

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 3107

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE OEHLERKING.

6806H.01P

JOSEPH ENGLER, Chief Clerk

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## AN ACT

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

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*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 known as section 361.1300, to read as follows:

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

- (1) "Financial institution", a bank, savings and loan association, trust company, credit union, or any other entity that directly or indirectly holds an account belonging to a consumer that is organized and operating according to the laws of any state, the District of Columbia, or the United States that is lawfully operating within this state;**
- (2) "Regulatory agency", any regulatory or administrative officer or body existing under the laws or constitution of any state or the United States with jurisdiction with regard to the activities and operations of financial institutions. This term includes, but is not limited to, the following:**
- (a) The Missouri division of finance and its successors;**
  - (b) The Missouri Division of Credit Unions and its successors;**
  - (c) The Consumer Financial Protection Bureau and its successors;**
  - (d) The National Credit Union Administration and its successors;**
  - (e) The Office of the Comptroller of the Currency and its successors;**
  - (f) The Federal Deposit Insurance Corporation and its successors; and**

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.

16 (g) The U.S. Department of Justice and its successors;

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

26 (a) Records that are publicly available;

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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