

HOUSE BILL NO. 3107

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OEHLERKING.

6806H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 361, RSMo, by adding thereto one new section relating to written guidance for financial institutions.

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

Section A. Chapter 361, RSMo, is amended by adding thereto one new section, to be
2 known as section 361.1300, to read as follows:

361.1300. 1. As used in this section, the following terms mean:

- 2 **(1) "Financial institution", a bank, savings and loan association, trust company,**
3 **credit union, or any other entity that directly or indirectly holds an account belonging to**
4 **a consumer that is organized and operating according to the laws of any state, the**
5 **District of Columbia, or the United States that is lawfully operating within this state;**
6 **(2) "Regulatory agency", any regulatory or administrative officer or body**
7 **existing under the laws or constitution of any state or the United States with jurisdiction**
8 **with regard to the activities and operations of financial institutions. This term includes,**
9 **but is not limited to, the following:**
10 **(a) The Missouri division of finance and its successors;**
11 **(b) The Consumer Financial Protection Bureau and its successors;**
12 **(c) The National Credit Union Administration and its successors;**
13 **(d) The Office of the Comptroller of the Currency and its successors;**
14 **(e) The Federal Deposit Insurance Corporation and its successors; and**
15 **(f) The U.S. Department of Justice and its successors;**
16 **(3) "Written guidance", a record of general applicability developed by a**
17 **regulatory agency that states the regulatory agency's current approach to or**

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 interpretation of law, or describes how the regulatory agency will exercise discretionary
19 functions such as promulgated rules and regulations, advisory opinions, regulatory
20 notices, guidance documents, manuals, interpretative memoranda, staff instructions,
21 policy statements, circulars, bulletins, press releases, appendices to any rules and
22 regulations, sample forms provided in such appendices or by a regulatory agency, and a
23 regulatory agency's written response to an inquiry by a financial institution. "Written
24 guidance" includes, but is not limited to:

25 (a) Records that are publicly available or communicated directly to the financial
26 institution;

27 (b) Mandatory mortgage loan disclosures, as may be required by the Truth in
28 Lending Act 15 U.S.C. Section 1601 et seq., and 12 CFR Section 1026 et seq. (Regulation
29 Z), the Real Estate Procedures Act 12 U.S.C. Section 2601 et seq., and 12 CFR Part 1024
30 (Regulation X), and any amendments thereto or any regulations promulgated
31 thereunder;

32 (c) Mandatory overdraft disclosures and opt-in practices, as may be required by
33 the Electronic Fund Transfers Act, 15 U.S.C. Section 1693 et seq., and 12 CFR Section
34 1005 et seq., (Regulation E), and any amendments thereto or any regulations
35 promulgated thereunder; and

36 (d) Digital and website accessibility, as may be required by the Americans with
37 Disabilities Act, 42 U.S.C. Section 12101 et seq., and Section 508 of the federal
38 Rehabilitation Act, 29 U.S.C. Section 794d, and any amendments thereto or regulations
39 promulgated thereunder.

40 2. (1) Notwithstanding any other provision of law to the contrary, no financial
41 institution shall be civilly liable under the laws of this state for any act or omission made
42 when in compliance with or in good faith reliance on any applicable rule, regulation, or
43 written guidance issued by a regulatory agency, regardless of whether after such act or
44 omission, such rule, regulation, or written guidance is modified, rescinded, or is held to
45 be invalid by a court.

46 (2) Notwithstanding subdivision (1) of this subsection, no action or proceeding
47 shall be barred when the act or omission of the financial institution constituted
48 fraudulent activity, intentional misconduct, wanton or willful conduct, or gross
49 negligence.

50 3. This section does not apply to the extent that any statute, regulation, or treaty
51 of the United States preempts it.

52 **4. Nothing in this section shall be construed to impair, limit, or affect the**
53 **authority of the federal or any state government, and any regulatory agencies thereof, to**
54 **bring any civil, criminal, or administrative enforcement action.**

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