ appears to the director, from any examination ~~[made by him or his examiners]~~ or investigation, that the conduct or practice of any director or officer of a corporation subject to this chapter, ~~[by conduct or practice]~~ with respect to ~~[another]~~ such corporation or ~~[any]~~ other corporation or business institution ~~[which]~~:

(1) Resulted in financial loss or other damage~~[-has]~~;

(2) Evidenced either ~~[his]~~:

(a) Personal dishonesty; or

(b) A willful or continuing disregard for ~~[its]~~ the corporation's safety and soundness; and~~[-in addition, has]~~

(3) Evidenced his or her unfitness to continue as a director or officer ~~[and whenever it shall appear to the director that any other person participating in the conduct of the affairs of a corporation subject to this chapter, by conduct or practice with respect to such corporation or other corporation or other business institution which resulted in financial loss or other damage, has evidenced either his personal dishonesty or willful or continuing disregard for its safety and soundness and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such corporation]~~,

1  
2 then the director may serve upon such director~~[,]~~ or officer~~[, or other person]~~ a written notice of  
3 intention to remove him or her from office or to prohibit his or her further participation in any  
4 manner in the conduct of the affairs of the corporation or from any other banking, savings, or trust  
5 institution supervised by the director.

6 3. If it appears to the director, from any examination or investigation, that the conduct or  
7 practice of any person participating in the affairs of a corporation subject to this chapter, with  
8 respect to the corporation or other corporation or business institution:

9 (1) Resulted in financial loss or other damage;

10 (2) Evidenced either:

11 (a) Personal dishonesty; or

12 (b) A willful or continuing disregard for safety and sound practices; and

13 (3) Evidenced the person's unfitness to participate in the affairs of the corporation,  
14

15 then the director may serve upon such person a written notice of intention to remove him or her  
16 from office or to prohibit him or her from any further participation in the affairs of the corporation  
17 or of any other banking, savings, or trust institution supervised by the director.

18 ~~[3-]~~ 4. Whenever it shall appear to the director to be necessary for the protection of any  
19 corporation or its depositors, ~~[he]~~ beneficiaries, or other customers, the director may, by written  
20 notice to such effect served upon any director, officer, or other person referred to in subsection 1, 2,  
21 or ~~[2]~~ 3 of this section, suspend him or her from office or prohibit him or her from further  
22 participation in any manner in the conduct of the affairs of the corporation. Such suspension or  
23 prohibition shall become effective upon service of such notice and shall remain in effect pending the  
24 completion of the administrative proceedings pursuant to the notice served under subsection 1, 2, or  
25 ~~[2]~~ 3 of this section and until such time as the director shall dismiss the charges specified in such  
26 notice or, if an order of removal or prohibition is issued against the director or officer or other  
27 person, until the effective date of any such order. Copies of any such notice shall also be served  
28 upon the corporation of which he or she is a director or officer or in the conduct of whose affairs he  
29 or she has participated.

30 ~~[4-]~~ 5. Except as provided in subsection ~~[5]~~ 6 of this section, any person who, pursuant to an  
31 order issued under this section, has been removed or suspended from office in a corporation or  
32 prohibited from participating in the conduct of the affairs of a corporation may not, while such order  
33 is in effect, continue or commence to hold any office in, or participate in any manner in, the conduct  
34 of the affairs of any other corporation subject to the provisions of this chapter.

35 ~~[5-]~~ 6. If, on or after the date an order is issued under this section ~~[which]~~ that removes or  
36 suspends from office any person or prohibits such person from participating in the conduct of the  
37 affairs of a corporation~~[,]~~ and such party receives the written consent of the director, subsection ~~[4]~~ 5  
38 of this section shall, to the extent of such consent, cease to apply to such person with respect to the  
39 ~~[corporation]~~ terms and conditions described in the written consent and the director shall publicly



1 disclose such consent. Any violation of subsection [4] 5 of this section by any person who is subject  
2 to an order described in such subsection shall be treated as a violation of the order.

3 361.715. 1. Upon the filing of the application, the filing of a certified audit, the payment of  
4 the investigation fee and the approval by the director of the necessary bond, the director shall cause,  
5 investigate, and determine whether the character, responsibility, and general fitness of the principals  
6 of the applicant or any affiliates are such as to command confidence and warrant belief that the  
7 business of the applicant will be conducted honestly and efficiently and that the applicant is in  
8 compliance with all other applicable state and federal laws. If satisfied, the director shall issue to  
9 the applicant a license pursuant to the provisions of sections 361.700 to 361.727. In processing a  
10 renewal license, the director shall require the same information and follow the same procedures  
11 described in this subsection.

12 2. Each licensee shall pay to the director before the issuance of the license, and annually  
13 thereafter on or before April fifteenth of each year, a license fee of [~~three~~] four hundred dollars.

14 3. The director may assess a reasonable charge, not to exceed [~~three~~] four hundred dollars,  
15 for any application to amend and reissue an existing license.

16 364.030. 1. No person shall engage in the business of a financing institution in this state  
17 without a license therefor as provided in this chapter; except, however, that no bank, trust company,  
18 loan and investment company, licensed sales finance company, registrant under the provisions of  
19 sections 367.100 to 367.200, or person who makes only occasional purchases of retail time contracts  
20 or accounts under retail charge agreements and which purchases are not being made in the course of  
21 repeated or successive purchase of retail installment contracts from the same seller, shall be required  
22 to obtain a license under this chapter but shall comply with all the laws of this state applicable to the  
23 conduct and operation of a financing institution.

24 2. The application for the license shall be in writing, under oath and in the form prescribed  
25 by the director. The application shall contain the name of the applicant; date of incorporation, if  
26 incorporated; the address where the business is or is to be conducted and similar information as to  
27 any branch office of the applicant; the name and resident address of the owner or partners or, if a  
28 corporation or association, of the directors, trustees and principal officers, and other pertinent  
29 information as the director may require.

30 3. The license fee for each calendar year or part thereof shall be the sum of [~~five~~] six  
31 hundred dollars for each place of business of the licensee in this state which shall be paid into the  
32 general revenue fund. The director may establish a biennial licensing arrangement, but in no case  
33 shall the fees be payable for more than one year at a time.

34 4. Each license shall specify the location of the office or branch and must be conspicuously  
35 displayed therein. In case the location is changed, the director shall either endorse the change of  
36 location of the license or mail the licensee a certificate to that effect, without charge.

37 5. Upon the filing of an application, and the payment of the fee, the director shall issue a  
38 license to the applicant to engage in the business of a financing institution under and in accordance  
39 with the provisions of this chapter for a period which shall expire the last day of December next

1 following the date of its issuance. The license shall not be transferable or assignable. No licensee  
2 shall transact any business provided for by this chapter under any other name.

3 364.105. 1. No person shall engage in the business of a premium finance company in this  
4 state without first registering as a premium finance company with the director.

5 2. The annual registration fee shall be [~~five~~] six hundred dollars payable to the director as of  
6 the first day of July of each year. The director may establish a biennial licensing arrangement, but  
7 in no case shall the fees be payable for more than one year at a time.

8 3. Registration shall be made on forms prepared by the director and shall contain the  
9 following information:

10 (1) Name, business address and telephone number of the premium finance company;

11 (2) Name and business address of corporate officers and directors or principals or partners;

12 (3) A sworn statement by an appropriate officer, principal or partner of the premium finance  
13 company that:

14 (a) The premium finance company is financially capable to engage in the business of  
15 insurance premium financing; and

16 (b) If a corporation, that the corporation is authorized to transact business in this state;

17 (4) If any material change occurs in the information contained in the registration form, a  
18 revised statement shall be submitted to the director accompanied by an additional fee of three  
19 hundred dollars.

20 365.030. 1. No person shall engage in the business of a sales finance company in this state  
21 without a license as provided in this chapter; except, that no bank, trust company, savings and loan  
22 association, loan and investment company or registrant under the provisions of sections 367.100 to  
23 367.200 authorized to do business in this state is required to obtain a license under this chapter but  
24 shall comply with all of the other provisions of this chapter.

25 2. The application for the license shall be in writing, under oath and in the form prescribed  
26 by the director. The application shall contain the name of the applicant; date of incorporation, if  
27 incorporated; the address where the business is or is to be conducted and similar information as to  
28 any branch office of the applicant; the name and resident address of the owner or partners or, if a  
29 corporation or association, of the directors, trustees and principal officers, and such other pertinent  
30 information as the director may require.

31 3. The license fee for each calendar year or part thereof shall be the sum of [~~five~~] six  
32 hundred dollars for each place of business of the licensee in this state. The director may establish a  
33 biennial licensing arrangement, but in no case shall the fees be payable for more than one year at a  
34 time.

35 4. Each license shall specify the location of the office or branch and must be conspicuously  
36 displayed there. In case the location is changed, the director shall either endorse the change of  
37 location on the license or mail the licensee a certificate to that effect, without charge.

38 5. Upon the filing of the application, and the payment of the fee, the director shall issue a  
39 license to the applicant to engage in the business of a sales finance company under and in

1 accordance with the provisions of this chapter for a period which shall expire the last day of  
2 December next following the date of its issuance. The license shall not be transferable or  
3 assignable. No licensee shall transact any business provided for by this chapter under any other  
4 name.

5 367.140. 1. Every lender shall, at the time of filing application for certificate of registration  
6 as provided in section 367.120 hereof, pay the sum of [~~five~~] six hundred dollars as an annual  
7 registration fee for the period ending the thirtieth day of June next following the date of payment  
8 and in full payment of all expenses for investigations, examinations and for the administration of  
9 sections 367.100 to 367.200, except as provided in section 367.160, and thereafter a like fee shall be  
10 paid on or before June thirtieth of each year; provided, that if a lender is supervised by the  
11 commissioner of finance under any other law, the charges for examination and supervision required  
12 to be paid under said law shall be in lieu of the annual fee for registration and examination required  
13 under this section. The fee shall be made payable to the director of revenue. If the initial  
14 registration fee for any certificate of registration is for a period of less than twelve months, the  
15 registration fee shall be prorated according to the number of months that said period shall run. The  
16 director may establish a biennial licensing arrangement, but in no case shall the fees be payable for  
17 more than one year at a time.

18 2. Upon receipt of such fee and application for registration, and provided the bond, if  
19 required by the director, has been filed, the director shall issue to the lender a certificate containing  
20 the lender's name and address and reciting that such lender is duly and properly registered to  
21 conduct the supervised business. The lender shall keep this certificate of registration posted in a  
22 conspicuous place at the place of business recited in the registration certificate. Where the lender  
23 engages in the supervised business at or from more than one office or place of business, such lender  
24 shall obtain a separate certificate of registration for each such office or place of business.

25 3. Certificates of registration shall not be assignable or transferable except that the lender  
26 named in any such certificate may obtain a change of address of the place of business therein set  
27 forth. Each certificate of registration shall remain in full force and effect until surrendered, revoked,  
28 or suspended as herein provided.

29 407.640. 1. A credit services organization shall file a registration statement with the  
30 director of finance before conducting business in this state. The registration statement must contain:

- 31 (1) The name and address of the credit services organization; and  
32 (2) The name and address of any person who directly or indirectly owns or controls ten  
33 percent or more of the outstanding shares of stock in the credit services organization.

34 2. The registration statement must also contain either:

35 (1) A full and complete disclosure of any litigation or unresolved complaint filed by or with  
36 a governmental authority of this state relating to the operation of the credit services organization; or

37 (2) A notarized statement that states that there has been no litigation or unresolved  
38 complaint filed by or with a governmental authority of this state relating to the operation of the  
39 credit services organization.

1           3. The credit services organization shall update the statement not later than the ninetieth day  
2 after the date on which a change in the information required in the statement occurs.

3           4. Each credit services organization registering under this section shall maintain a copy of  
4 the registration statement in the office of the credit services organization. The credit services  
5 organization shall allow a buyer to inspect the registration statement on request.

6           5. The director of finance may charge each credit services organization that files a  
7 registration statement with the director of finance a reasonable fee not to exceed ~~[three]~~ four  
8 hundred dollars to cover the cost of filing. The director of finance may not require a credit services  
9 organization to provide information other than that provided in the registration statement as part of  
10 the registration process."; and

11  
12 Further amend said bill, Page 33, Section 407.828, Line 121, by inserting after all of the said section  
13 and line the following:  
14

15           "408.145. 1. To encourage competitive equality, lenders issuing credit cards in this state  
16 pursuant to the authority of section 408.100 or 408.200[;] may ~~[in addition to lawful interest,~~  
17 ~~contract for, charge and collect fees for]~~ issue such credit cards ~~[which]~~ under such terms and  
18 conditions that any lender in any contiguous state is permitted to [charge] utilize for credit cards  
19 issued in such contiguous state by such state's statutes. State-chartered lenders [charging such fees]  
20 issuing credit cards in reliance on this subsection shall file a copy of the pertinent statutes of one  
21 contiguous state authorizing credit card ~~[fees]~~ terms and conditions with the director of finance or  
22 such lender's principal state regulator. The director of finance or other principal state regulator shall,  
23 within thirty days after receipt of the filing, approve or disapprove of such ~~[fees]~~ terms and  
24 conditions on the sole basis of whether the statutes of such contiguous state permit such ~~[fees;]~~  
25 terms and conditions and without regard to the restrictions placed upon credit cards by subsection 2  
26 of this section. When the lender is chartered by the federal government, or any agency thereunder,  
27 or is unregulated, such lender shall file with and be approved by the Missouri attorney general under  
28 the same provision as provided a state-chartered lender.

29           2. "Credit card" as used in this section shall mean a credit device defined as such in the  
30 federal Consumer Credit Protection Act and regulations thereunder, except:

31           (1) The term shall be limited to credit devices which permit the holder to purchase goods  
32 and service upon presentation to third parties whether or not the credit card also permits the holder  
33 to obtain loans of any other type; and

34           (2) Such credit device shall only provide credit which is not secured by real or personal  
35 property.

36           3. "Lender" as used in this section shall mean any category of depository or nondepository  
37 creditor. Notwithstanding the provisions of ~~[section 408.140]~~ sections 408.100 to 408.190 to the  
38 contrary, the lender shall declare on each credit card contract whether the credit card ~~[fees are~~  
39 governed by section 408.140, or by] is issued pursuant to this section.

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

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

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

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

NOTICE:

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

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

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

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

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

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

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

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

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

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