TITLE LOANS

Sec.

CROSS REFERENCES

Interest generally, Chap. 408, RSMo
Taxation of credit institutions, RSMo 148.120 to 148.230
Uniform interest rates, Const. Art. III § 44
Unsecured loans less than five hundred dollars, registration of lenders, when, RSMo 408.500

367.500. Definitions. - As used in sections 367.500 to 367.533, unless the context otherwise requires, the following terms mean:

(1) **"Borrower"**, a person who borrows money pursuant to a title loan agreement;

(2) **"Capital"**, the assets of a person less the liabilities of that person. Assets and liabilities shall be measured according to generally accepted accounting principles;

(3) **"Certificate of title"**, a state-issued certificate of title or certificate of ownership for personal property;

(4) **"Director"**, the director of the division of finance or its successor agency;

(5) **"Person"**, any resident of the state of Missouri or any business entity formed under Missouri law or duly qualified to do business in Missouri;

(6) **"Pledged property"**, personal property, ownership of which is evidenced and delineated by a title;

(7) **"Title lender"**, a person qualified to make title loans pursuant to sections 367.500 to 367.533 who maintains at least one title lending office within the state of Missouri, which office is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

(8) **"Title lending office"** or **"title loan office"**, a location at which, or premises in which, a title lender regularly conducts business;

(9) **"Title loan agreement"**, a written agreement between a borrower and a title lender in a form which complies with the requirements of sections 367.500 to 367.533. The title lender shall perfect its lien pursuant to sections 301.600 to 301.660, RSMo, but need not retain physical possession of the titled personal property at any time; and

(10) **"Titled personal property"**, any personal property excluding property qualified to be a personal dwelling the ownership of which is evidenced by a certificate of title.

(L. 1998 H.B. 1526 § 1, A.L. 2001 H.B. 738 merged with S.B. 186, A.L. 2008 S.B. 788)

367.503. Allows division of finance to regulate lending on titled property. 1. The director shall administer and regulate sections 367.500 to 367.533. The director, deputy director, other assistants and examiners, and all special agents and other employees shall keep all information concerning title lenders confidential as required by sections 361.070 and 361.080, RSMo.

2. No employee of the division of finance shall have any ownership or interest in any title loan business or receive directly or indirectly any payment or gratuity from any such entity.

3. The director shall issue as many title loan licenses as may be applied for by qualified applicants.

4. No rule or portion of a rule promulgated pursuant to the authority of sections 367.500 to 367.533 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

(L. 1998 H.B. 1526 § 2, A.L. 2001 H.B. 738 merged with S.B. 186)

367.506. Licensure of title lenders, penalty. - 1. Any person who acts as a title lender without a title loan license is subject to both civil and criminal penalties.

2. All title loan agreements entered into by a person who acts in violation of the licensing requirements of sections 367.500 to 367.533, and all title pledges accepted by such person, shall be null and void. Any borrower who enters into a title loan agreement with a person who acts in violation of the provisions of sections 367.500 to 367.533 shall not be bound by such agreement, and such borrower's only liability shall be for the return of the principal.

3. The attorney general may initiate a civil action against any person who acts as a title lender without a title loan license. Such action shall be commenced in the circuit court for any county in which the person executed any title loan agreement and any county in which any of the pledged titled personal property is normally kept. The civil penalty for title lending without a title loan license shall be not less than one thousand dollars and not more than five thousand dollars for each day that a person acts in violation of the licensing requirement. If the violation of the licensing requirement is intentional or knowing, the person shall be barred from applying for a title loan license for a period of five years from the date of the last violation.

4. A first offense violation of the licensing requirement pursuant to this section shall be a class C misdemeanor. Second and subsequent offenses shall be class A misdemeanors. For purposes of jurisdiction and venue, the crime of unlawful title lending shall be deemed to have occurred in both the county in which an unlawful title loan agreement was executed and the county in which the pledged property is normally kept.

(L. 1998 H.B. 1526 § 3, A.L. 2001 H.B. 738 merged with S.B. 186)

367.509. Qualifications of applicants, fee, license issued, when. - 1. A title loan license applicant must have and maintain capital of at least seventy-five thousand dollars at all times.

2. The license application shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant, date of formation if a business entity, the address of each title loan office operated or sought to be operated, the name and residential address of the owner, partners, directors, trustees and principal officers, and such other pertinent information as the director may require. A corporate surety bond in the principal sum of twenty thousand dollars per location shall accompany each license application. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state in order to ensure the faithful performance of the obligations of the applicant and the applicant's agents and subagents in connection with title loan activities. An applicant or licensee may, in lieu of filing any bond required pursuant to this section, provide the director with an irrevocable letter of credit as defined in section 400.5-103, RSMo, in the amount of twenty thousand dollars per location, issued by any bank, trust company, savings and loan or credit union operating in Missouri in a form acceptable to the director.

3. Every person applying for a title loan license shall pay one thousand dollars as an investigation fee. Applicants for additional title lending licenses shall pay one thousand dollars per additional location as an investigation fee. The lender shall, beginning with the first license renewal, pay annually to the director a fee of one thousand dollars for each licensed location.

4. Each license shall specify the location of the title loan office and shall be conspicuously displayed therein. Before any title lending office may relocate, the director shall approve such relocation by mailing the licensee a new license to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, by a person eligible to apply for a title loan license, the director shall issue a license to engage in the title loan business in accordance with sections 367.500 to 367.533. The licensing year shall commence on January first and end the following December thirty-first. 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. Each license shall be uniquely numbered and shall not be transferable or assignable.

(L. 1998 H.B. 1526 § 4, A.L. 2001 H.B. 738 merged with S.B. 186, A.L. 2003 S.B. 346)

367.512. Title loan requirements - liability of borrower. - 1. Every title loan, and each extension or renewal of such title loan, shall be in writing, signed by the borrower and shall provide that:

(1) The title lender agrees to make a loan to the borrower, and the borrower agrees to give the title lender a security interest in unencumbered titled personal property;

(2) Whether the borrower consents to the title lender keeping possession of the certificate of title;

(3) The borrower shall have the right to redeem the certificate of title by repaying the loan in full and by complying with the title loan agreement which may be for any agreed period of time not less than thirty days;

(4) The title lender shall renew the title loan agreement upon the borrower's written request and the payment by the borrower of any interest due at the time of such renewal. However, upon the third renewal of any title loan agreement, and any subsequent renewal, the borrower shall reduce the principal by ten percent until such loan is paid in full;

(5) When the loan is satisfied, the title lender shall release its lien and return the title to the borrower;

(6) If the borrower defaults, the title lender shall be allowed to take possession of the titled personal property after compliance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo;

(7) Upon obtaining possession of the titled personal property in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, the title lender shall be authorized to sell the titled personal property in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, and to convey to the buyer thereof good title thereto.

2. Any borrower who obtains a title loan under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property shall be personally liable to the title lender for the full amount stated in the title loan agreement.

(L. 1998 H.B. 1526 § 5, A.L. 2001 H.B. 738 merged with S.B. 186)

367.515. Interest and fees. - A title lender shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140, RSMo.

(L. 1998 H.B. 1526 § 6, A.L. 2001 H.B. 738 merged with S.B. 186)

367.518. Title loan agreements, contents, form. - 1. Each title loan agreement shall disclose the following:

(1) All disclosures required by the federal Truth in Lending Act and regulation Z;

(2) That the transaction is a loan secured by the pledge of titled personal property and, in at least ten-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;

(3) The name, business address, telephone number and certificate number of the title lender, and the name and residential address of the borrower;

(4) The monthly interest rate to be charged;

(5) A statement which shall be in at least ten-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day;

(6) The location where the titled personal property may be delivered if the loan is not paid and the hours such location is open for receiving such deliveries; and

(7) Any additional disclosures deemed necessary by the director or required pursuant to sections 400.9-101 to 400.9-710, RSMo.

2. The division of finance is directed to draft a form to be used in title loan transactions. Use of this form is not mandatory; however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

(L. 1998 H.B. 1526 § 7, A.L. 2001 H.B. 738 merged with S.B. 186, A.L. 2002 S.B. 895)

367.521. Redemption of certificate of title - expiration or default, lender may proceed against collateral. - The borrower shall be entitled to redeem the security by timely satisfaction of the terms of the title loan agreement. Upon expiration or default of a title loan agreement, the title lender may proceed against the collateral pursuant to chapter 400, RSMo, and with sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo.

(L. 1998 H.B. 1526 § 8, A.L. 2001 H.B. 738 merged with S.B. 186)

367.524. Records of loan agreements. - 1. Every title lender shall keep a consecutively numbered record of each title loan agreement executed, which number shall be placed on the corresponding title loan agreement itself. Such record shall include the following:

(1) A clear and accurate description of the titled personal property, including its vehicle identification or serial number, license plate number, year, make, model, type, and color;

(2) The date of the title loan agreement;

(3) The amount of the loan;

(4) The date of maturity of the loan; and

(5) The name, date of birth, Social Security number, residential address, and the type of photo identification of the borrower.

2. The title lender shall photocopy the photo identification of the borrower or shall take an instant photograph of the borrower, and shall attach such photocopy or photograph to the lender's copy of the title loan agreement and all renewals.

3. The borrower shall sign the title loan agreement and shall be provided with a copy of such agreement. The title lender, or the lender's employee or agent shall also sign the title loan agreement. The title lender shall provide each customer with and retain a photocopy of the pledged title at the time the note is signed.

4. The title lender shall keep the numbered records and copies of its title loan agreements, including a copy of the notice required pursuant to subsection 1 of section 367.525, for a period of no less than two years from the date of the closing of the last transaction reflected therein. A title lender who ceases engaging in the business of making title loans shall keep these records for at least two years from the date the lender ceased engaging in the business. A title lender must notify the director to request an examination at least ten days before ceasing business.

5. The records required by this section shall be made available for inspection by any employee of the division of finance upon request during ordinary business hours without warrant or court order.

(L. 1998 H.B. 1526 § 9, A.L. 2001 H.B. 738 merged with S.B. 186)

367.525. Notice to borrower prior to acceptance of title loan application. - 1. Before accepting a title loan application, the lender shall provide the borrower the following notice in at least ten-point bold type and receipt thereof shall be acknowledged by signature of the borrower:

(Name of Lender)
NOTICE TO BORROWER
(1.) Your automobile title will be pledged as security for the loan. If the loan is not repaid in full, including all finance charges, you may lose your automobile.
(2.) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.
I have read the above "NOTICE TO BORROWER" and I understand that if I do not repay this loan that I may lose my automobile.
_____ Borrower _____ Date

2. If the loan is secured by titled personal property other than an automobile, the lender shall either provide a form with the proper word describing the security or else shall strike the word "automobile" from the three places it appears, write or print in the type of titled personal property serving as security and have the customer initial all three places.

3. The title lender shall post in a conspicuous location in each licensed office, in at least fourteen-point bold type the maximum rates that such title lender is currently charging on any loans made and the statement:

NOTICE:
Borrowing from this lender places your automobile at risk. If this loan is not repaid in full, including all finance charges, you may lose your automobile.
This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

4. When making or negotiating loans, the title lender shall take into consideration in determining the size and duration of a loan contract the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract.

(L. 2001 H.B. 738 merged with S.B. 186)

367.527. Limitations of title lenders. - 1. A title lender shall not:

(1) Accept a pledge from a person under eighteen years of age or from anyone who appears to be intoxicated;

(2) Make a loan which exceeds five thousand dollars;

(3) Accept any waiver of any right or protection of a borrower;

(4) Fail to exercise reasonable care to protect from loss or damage certificates of title or titled personal property in the physical possession of the title lender;

(5) Purchase titled personal property in the operation of its business;

(6) Enter into a title loan agreement unless the borrower presents clear title at the time that the loan is made;

(7) Knowingly violate any provision of sections 367.500 to 367.533 or any rule promulgated thereunder;

(8) Violate any provision of sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo; or

(9) Store repossessed titled personal property at a location more than fifteen miles from the office where the title loan agreement was executed.

2. If a title lender enters into a transaction contrary to this section, the loan and the lien shall be void.

(L. 1998 H.B. 1526 § 10, A.L. 2001 H.B. 738 merged with S.B. 186)

367.530. Safekeeping of certificates of title - liability insurance maintained, when - liability of title lender. - 1. Every title lender shall maintain a fireproof place for the pledged certificates of title and a safe place for pledged property delivered to or repossessed by the title lender.

2. Every title lender shall maintain premises liability insurance in an amount of not less than one million dollars per occurrence for the benefit of customers and employees, which insurance shall provide coverage for, among other risks, injuries caused by the criminal acts of third parties.

3. A title lender shall not be liable for any loss or injury occasioned or caused by the use of pledged property unless the pledged property is actually in the title lender's possession.

4. A title lender shall be strictly liable to the borrower for any loss to pledged property in the title lender's possession.

(L. 1998 H.B. 1526 § 11, A.L. 2001 H.B. 738 merged with S.B. 186)

367.531. Applicability to certain transactions. - The provisions of sections 408.552 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, are applicable to all transactions pursuant to sections 367.500 to 367.533.

(L. 2001 H.B. 738 merged with S.B. 186)

367.532. Violations, penalties. - 1. Any title lender which fails, refuses or neglects to comply with sections 367.500 to 367.533, sections 408.551 to 408.557, RSMo, sections 408.560 to 408.562, RSMo, or any laws relating to title loans or commits any criminal act may have its license suspended or revoked by order of the director after a hearing before said 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 title lender at least ten days prior to the hearing.

2. Whenever it shall appear to the director that any title lender is failing, refusing or neglecting to make a good faith effort to comply with the provisions of sections 367.500 to 367.533, 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. 2001 H.B. 738 merged with S.B. 186)

367.533. Pawn or pawnbroker title prohibited. - No business licensed pursuant to sections 367.500 to 367.530 shall use the terms "pawn" or "pawnbroker" in its title, business name or advertising.

(L. 1998 H.B. 1526 § 12)

301.215. Certificate of title on repossession under mortgage, issuance – contents – application – notice - rulemaking authority. - 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering a motor vehicle or trailer, who has a notice of lien on file with the director of revenue, repossesses the motor vehicle or trailer either by legal process or in accordance with the terms of a contract authorizing the repossession of the vehicle without legal process, the holder may obtain a certificate of ownership from the director of revenue upon presentation of:

(1) An application form furnished by the director of revenue that shall contain a full description of the motor vehicle or trailer and the manufacturer's or other identifying number;

(2) A notice of lien receipt or the original certificate of ownership reflecting the holder's lien; and

(3) An affidavit of the holder, certified under penalties of perjury for making a false statement to a public official, that the debtor defaulted in payment of the debt, and that the holder repossessed the motor vehicle or trailer either by legal process or in accordance with the terms of the contract, and the specific address

where the vehicle or trailer is held. Such affidavit shall also state that the lienholder has the written consent from all owners or lienholders of record to repossess the vehicle or has provided all the owners or lienholders with written notice of the repossession.

2. On a motor vehicle or trailer, the lienholder shall first give:

(1) Ten days' written notice by first class United States mail postage prepaid to each of the owners and other lienholders, if any, of the motor vehicle or trailer at each of their last mailing addresses as shown by the last prior certificate of ownership, if any issued, or the most recent address on the lienholder's records, that an application for a repossessed title will be made; or

(2) The lienholder may, ten days prior to applying for a repossession title, include the information in the above notice in the appropriate uniform commercial code notice under sections 400.9-613 or 400.9-614. Such alternative notice to all owners and lienholders shall be valid and enforceable under both the uniform commercial code and this section, provided it otherwise complies with the provisions of the uniform commercial code.

3. Upon the holder's presentation of the papers required by subsection 1 of this section and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of ownership which shall be in its usual form except it shall be clearly captioned "Repossessed Title". Each repossessed title so issued shall, for all purposes, be treated as an original certificate of ownership and shall supersede the outstanding certificate of ownership, if any, and duplicates thereof, if any, on the motor vehicle or trailer, all of which shall become null and void.

4. In any case where there is no certificate of ownership or duplicate thereof outstanding in the name of the debtor on the repossessed motor vehicle or trailer, the director of revenue shall issue a repossessed title to the holder and shall proceed to collect all unpaid fees, taxes, charges and penalties from the debtor as provided in section 301.190.

5. The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

(L. 1955 p. 618, A.L. 1965 pp. 114, 470, A.L. 1984 H.B. 1045, A.L. 1989 H.B. 211, A.L. 2005 H.B. 487, A.L. 2006 S.B. 892)

(1974) Repossession proceedings under this section held not to involve sufficient state action to authorize cause of action under federal civil rights act. Nichols v. Tower Grove Bank (CA Mo.), 497 F.2d 404.

(1976) Issuance of a repossessed title by director of revenue pursuant to section 301.215, RSMo, to secured creditor who had repossessed automobile by self help under power granted in security agreement did not constitute significant participation by state such as to come within legal definition of “state action”, thus due process was not involved and statute was not unconstitutional. Smith v. Spradling (Mo.), 532 S.W.2d 202.

408.100. Applicability of section - rate of interest. - This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties.

(L. 1951 p. 875 § 408.031, A.L. 1959 H.B. 320, A.L. 1979 S.B. 305, A.L. 1985 H.B. 358 & 440, A.L. 1998 S.B. 792)

408.140. Additional charges or fees prohibited, exceptions - no finance charges if purchases are paid for within certain time limit, exception. - 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200 and except:

(1) On loans for thirty days or longer which are other than “open-end credit” as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed ten percent of the principal amount loaned not to exceed one hundred dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any

public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty dollars. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) Reasonable towing costs and expenses of retaking, holding, preparing for sale, and selling any personal property in accordance with the uniform commercial code - secured transactions, sections 400.9-101 to 400.9-809;

(7) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than twenty-five dollars;

(8) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

(9) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;

(10) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of up to the lesser of seventy-five dollars or ten percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as specified under section 408.120;

(11) A deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met;

(12) A convenience fee for payments using an alternative payment channel that accepts a debit or credit card not present transaction, nonface-to-face payment, provided that:

(a) The person making the payment is notified of the convenience fee; and

(b) The fee is fixed or flat, except that the fee may vary based upon method of payment used.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

(L. 1951 p. 875 § 408.032 (c), A.L. 1979 S.B. 305, A.L. 1980 H.B. 1195, A.L. 1981 S.B. 5 Revision, S.B. 326, A.L. 1984 S.B. 686, A.L. 1986 H.B. 1207, A.L. 1989 H.B. 386 merged with H.B. 615 & 563 merged with S.B. 192, A.L. 1990 H.B. 1630 merged with S.B. 768, A.L. 1992 S.B. 705 merged with S.B. 688, A.L. 1994 H.B. 1312, A.L. 1996 S.B. 683, A.L. 1998 S.B.

792, A.L. 2001 H.B. 738 merged with S.B. 186, A.L. 2002 S.B. 895, A.L. 2003 S.B. 346, A.L. 2004 H.B. 959 merged with S.B. 1233, et al., A.L. 2011 S.B. 83, A.L. 2013 H.B. 329 merged with S.B. 254, A.L. 2015 S.B. 345, A.L. 2017 H.B. 292)

20 CSR 1140-29.010 Licensing, Record Keeping and General Provisions

PURPOSE: Title loan companies (title lenders) are subject to examination by the Division of Finance for the purpose of determining that these companies are complying with the provisions of sections 367.500 to 367.533, RSMo, and the laws relating to title lending. This rule establishes minimum record keeping requirements to facilitate examination and regulation and other general provisions.

(1) Display of Notice. The notice required by section 367.525.3, RSMo shall be prominently displayed at a place in the title lending office. The notice shall be clearly readable from any place in the title lending office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(2) Locations. The conduct of other business on the premises will not bar the issuance of a title loan license, but the records of the title lender 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) title loan license be issued to the same address.

(3) Contract Copies. A title lender shall provide the borrower with a copy of the signed title loan agreement at the time the loan is made and at each renewal. The title lender shall also retain a copy for the borrower's file.

(4) Interest-Loan Origination Fee-When Earned. Section 367.518.1(5), RSMo provides that a loan repaid by the close of the title lender's next full business day shall be at no cost to the borrower. Title 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 permitted by 408.140.1(1), RSMo is earned in full at the close of the lender's next full business day.

(5) Fees. A title lender shall not charge, contract for or receive, either directly or indirectly, fees not expressly permitted by section 408.140.1, RSMo.

(6) Jointly Owned Titled Personal Property. Whenever a certificate of title evidences more than one (1) owner of the titled personal property being used to secure a title loan agreement or renewal, the title lender shall obtain signatures authorizing the pledge of the titled personal property from each owner, whether or not obligated on the title loan agreement or renewal.

(7) Renewals.

(A) The General Assembly has clearly indicated that no borrower is to be indebted to a title lender for any great period of time. This is evidenced by use of language that prohibits the debt being renewed by payment of interest no more than two (2) times after which the minimum payment must be the interest due plus at least ten percent (10%) of the original principal. This would, of course, accomplish a payoff at a specific time. 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. A new loan, rather than a renewal, will be recognized where the customer's debt ceases to exist for at least the interval from the end of the business day the loan was paid in full to the beginning of the next business day.

(B) A title lender is required by section 367.525.4, RSMo to consider at the inception of the loan the borrower's ability to repay. This requires the title lender 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 section 367.532, RSMo which may include fines and/or revocation or suspension of the license.

(C) If a loan is renewed for a third or subsequent time without the required principal reduction, the title lender shall reduce the principal of the loan to an amount that is consistent with the requirements of section 367.512.1(4), RSMo.

(D) It is recognized that on rare occasions a borrower may be unable to pay the entire amount necessary to renew a loan. In this event, a title lender may 1) demand payment in full, 2) do nothing, 3) waive a portion of the interest due in order for the loan to be renewed, or 4) on a very limited basis, accept the payment of accrued interest without renewing the loan. The acceptance of accrued interest-only payments by a title lender is forbidden, by section 367.512.1(4), RSMo to become a pattern or practice.

(8) Books and Records. No special system of records is required by the commissioner of finance. The records of a title lender 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.

(9) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including title transfer fees, filing fees and all other items or receipts or expenditures incidental to the granting or collection of a loan and replevin, repossession or sale of collateral.

(10) 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.

(11) Account Ledger. An individual record shall be kept for each borrower. The ledger card or sheet shall include at least the following items:

(A) Account number;

(B) Name and address of the borrower;

(C) Description of the titled personal property;

(D) Date the original loan was made;

(E) The original loan amount;

(F) The amount of any fees assessed;

(G) The interest rate;

(H) Number of payments;

(I) Amount of payments;

(J) Date payments received;

(K) Amount of each payment received;

(L) Amount of each payment applied to interest;

(M) Amount of each payment, if any, applied to late charges;

(N) Amount of each payment, if any, applied to returned check charges;

(O) Amount of each payment, if any, applied to principal; and

(P) The principal balance.

(12) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the title lender 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 title lender and the other financial institution(s).

(13) 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 though the improper entry and the correct entry made on the following line. No erasures whatsoever shall be made in any record.

(14) Contracts Paid in Full. When a title loan is paid in full, the original note or a copy thereof, shall be marked “paid” and returned to the borrower. Any security interest that no longer secures a loan shall be restored, canceled or released.

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

AUTHORITY: section 367.503.4, RSMo Supp. 2001.* This rule originally filed as 4 CSR 140-29.010. Original rule filed Feb. 15, 2002, effective Aug. 30, 2002. Moved to 20 CSR 1140-29.010, effective Aug. 28, 2006.

*Original authority: 367.503.4, RSMo 1998, amended 2001.