

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 345
98TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, March 19, 2015, with recommendation that the Senate Committee Substitute do pass.

1672S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, RSMo, and to enact in lieu thereof eight new sections relating to licensing fees paid to the director of the division of finance, with an existing penalty provision.

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

Section A. Sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, to read as follows:

361.707. 1. Each application for a license pursuant to sections 361.700 to 361.727 shall be in writing and under oath to the director in such form as he may prescribe. The application shall state the full name and business address of:

- (1) The proprietor, if the applicant is an individual;
- (2) Every member, if the applicant is a partnership or association;
- (3) The corporation and each officer and director thereof, if the applicant is a corporation.

2. Each application for a license shall be accompanied by an investigation fee of **[one] three** hundred dollars. If the license is granted the investigation fee shall be applied to the license fee for the first year. No investigation fee shall be refunded.

361.715. 1. Upon the filing of the application, the filing of a certified audit, the payment of the investigation fee and the approval by the director of the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3 necessary bond, the director shall cause, investigate, and determine whether the
4 character, responsibility, and general fitness of the principals of the applicant or
5 any affiliates are such as to command confidence and warrant belief that the
6 business of the applicant will be conducted honestly and efficiently and that the
7 applicant is in compliance with all other applicable state and federal laws. If
8 satisfied, the director shall issue to the applicant a license pursuant to the
9 provisions of sections 361.700 to 361.727. In processing a renewal license, the
10 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
13 license, and annually thereafter on or before April fifteenth of each year, a license
14 fee of [one] **three** hundred dollars.

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

364.030. 1. No person shall engage in the business of a financing
2 institution in this state without a license therefor as provided in this chapter;
3 except, however, that no bank, trust company, loan and investment company,
4 licensed sales finance company, registrant under the provisions of sections
5 367.100 to 367.200, or person who makes only occasional purchases of retail time
6 contracts or accounts under retail charge agreements and which purchases are
7 not being made in the course of repeated or successive purchase of retail
8 installment contracts from the same seller, shall be required to obtain a license
9 under this chapter but shall comply with all the laws of this state applicable to
10 the conduct and operation of a financing institution.

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

18 3. The license fee for each calendar year or part thereof shall be the sum
19 of [three] **five** hundred dollars for each place of business of the licensee in this
20 state which shall be paid into the general revenue fund. The director may
21 establish a biennial licensing arrangement but in no case shall the fees be
22 payable for more than one year at a time.

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

27 5. Upon the filing of an application, and the payment of the fee, the
28 director shall issue a license to the applicant to engage in the business of a
29 financing institution under and in accordance with the provisions of this chapter
30 for a period which shall expire the last day of December next following the date
31 of its issuance. The license shall not be transferable or assignable. No licensee
32 shall transact any business provided for by this chapter under any other name.

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

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

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

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

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

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

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

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

20 (4) If any material change occurs in the information contained in the
21 registration form, a revised statement shall be submitted to the director
22 accompanied by an additional fee of [~~one~~] **three** hundred dollars.

365.030. 1. No person shall engage in the business of a sales finance
2 company in this state without a license as provided in this chapter; except, that
3 no bank, trust company, savings and loan association, loan and investment
4 company or registrant under the provisions of sections 367.100 to 367.200

5 authorized to do business in this state is required to obtain a license under this
6 chapter but shall comply with all of the other provisions of this chapter.

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

14 3. The license fee for each calendar year or part thereof shall be the sum
15 of [three] **five** hundred dollars for each place of business of the licensee in this
16 state. The director may establish a biennial licensing arrangement but in no case
17 shall the fees be payable for more than one year at a time.

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

22 5. Upon the filing of the application, and the payment of the fee, the
23 director shall issue a license to the applicant to engage in the business of a sales
24 finance company under and in accordance with the provisions of this chapter for
25 a period which shall expire the last day of December next following the date of
26 its issuance. The license shall not be transferable or assignable. No licensee
27 shall transact any business provided for by this chapter under any other name.

367.140. 1. Every lender shall, at the time of filing application for
2 certificate of registration as provided in section 367.120 hereof, pay the sum of
3 [three] **five** hundred dollars as an annual registration fee for the period ending
4 the thirtieth day of June next following the date of payment and in full payment
5 of all expenses for investigations, examinations and for the administration of
6 sections 367.100 to 367.200, except as provided in section 367.160, and thereafter
7 a like fee shall be paid on or before June thirtieth of each year; provided, that if
8 a lender is supervised by the commissioner of finance under any other law, the
9 charges for examination and supervision required to be paid under said law shall
10 be in lieu of the annual fee for registration and examination required under this
11 section. The fee shall be made payable to the director of revenue. If the initial
12 registration fee for any certificate of registration is for a period of less than
13 twelve months, the registration fee shall be prorated according to the number of

14 months that said period shall run. The director may establish a biennial
15 licensing arrangement but in no case shall the fees be payable for more than one
16 year at a time.

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

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

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

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

8 2. The registration statement must also contain either:

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

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

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

18 4. Each credit services organization registering under this section shall
19 maintain a copy of the registration statement in the office of the credit services

20 organization. The credit services organization shall allow a buyer to inspect the
21 registration statement on request.

22 5. The director of finance may charge each credit services organization
23 that files a registration statement with the director of finance a reasonable fee
24 not to exceed ~~[one]~~ **three** hundred dollars to cover the cost of filing. The director
25 of finance may not require a credit services organization to provide information
26 other than that provided in the registration statement as part of the registration
27 process.

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

15 2. Entities making loans pursuant to this section shall contract for and
16 receive simple interest and fees in accordance with sections 408.100 and
17 408.140. Any contract evidencing any fee or charge of any kind whatsoever,
18 except for bona fide clerical errors, in violation of this section shall be void. Any
19 person, firm or corporation who receives or imposes a fee or charge in violation
20 of this section shall be guilty of a class A misdemeanor.

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

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

28 NOTICE:

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

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

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

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

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

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

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

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

58 10. Whenever it shall appear to the director that any lender licensed
59 pursuant to this section is failing, refusing or neglecting to make a good faith
60 effort to comply with the provisions of this section, or any laws relating to
61 consumer loans, the director may issue an order to cease and desist which order
62 may be enforceable by a civil penalty of not more than one thousand dollars per
63 day for each day that the neglect, failure or refusal shall continue. The penalty
64 shall be assessed and collected by the director. In determining the amount of the

65 penalty, the director shall take into account the appropriateness of the penalty
66 with respect to the gravity of the violation, the history of previous violations, and
67 such other matters as justice may require.

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Unofficial

Bill

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