

SECOND REGULAR SESSION

# HOUSE BILL NO. 2060

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ENGLER (Sponsor), MCNEIL, BUTLER, MITTEN, RUNIONS,  
MIMS, WALTON GRAY, MAYFIELD, ELLINGTON, KIRKTON AND SPENCER (Co-sponsors).

6286H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 408.505, RSMo, and to enact in lieu thereof one new section relating to debtor creditor relations.

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

Section A. Section 408.505, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 408.505, to read as follows:

408.505. 1. This section shall apply to:

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

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

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

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

3. A lender may only charge simple interest and fees in accordance with sections 408.100 and 408.140. No other charges of any nature shall be permitted except as provided by this section, including any charges for cashing the loan proceeds if they are given in check form. However, no borrower shall be required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of the initial loan amount on any single loan authorized

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 pursuant to this section for the entire term of that loan and all renewals authorized by section  
17 408.500 and this section.

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

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

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

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

33 6. On a consumer loan transaction where cash is advanced in exchange for a personal  
34 check, a return check charge may be charged in the amounts provided by sections 408.653 and  
35 408.654, as applicable.

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

39 8. A person does not commit the crime of passing a bad check pursuant to section  
40 570.120 if at the time the payee accepts a check or similar sight order for the payment of money,  
41 he or she does so with the understanding that the payee will not present it for payment until later  
42 and the payee knows or has reason to believe that there are insufficient funds on deposit with the  
43 drawee at the time of acceptance. However, this section shall not apply if the person's account  
44 on which the instrument was written was closed by the consumer before the agreed-upon date  
45 of negotiation or the consumer has stopped payment on the check.

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

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

50 (2) Entering into a sales lease back arrangement;

51 (3) Catalog sales;

52 (4) Entering into any other transaction with the consumer that is designed to evade the  
53 applicability of this section.

54 10. A licensee shall not threaten, or cause to be instigated, criminal proceedings  
55 against a borrower if a check given as security for a loan is dishonored. In addition to any  
56 other remedies available by law, a licensee that knowingly violates this prohibition shall  
57 pay the affected borrower three times the amount of the dishonored check. However, this  
58 section shall not apply if the person's account on which the instrument was written was  
59 closed by the consumer before the agreed-upon date of negotiation or the consumer has  
60 stopped payment of the check.

61 11. In collecting or attempting to collect a loan made under this section, a licensee  
62 shall comply with the restrictions and prohibitions applicable to creditors contained in the  
63 Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq., regarding harassment  
64 or abuse, false or misleading misrepresentations, and unfair practices in collections.

65 12. The provisions of this section shall only apply to entities subject to the provisions  
66 of section 408.500 and this section.

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