

**MISSOURI BANKERS ASSOCIATION  
STATE LENDING COMPLIANCE WORKSHOP MANUAL  
2024 UPDATE - OCTOBER, 2024**

Enclosed are pages which contain updated information to replace existing pages in your MBA State Lending Compliance Workshop Manual. The new pages have the date 10-24 in the lower right-hand corner, which does not necessarily indicate the effective date. Also enclosed is a sheet which lists all the pages and the date that should be in the lower right-hand corner of each page **after inserting this update**. If you have any questions about the changes, please call Carol Barnett at the MBA at (573) 636-8151.

<b>Remove Page No.:</b>	<b>Replace with Page No.:</b>	<b>Why:</b>
2-8	2-8	Rewritten to reflect changes to Section 408.035 regarding exempt non-residential real estate loans
2-16	2-16	Rewritten to add the credit report fee language with the amendment to Section 408.140
2-27	2-27	Rewritten to reflect changes to Section 408.035 regarding exempt non-residential real estate loans



**MBA STATE LENDING COMPLIANCE WORKSHOP MANUAL**

PAGE DATE LIST AS OF OCTOBER, 2024

The Missouri Bankers Association State Lending Compliance Workshop manual was originally published in October, 1990, and was completely republished in October, 1997. At various times pages are replaced through updates. The updated pages are documented by date on the bottom right corner. The following table lists the page numbers and their date of publication. If no date is beside the page number, the page has not been updated and still shows the date of 10-97.

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## Loan Types (cont.)

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### *Exempt Loans*

The primary Missouri statute that exempts loans from usury laws is §408.035. This section provides that the parties (borrower and lender) may agree in writing to any rate of interest, fees, and other terms and conditions in connection with any:

- Loan to a corporation, general partnership, limited partnership or limited liability company. The purpose of the loan does not matter (e.g., the corporation may be buying a \$1,500 refrigerator). The collateral does not matter (e.g., the home of the corporation's president may be securing the loan).
- Extension of credit primarily for agricultural, business, or commercial purposes.
- Real estate loans, if they are not residential real estate loans.
- Loans of \$5,000 or more secured solely by certificates of stock, bonds, bills of exchange, certificates of deposit, warehouse receipts, or bills of lading.

Another type of loan that is exempt from usury laws is found in §408.090. Demand loans for the purpose of purchasing securities which are secured solely by securities are exempt. The securities must be traded on an exchange or over the counter. The stock securing the loan does not have to be the particular stock that is being purchased with the loan proceeds. The parties to this type of loan may agree to any sum as compensation.

§408.036 exempts business and corporate loans from the restrictions contained in that section on prepayment penalties. Therefore, banks may by contract with their corporate and business borrowers agree to any prepayment penalty.

In addition, loans covered by §408.035 are *not* subject to the requirement of §408.080 which limits the frequency of interest compounding to once a month.

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## Loan Types (cont.)

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### *Consumer Loan Act (cont.)*

### Points, Fees & Charges (cont.):

- a convenience fee for payments using an alternative payment channel that accepts a debit or credit card not present transaction, non-face-to-face payment, provided that:
  - the person making the payment is notified of the convenience fee; and
  - the fee is fixed or flat, except that the fee may vary based upon method of payment used
  
- a charge equal to the cost of the credit report

For open-end credit contracts, an annual fee not to exceed \$50 may be charged. See §408.140.3.

### Repayment Schedule:

Add-on loans must provide for repayment in consecutive, monthly, substantially equal installments. The first installment may be payable at any time within 45 days from the date of the loan. Simple interest loans may provide for any repayment schedule as contracted for by the parties.

### Multiple Loans:

The Consumer Loan Act prevents lenders from “splitting” loans to earn more interest on the multiple notes or contracts than would have been permissible on a single note or contract.

<u>Benefits</u>	<u>Drawbacks</u>
<ul style="list-style-type: none"><li>• Unlimited rates</li><li>• No restrictions on loan amount</li></ul>	<ul style="list-style-type: none"><li>• Subject to borrower’s right to cure provisions</li><li>• Limitations on collateral</li></ul>

Note: Credit card contracts are also covered by the Consumer Loan Act and are discussed in Section 5 of this manual.

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**The Loan Advisor System: Table 1**

Directions: To determine if a loan is exempt from Missouri usury statutes\*:

1. Identify the Loan Purpose, Amount, Collateral, and Borrower.
2. Attempt to match Loan Purpose, Amount, Collateral, and Borrower with each row in Table 1.
3. If a match is found, the loan is exempt from usury restrictions. If a match is not found, use Tables 2 - 4.

\*Lenders should review §408.036 RSMo regarding prepayment penalties, §408.080 RSMo regarding compounding of interest, and §408.083 RSMo regarding the Rule of 78's to determine applicability to these loans.

A loan is exempt from usury statutes if . . .

<b>Statute</b>	<b>Loan Purpose</b>	<b>Amount</b>	<b>Collateral</b>	<b>Borrower</b>
408.035(1)	Any	Any	Any	Corporation, general partnership, limited partnership, or limited liability company
408.035(2)	Primarily for agricultural, business, or commercial purposes	Any	Any	Any
408.035(3)	Any	Any	Nonresidential real estate	Any
408.035(4)	Any	≥ \$5,000	Secured solely by certificates of stock, bonds, bills of exchange, certificates of deposit, warehouse receipts, or bills of lading	Any
408.090	To purchase securities (loan must be payable on demand)	Any	Secured solely by securities	Any