Jeremiah W. (Jay) Nixon
Governor
State of Missouri

Department of Insurance
Financial Institutions
and Professional Registration
John M. Huff, Director

DIVISION OF FINANCE

301 West High Street, Room 630
P.O. Box 716
Jefferson City, MO 65102-0716
(573) 751-3242
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Debra Hardman
Acting Commissioner

SECTION 408.500, SMALL, SMALL LOAN COMPANY LICENSING APPLICATION PACKET

(Licensing Year January 1 through December 31)

--LENDERS OF UNSECURED LOANS OF FIVE HUNDRED DOLLARS OR LESS--

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Enclosures: Section 408.500 License Application
Applicable Statutes and Regulations
Legislative Information and Guidelines

Instructions:

1. The enclosed application must be completed in its entirety. Be sure to sign the application where indicated.

2. Section 408.500 registration fees are pro-rated according to the effective date of the license. You will find a pro-rated fee schedule on page 2 of the application. **Please allow for mail time when calculating your pro-rated fee.** Your fee must be submitted with your completed application.

3. If you would like your license sent to an address other than the company address, please note this on your application.

4. Should your company move to a new location, you must notify our office immediately and surrender your original license for amendment.

5. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten (10) business days prior to cessation. All records must be retained at least two years. You will need to surrender you original license with a written explanation for cessation, including location of receivables, if any.

6. If you have any further questions regarding the filing of this application, please call our office at 573-751-3463.

NEW LICENSED LOCATION

Instructions: Please complete this form and submit, including licensing fee (see Page 2 for pro-rated amount), to the Division of Finance, 301 West High Street, Harry S. Truman State Office Bldg., Room 630, P.O. Box 716, Jefferson City, MO 65102. **PLEASE NOTE: THE LICENSING FEE APPLIES TO EACH LOCATION TRANSACTING BUSINESS.** *Should you have any questions, please contact the Consumer Credit Licensing Section at 573-751-3463.*

MISSOURI DIVISION OF FINANCE

Application for Small, Small Loans
Certificate of Registration

Section 408.500 License

OFFICE USE ONLY --	
500 - _____	***Rec#_____***
Check No.	Amount: $
Date:	Initials:

Information for Licensed Location:

Company Name: _____

Address: _____ **City:** _____

State: _____ **Zip:** _____ **Telephone:** _____ **Fax:** _____

County (MO only): _____

Internet Lender ☐ **NO** ☐ **YES** **If Yes, Website address:** _____

Hours of Operation:	
Licensing Contact for Renewal Applications:	Name: Mailing Address: City/State/Zip: Telephone: ( ) E-Mail:
Contact Person to Receive Examination Reports:	Name: Mailing Address: City/State/Zip: Telephone: ( ) E-Mail:
Contact Person for Office and Consumer Inquiries/Complaints:	Name: Mailing Address: City/State/Zip: Telephone: ( ) E-Mail:
Information Regarding Preparer of Application:	Name: Telephone: ( ) E-Mail:
Mailing Instructions for this License Certificate:	☐ Mail to Licensed Location ☐ Mail to Licensing Contact above ☐ Other (please specify): _____

Company Home Office Information (if applicable)	Name
	Street Address:
	Mailing Address:
	City/State/Zip:
	Telephone: ( ) Fax: ( )

If applicant is: Individual, complete Section I. **Partnership, Corporation, or LLC**, complete Section II

I. INDIVIDUAL	**Name:**	**Phone Number: ( )**
	Residence Address:	
	Business Address:	
II. PARTNERSHIP, ASSOCIATION *OR* CORPORATION	**Name:**	**Phone Number: ( )**
	Principal Business Address:	
Names, Titles of Partners/Officers	**Business Address**	**Residence Address**
Date of Incorporation: **Principal Office in Missouri (if applicable):**		

Does ownership hold any other consumer credit licenses in the state of Missouri? ☐ **YES** ☐ **NO**

If yes, are they licensed under the same business name as show on this application? (If not, provide other names.)

_____

PRO-RATED FEE SCHEDULE: The annual registration fee for Section 408.500 registration is $500.00. This fee shall be pro-rated per month from date business is to begin operations. The fee schedule is as follows:

January	--	$500.00	April	--	$375.03	July	--	$250.02	October	--	$125.01
February	--	$458.37	May	--	$333.36	August	--	$208.35	November	--	$ 83.34
March	--	$416.70	June	--	$291.69	September	--	$166.68	December	--	$ 41.67

STATEMENT: The undersigned, first being duly sworn, states that (s)he is a(n) (officer) (principal) (partner) (authorized representative) in the company above named and that facts contained in the foregoing application are true.

_____

(Signature)(Officer/Title, Partner)

SECTION 500 PAY DAY LOANS

408.500. Unsecured loans of five hundred dollars or less, licensure of lenders, interest rates and fees allowed - penalties for violations - cost of collection expenses - notice required, form. - 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of three hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, RSMo, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

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

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

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

NOTICE:

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

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

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

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

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

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

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

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

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

(L. 1990 H.B. 961, A.L. 1998 H.B. 1189, A.L. 2001 H.B. 738 merged with S.B. 186, A.L. 2002 S.B. 884, A.L. 2003 S.B. 346)

408.505. Term of loans, charges permitted, repayment, return check charge. - 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 pursuant to this section for the entire term of that loan and all renewals authorized by section 408.500 and this section.

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

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

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

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

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

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

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

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

(1) Entering into a different type of transaction;

(2) Entering into a sales lease back arrangement;

(3) Catalog sales;

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

10. The provisions of this section shall only apply to entities subject to the provisions of section 408.500 and this section.

(L. 2002 S.B. 884)

408.506. Report to the general assembly, contents. - The division of finance shall report to the general assembly beginning on January 1, 2003, and on the first day of January every other year thereafter, the number of licenses issued by the director pursuant to section 408.500, the number of loans issued by said lenders, the average face value of such loans, the average number of times said loans are renewed, the number of said loans that are defaulted on an annual basis, and the number and nature of complaints made to the director by customers on such licensees and the disposition of such complaints. Such report shall also include the average interest and fees charged and collected by lenders on such loans, and a comparison of such with similar small loan lenders from adjoining states.

(L. 2002 S.B. 884)

20 CSR 1140-11.030 Licensing and General Provisions

PURPOSE: Section 500 companies are required by section 408.500.1 to 408.506, RSMo, to obtain a license from the director of finance. This rule establishes guidelines concerning licenses, which locations will require a license and other general provisions.

(1) License. The license issued by the Division of Finance shall specify the location of the section 500 company and shall be prominently displayed therein. The license shall not be transferable or assignable except that the company named in any original license may obtain a change of address without charge, upon approval of the director.

(2) Display of Notice. The notice required by section 408.500.4, RSMo shall be prominently displayed in the section 500 company office. The notice shall be clearly readable from any place in the office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(3) Locations. The conduct of other business on the premises will not bar the issuance of a section 500 company license but the records of the company must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) section 500 company license be issued to the same address.

(4) Additional Locations. Any location at which a section 500 company permits the acceptance or execution of any forms or documents relating to section 500 company business shall be deemed to be a place of business of the company and shall require a separate license.

(5) Contract Copies. A section 500 company shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(6) Interest-Loan Origination Fee-When Earned. Section 408.500.5, RSMo provides that a loan repaid by the close of the section 500 company's next full business day shall be at no cost to the borrower. Section 500 loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee, if permitted by section 408.140.1(1), RSMo is earned at the time the loan is made, unless the borrower returns the full principal balance by the end of the section 500 company's next full business day. The fee is only available on loans with terms of thirty (30) days or longer.

(7) Post-Dated Check. A post-dated check shall not be considered security or collateral; provided, however, that no post-dated check may bear any date earlier than the due date of the loan. A section 500 company shall not accept undated checks, checks that have been altered in any manner, or checks that do not bear the signature of the borrower. Should any such check be accepted, or should any post-dated check be deposited prior to its stated date, the section 500 company shall be barred from recovery of any interest or fees on the loan. A section 500 company shall not accept more than one (1) post-dated check per loan or renewal. A check left with a section 500 company shall be returned to the maker immediately upon payment, or renewal, of the loan.

(8) Renewals. The General Assembly has clearly indicated its intention that no borrower is to be indebted to a section 500 company on any particular loan for any great period of time. This is evidenced by language that a) requires the borrower to begin reducing the principal amount of the loan by not less than five percent (5%) with the first renewal, b) limits the number of renewals to six (6), and c) provides for seventy-five percent (75%) of the original loan amount as the maximum amount of interest and fees that a lender may collect. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division of Finance will insist upon absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have taken place unless the loan was paid in full in cash. A section 500 company is required by section 408.500.7, RSMo to consider, at the inception of the loan, the borrower's ability to repay. This requires the section 500 company to consider the borrower's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in sections 408.500.9 and 408.500.10, RSMo, which may include fines and/or revocation or suspension of the license. If a loan is renewed without the required principal reduction, the section 500 company shall reduce the principal of the loan to an amount that is consistent with the requirements of section 408.500.6, RSMo.

(9) Collection by Automated Clearing House (ACH). Checks may be presented for collection using an automated clearing house; however, a section 500 company shall not use a series of ACH transactions to collect a single check. Fees for dishonored ACH transactions shall be limited to those for refused instruments.

(10) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

(11) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002.* This rule originally filed as 4 CSR 140-11.030. Original rule filed Jan. 16, 2003, effective Aug. 30, 2003. Moved to 20 CSR 1140-11.030, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995 and 408.500, RSMo 2002.

20 CSR 1140-11.040 Record Keeping

PURPOSE: Section 500 companies are subject to regulation and examination by the Division of Finance, pursuant to sections 408.500.1 to 408.506, RSMo, for the purpose of assuring compliance with all applicable laws. This rule establishes minimum record keeping requirements to facilitate examination and regulation.

(1) Books and Records. No special system of records is required by the director of finance. The records of a section 500 company will be considered sufficient if they include a cash journal, double-entry general ledger or a comparable record, and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income, and expenses may be readily ascertained.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including all items of receipt or expenditures incidental to the granting or collection of section 500 company loans. Entries in the cash journal shall be separate from all other business activities.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit-and-loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. An individual record shall be kept for each borrower which shall include at least the following items:

(A) Name of the borrower;
(B) Date the original loan was made;
(C) Original loan amount;
(D) Interest rate;
(E) Dates payments were received;
(F) Amount of each payment received;
(G) Amount of each payment applied to interest;
(H) Amount of each payment applied to principal;
(I) Amount applied to late charges, if any;
(J) Amount applied to returned check charges, if any;
(K) Principal balance; and
(L) Renewal number.

(5) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the section 500 company and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the section 500 company and the other financial institution(s).

(6) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(7) Records to be Maintained. A section 500 company shall preserve all records of company transactions, including cards used in a card system, if any, for at least two (2) years after making the final entry with respect to any section 500 company agreement. Preservation of records may be by microfilm, microfiche or electronic means.

(8) Contracts Paid in Full. When a section 500 note is paid in full, the original contract or a copy thereof shall be marked “paid” and returned to the borrower.

(9) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002.* This rule originally filed as 4 CSR 140-11.040. Original rule filed Jan. 16, 2003, effective Aug. 30, 2003. Moved to 20 CSR 1140-11.040, effective Aug. 28, 2006.

*Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995 and 408.500, RSMo 2002.