

HOUSE BILL NO. 2348

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CARPENTER.

3546H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 408, RSMo, by adding thereto one new section relating to unsecured loans.

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

Section A. Chapter 408, RSMo, is amended by adding thereto one new section, to be
2 known as section 408.515, to read as follows:

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

2 **(1) "Basic living expenses", expenditures, other than payments for major financial**
3 **obligations, that a consumer makes for goods and services that are necessary to maintain**
4 **the consumer's health, welfare, and ability to produce income and the health and welfare**
5 **of the members of the consumer's household who are financially dependent on the**
6 **consumer;**

7 **(2) "Covered longer-term balloon-payment loan":**

8 **(a) For closed-end credit that does not provide for multiple advances to consumers,**
9 **a loan in which the consumer is required to repay substantially the entire balance of the**
10 **loan in a single payment later than forty-five days after consummation of the loan or is**
11 **required to repay such loan through at least one payment that is more than twice the**
12 **amount of any other payment; or**

13 **(b) For all other loans, a loan in which either:**

14 **a. The consumer is required to repay substantially the entire amount of an advance**
15 **in a single payment later than forty-five days after the advance is made or is required to**
16 **make at least one payment on the advance that is more than twice the amount of any other**
17 **payment; 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 **b. The repayment is structured such that paying the required minimum payments**
19 **shall not fully amortize the outstanding balance by a specified date or time, and the amount**
20 **of the final payment to repay the outstanding balance at such time could be more than**
21 **twice the amount of another minimum payment under the plan;**

22 **(3) "Covered short-term loan":**

23 **(a) For closed-end credit that does not provide for multiple advances to consumers,**
24 **a loan in which the consumer is required to repay substantially the entire amount of the**
25 **loan within forty-five days of consummation of the loan; or**

26 **(b) For all other loans, a loan in which the consumer is required to repay**
27 **substantially the entire amount of any advance within forty-five days of the advance;**

28 **(4) "Debt-to-income ratio", the ratio, expressed as a percentage, of:**

29 **(a) The sum of the amounts that the lender projects will be payable by the**
30 **consumer for major financial obligations during the relevant monthly period and the**
31 **payments under the covered short-term loan during the relevant monthly period; to**

32 **(b) The net income that the lender projects the consumer will receive during the**
33 **relevant monthly period,**

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35 **all of which projected amounts shall be determined in accordance with subsection 4 of this**
36 **section;**

37 **(5) "Major financial obligations", a consumer's housing expenses; required**
38 **payments under debt obligations including, but not limited to, outstanding loans; child**
39 **support obligations; and alimony obligations;**

40 **(6) "National consumer report", a consumer report, as defined under Section**
41 **603(d) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(d), obtained from a consumer**
42 **reporting agency that compiles and maintains files on consumers on a nationwide basis,**
43 **as defined under Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p);**

44 **(7) "Net income", the total amount that a consumer receives after the payer deducts**
45 **amounts for taxes, other obligations, and voluntary contributions, but before deductions**
46 **of any amounts for payments under a prospective covered short-term loan or for any**
47 **major financial obligation, provided that the lender may include in the consumer's net**
48 **income the amount of any income of another person to which the consumer has a**
49 **reasonable expectation of access;**

50 **(8) "Relevant monthly period", the calendar month in which the highest sum of**
51 **payments is due under the covered short-term loan;**

52 **(9) "Residual income", the sum of net income that the lender projects the consumer**
53 **will receive during the relevant monthly period minus the sum of the amounts that the**

54 lender projects will be payable by the consumer for major financial obligations during the
55 relevant monthly period and payments under the covered short-term loan during the
56 relevant monthly period, all of such projected amounts shall be determined in accordance
57 with subsection 4 of this section.

58 2. (1) A lender shall not make a covered short-term loan or increase the credit
59 available under a covered short-term loan unless the lender first makes a reasonable
60 determination that the consumer will have the ability to repay the loan according to its
61 terms.

62 (2) For a covered short-term loan that is a line of credit, a lender shall not permit
63 a consumer to obtain an advance under the line of credit more than ninety days after the
64 date of a reasonable determination of the consumer's ability to repay unless the lender first
65 makes a new determination that the consumer will have the ability to repay the covered
66 short-term loan according to its terms.

67 3. A lender's determination of a consumer's ability to repay a covered short-term
68 loan is reasonable only if either:

69 (1) Based on the calculation of the consumer's debt-to-income ratio for the relevant
70 monthly period and the estimates of the consumer's basic living expenses for the relevant
71 monthly period, the lender reasonably concludes that the consumer can make payments
72 for major financial obligations, make all payments under the loan, and meet basic living
73 expenses during the shorter of either the term of the loan or the period ending forty-five
74 days after consummation of the loan and during the thirty days after making the highest
75 payment under the loan; or

76 (2) Based on the calculation of the consumer's residual income for the relevant
77 monthly period and the estimates of the consumer's basic living expenses for the relevant
78 monthly period, the lender reasonably concludes that the consumer can make payments
79 for major financial obligations, make all payments under the loan, and meet basic living
80 expenses during the shorter of either the term of the loan or the period ending forty-five
81 days after consummation of the loan and during the thirty days after making the highest
82 payment under the loan.

83 4. (1) To make a reasonable determination, a lender shall obtain the consumer's
84 written statement in accordance with subdivision (2) of this subsection, obtain verification
85 evidence as reasonably necessary, assess information about rental housing expenses as
86 required under subdivision (3) of this subsection, and use those sources of information to
87 make a reasonable projection of the amount of a consumer's net income and payments for
88 major financial obligations during the relevant monthly period. The lender shall consider
89 major financial obligations that are listed in a consumer's written statement even if the

90 obligations cannot be verified. To be considered reasonable, a projection of the amount
91 of net income or payments for major financial obligations shall be based on a consumer's
92 written statement to the extent the stated amounts are reasonably verified. For
93 verification, the lender may reasonably consider other reliable evidence the lender obtains
94 from or about the consumer, including any explanations the lender obtains from the
95 consumer.

96 (2) A lender shall obtain a consumer's written statement of:

97 (a) The amount of the consumer's net income, which may include the amount of
98 any income of another person to which the consumer has a reasonable expectation of
99 access; and

100 (b) The amount of payments required for the consumer's major financial
101 obligations.

102 (3) For a consumer's housing expense other than a payment for a debt obligation
103 that appears on a national consumer report, the lender may reasonably rely on the
104 consumer's written statement under subdivision (2) of this section.

105 5. Subsections 2 to 4 of this section shall not apply to a loan that satisfies:

106 (1) The following loan requirements:

107 (a) The loan principal is no greater than:

108 a. For the first loan made under this subsection, five hundred dollars;

109 b. For the second loan made under this subsection, two-thirds of the principal
110 amount of the first loan in the loan sequence; and

111 c. For the third loan made under this subsection, one-third of the principal amount
112 of the first loan in the loan sequence;

113 (b) The loan amortizes completely during the term of the loan and the payment
114 schedule provides for the lender allocating a consumer's payments to the outstanding
115 principal, interest, and fees as they accrue only by applying a fixed periodic rate of interest
116 to the outstanding balance of the unpaid loan principal during every scheduled repayment
117 period for the term of the loan;

118 (c) The loan is not structured as open-end credit; and

119 (d) The lender and any service provider do not take vehicle security as a condition
120 of a loan; and

121 (2) The following borrowing history requirements:

122 (a) In the past thirty days, the consumer has not had an outstanding covered short-
123 term loan or covered longer-term balloon-payment loan;

124 (b) The loan shall not result in the consumer having a loan sequence of more than
125 three covered short-term loans; and

126 (c) The loan shall not result in the consumer having during any consecutive twelve-
127 month period:

128 a. More than six covered short-term loans outstanding; or

129 b. Covered short-term loans outstanding for an aggregate period of more than
130 ninety days.

131 6. If a lender makes a covered short-term loan to a consumer, the lender or its
132 affiliate shall not make a subsequent covered short-term loan while the loan is outstanding
133 or for thirty days thereafter; however, the lender may make a covered short-term loan that
134 complies with this section or a loan that is neither a covered short-term loan nor a covered
135 longer-term balloon-payment loan.

136 7. A lender or its affiliate shall, before making a covered short-term loan or covered
137 longer-term balloon-payment loan, make a disclosure to the consumer. The disclosure
138 shall be clear and conspicuous, be provided in a retainable form, be in writing or delivered
139 electronically, be segregated from all other written or provided materials, and contain only
140 the information required under this subsection. If delivered electronically, the disclosure
141 shall use machine readable text. The disclosure shall contain:

142 (1) A heading of "notice of restrictions on future loans";

143 (2) A statement that the consumer should not take out the loan if the consumer is
144 unsure of being able to repay the total amount of principal and finance charges on the loan
145 by the contractual due date;

146 (3) Information to uniquely identify the loan;

147 (4) The identity of the consumer;

148 (5) Whether the loan is a covered short-term loan or a covered longer-term balloon-
149 payment loan;

150 (6) The loan consummation date;

151 (7) The principal amount borrowed;

152 (8) If a loan that is closed-end credit:

153 a. The fact that the loan is closed-end credit;

154 b. The date that each payment on the loan is due; and

155 c. The amount due on each payment date;

156 (9) If a loan that is open-end credit:

157 a. The fact that the loan is open-end credit;

158 b. The credit limit on the loan;

159 c. The date that each payment on the loan is due; and

160 d. The minimum amount due on each payment date;

161 (10) The contractual due date of the loan;

- 162 (11) The total amount due;
- 163 (12) A statement that any subsequent loan will be smaller and the maximum
164 principal amount of subsequent loans;
- 165 (13) In a tabular format, the maximum principal that may be loaned in subsequent
166 loans, including no fourth loan;
- 167 (14) The number of loans, if any, records indicate the consumer has taken without
168 a thirty-day break between them;
- 169 (15) A statement that the consumer shall not take a fourth loan for thirty days after
170 repaying the loan; and
- 171 (16) The name, telephone number, and website, if any, of the lender.
- 172 8. While the loan is outstanding, the lender shall notify the consumer of any update
173 to information listed under subsection 7 of this section.
- 174 9. Upon the date the loan ceases to be outstanding, the lender shall provide the
175 consumer with the following information:
- 176 (1) The date the loan ceased to be an outstanding loan; and
- 177 (2) Whether all amounts owed in connection with the loan were paid in full,
178 including the amount financed, charges included in the cost of credit, and charges excluded
179 from the cost of credit.
- 180 10. A lender shall retain the following information for thirty-six months after a loan
181 ceases to be outstanding:
- 182 (1) Any verification evidence as described under subsection 4 of this section;
- 183 (2) The written statement of the consumer described under subdivision (2) of
184 subsection 4 of this section;
- 185 (3) In a tabular format, the calculations used by the lender to determine if the
186 consumer qualified for a loan including, but not limited to:
- 187 (a) The projection of a consumer's net income during the relevant monthly period;
- 188 (b) The projections of a consumer's major financial obligations during the relevant
189 monthly period;
- 190 (c) The calculated debt-to-income ratio or residual income;
- 191 (d) The estimated basic living expenses for the consumer during the relevant
192 monthly period; and
- 193 (e) Other information regarding the consumer used to make the determination; and
- 194 (4) In a tabular format, information of the type, terms, and performance of covered
195 short-term loans or covered longer-term balloon-payment loans including, but not limited
196 to:

- 197 **(a) The information listed under subdivisions (3) to (11) of subsection 7 of this**
198 **section;**
- 199 **(b) Whether the lender obtained vehicle security from the consumer;**
- 200 **(c) The loan number in a loan sequence of covered short-term loans, covered**
201 **longer-term balloon-payment loans, or a combination thereof;**
- 202 **(d) For any full payment on the loan that was not received or transferred by the**
203 **contractual due date, the number of days such payment was past due;**
- 204 **(e) For a loan with vehicle security, whether repossession of the vehicle was**
205 **initiated;**
- 206 **(f) The date the last or final payment was received; and**
- 207 **(g) The information listed under subsection 9 of this section.**

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