

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2125, Page 1, In the title, Lines 2-3, by deleting the words, "savings
2 promotions programs" and inserting in lieu thereof the words, "financial institutions"; and

3
4 Further amend said bill, Page 1, Section A, Line 2, by inserting after all of said section and line the
5 following:

6 "367.105. Any person making or offering a consumer credit loan shall contract for and
7 receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and shall be
8 subject to all provisions of sections 408.100, 408.140, and 408.170.

9 367.515. A title lender shall contract for and receive simple interest and fees in accordance
10 with sections 408.100 and 408.140 and shall be subject to all provisions of sections 408.100 and
11 408.140.

12 408.100. 1. It is the intent of the people of Missouri to prevent lenders, such as those who
13 make what are commonly known as payday loans, car title loans, and installment loans, which have
14 typically carried triple-digit interest rates as high as three hundred percent annually or higher, from
15 charging excessive fees and interest rates that can lead families into a cycle of debt by:

16 (1) Reducing the annual percentage rate for payday, title, installment, and other high-cost
17 consumer credit and small loans from triple-digit interest rates to thirty-six percent per year;

18 (2) Extending to veterans and others the same thirty-six percent rate limit in place for
19 payday and title loans to active military families as enacted by the 109th United States Congress in
20 10 U.S.C. Section 987; and

21 (3) Preserving fair lending by prohibiting lenders from structuring other transactions to
22 avoid the rate limit through subterfuge.

23 2. This section shall apply to all loans which are not made as permitted by other laws of this
24 state except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed
25 farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject
26 to this section, any person, firm, or corporation may charge, contract for and receive interest on the
27 unpaid principal balance at rates agreed to by the parties, provided that the interest, fees, and finance
28 charges shall not exceed an annual percentage rate of thirty-six percent.

29 3. A person shall not engage in any device or subterfuge intended to evade the requirements
30 of this chapter through any method including, but not limited to, mail, telephone, internet, or any
31 electronic means, including:

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 (1) Offering, making, assisting a borrower to obtain, or brokering a loan at an annual
2 percentage rate prohibited by this section, making loans disguised as personal property sales and
3 leaseback transactions, or disguising loan proceeds as cash rebates for the pretextual installment sale
4 of goods or services;

5 (2) Making, assisting a borrower to obtain, or brokering an offer of credit, or in whole or in
6 part, from a third party, or acting as an agent for a third party, regardless of whether the third party
7 is exempt from licensing or whether approval, acceptance, or ratification by the third party is
8 necessary to create a legal obligation for the third party; or

9 (3) Charging any application fee for the provision of credit or any fee for participation in a
10 credit plan, if such a fee is authorized under any applicable section of Missouri law, without
11 including the fees in the calculation of the annual percentage rate of the credit in accordance with
12 the allowable rate set forth in this section.

13 408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and
14 savings and loan companies, in the business of making unsecured loans of five hundred dollars or
15 less, commonly known as payday lenders, shall obtain a license from the director of the division of
16 finance. An annual license fee of five hundred dollars per location shall be required. The license
17 year shall commence on January first each year and the license fee may be prorated for expired
18 months. The director may establish a biennial licensing arrangement but in no case shall the fees be
19 payable for more than one year at a time. The provisions of this section shall not apply to
20 pawnbroker loans, consumer credit loans as authorized under chapter 367, nor to a check accepted
21 and deposited or cashed by the payee business on the same or the following business day. The
22 disclosures required by the federal Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and
23 regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and
24 the loan, renewal or extension documents shall be signed by the borrower.

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

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

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

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

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

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

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

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

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

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

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

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

30 408.505. 1. This section shall apply to:

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

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

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

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

40 3. A lender may only charge simple interest and fees in accordance with sections 408.100
41 and 408.140 and shall be subject to all provisions of sections 408.100 and 408.140. No other

1 charges of any nature shall be permitted except as provided by this section, including any charges
2 for cashing the loan proceeds if they are given in check form. [However, no borrower shall be
3 required to pay a total amount of accumulated interest and fees in excess of seventy-five percent of
4 the initial loan amount on any single loan authorized pursuant to this section for the entire term of
5 that loan and all renewals authorized by section 408.500 and this section.]

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

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

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

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

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

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

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

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

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

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

38 (3) Catalog sales;

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

41 10. The provisions of this section shall only apply to entities subject to the provisions of

1 section 408.500 and this section.

2 408.510. Notwithstanding any other law to the contrary, the phrase "consumer installment
3 loans" means secured or unsecured loans of any amount and payable in not less than four
4 substantially equal installments over a period of not less than one hundred twenty days. The phrase
5 "consumer installment lender" means a person licensed to make consumer installment loans. A
6 consumer installment lender shall be licensed in the same manner and upon the same terms as a
7 lender making consumer credit loans. Such consumer installment lenders shall contract for and
8 receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and shall be
9 subject to all provisions of sections 408.100, 408.140, and 408.170. Consumer installment lenders
10 shall be subject to the provisions of sections 408.551 to 408.562."; and

11
12 Further amend said bill, Page 3, Section 408.830, Line 3, by inserting after all of said section and
13 line the following:

14
15 "Section B. This act is hereby submitted to the qualified voters of this state for approval or
16 rejection at an election which is hereby ordered and which shall be held and conducted on the
17 Tuesday immediately following the first Monday in November, 2016, or at a special election to be
18 called by the governor for that purpose, pursuant to the laws and constitutional provisions of this
19 state applicable to general elections and the submission of referendum measures by initiative
20 petition, and it shall become effective when approved by a majority of the votes cast thereon at such
21 election and not otherwise."; and

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