

March 10, 2020

Mr. Curt Wenson  
City Administrator  
101 E. Kansas Street  
Liberty, MO 64069

**Re: Ordinance 11182**

Dear Mr. Wenson,

We write on behalf of the American Financial Services Association<sup>1</sup> and Missouri Installment Lenders Association<sup>2</sup> to express our serious concerns about a recent Liberty ordinance being interpreted in violation of state law.

The American Financial Services Association (AFSA) is over 100 years old. AFSA's 350+ members are creditors who provide consumers with many kinds of credit, including traditional installment loans, direct and indirect vehicle financing, mortgages, and payment cards. AFSA members are both non-banks and banks, ranging in size from one-state operations to operations in every state. They serve the entire credit spectrum, from non-prime to super-prime consumers. AFSA does not represent the payday lending or title lending industry. The Missouri Installment Lenders Association (MILA) was founded with the goal and mission to provide financial services to the people of Missouri under the statutes passed by the Missouri legislature and the regulatory framework enforced by the Division of Finance. Like AFSA, MILA does not represent payday or title lenders.

Nonetheless, some of our members—who are not “short term” lenders—are being deemed short term lenders by Liberty, solely because they offer loans with APR exceeding 45%.<sup>3</sup> These members are being classified as short term lenders even though they are not offering short term loans and don't meet the other qualifications in Liberty's definition of short-term loan establishment—which is clearly designed to regulate the payday and title loan industries. These members are being asked to pay a \$5,000 annual permit fee and comply with other onerous requirements, such as certain location limitations and significant new posting requirements.

Our members are traditional installment lenders. Under Missouri law, traditional installment loans are “fixed rate, fully amortized closed-end extensions of direct consumer loans”<sup>4</sup> and are regulated by the Missouri Division of Finance. By definition, these loans can not have a full repayment term under 91 days, have a repayment term under 181 days and be secured by a vehicle, require a borrower at origination to preauthorize automatic bank withdrawals, or be connected to the borrower's next payday.<sup>5</sup>

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<sup>1</sup> Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice.

<sup>2</sup> The Missouri Installment Lenders Association was organized in 1985 by lenders who recognized the need for a united voice, a united vision and the ability to serve consumers in Missouri.

<sup>3</sup> APR by itself is a function of time, not cost, since the same cost can have wildly different APRs, based on time. For example, let's say you lend me \$100 today, and I pay you back \$101. If pay you back \$101 in one year, that's 1% APR; if I pay you back \$101 in one month, that's 12% APR; if I pay you back \$101 tomorrow, that's 365% APR; and if I pay you back \$101 in an hour, that's 8700% APR. In each case, I've paid you back \$1.

<sup>4</sup> MO Rev Stat § 408.512.3.

<sup>5</sup> MO Rev Stat § 408.512.3(3).

**The EXACT same section of Missouri code<sup>6</sup> outlines what local governments like Liberty cannot do:**

**No** charter provision, ordinance, rule, order, permit, policy, guideline, or other governmental action of any political subdivision of the state, local government, **city**, county, or any agency, authority, board, commission, department, or officer thereof **shall**:

- (1) **Prevent, restrict, or discourage traditional installment loan lenders** from lending under sections 408.100, 408.140, and 408.170;
- (2) **Prevent, restrict, or discourage** traditional installment loan lenders from operating in any location where any lender who makes loans payable in equal installments over more than ninety days is permitted; or
- (3) **Create disincentives for any traditional installment loan lender from engaging in lending** under sections 408.100, 408.140, and 408.170.

The provisions of this subsection shall not apply where a charter provision or valid ordinance as of August 28, 2014, expressly applies to traditional installment loan lenders.

Liberty's ordinance, or the interpretation thereof applying its requirements to traditional installment lenders, is precisely what the state legislature sought to prevent in the code cited above. By including traditional installment lenders in the definition of short-term loan establishment, whether directly in the definition or only through its application, Ordinance 11182 is in clear conflict with state law.

We urge you to promptly amend your ordinance, or to interpret it in a manner that is consistent with Missouri law, by not requiring traditional installment lenders to pay a \$5,000 annual permit fee and meet specific location and signage requirements.

Thank you for your time and attention to this matter. If you have any questions or if AFSA or MILA can be of any further assistance to you, please do not hesitate to contact us.

Sincerely,



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Tom Hudgins  
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CC:  
The Honorable Lyndell Brenton, Mayor  
Liberty City Council Members

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<sup>6</sup> MO Rev Stat § 408.512.3(2). (emphasis added).