

December 17, 1971

OPINION LETTER NO. 457
Answer by letter-C.A. Blackmar

Mr. H. Duane Pemberton
Commissioner of Finance
Division of Finance
P. O. Box 716
Jefferson City, Missouri 65101



Dear Mr. Pemberton:

This is in response to your request for an opinion on the following question:

"What is the maximum rate of interest that can be charged on insurance premium financing?"

We understand that your opinion request concerns only loans to individuals (not corporations) and does not concern creditor insurance required by lenders making other types of loans.

We assume also that you are not inquiring as to "pawnbroker loans" made under the provisions of Sections 367.011 to 367.060, RSMo 1969.

After a review of the laws concerned with retail credit charges, Sections 408.250 through 408.370, RSMo 1969, we are of the opinion that those sections have no application to your opinion request. We find no other law of this state which specifically deals with the rate of interest on loans to finance insurance premiums.

Therefore, the answer to your question is found in the general laws of this state dealing with interest. Those laws are Sections 408.020, 408.030, and 408.100 through 408.220, RSMo 1969.

Section 408.020 provides:

"Creditors shall be allowed to receive interest at the rate of six percent per annum, when no

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other rate is agreed upon, for all moneys after they become due and payable, on written contracts, and on accounts after they become due and demand of payment is made; for money recovered for the use of another, and retained without the owner's knowledge of the receipt, and for all other money due or to become due for the forbearance of payment whereof an express promise to pay interest has been made."

Thus, in those situations when interest is permitted to be charged by that section and there is no agreement as to the rate of interest, the rate is six percent. However, in Section 408.030 it is stated:

"The parties may agree, in writing, for the payment of interest, not exceeding eight percent per annum, on money due or to become due upon any contract."

If the parties agree, that section would be applicable to insurance premium financing.

If a loan is made to finance insurance premiums in accordance with the provisions of Sections 408.100 through 408.220, the maximum rate on the first five hundred dollars at the agreement of the parties is set forth in Section 408.100(1) and (2). There it is provided:

"(1) Which will yield fifteen dollars for one hundred dollars of principal which is to be repaid in twelve equal and consecutive monthly installments of principal and interest combined; and

"(2) Which shall not exceed 2.218% per month on the unpaid principal balance."

If a loan is made in accordance with the provisions of Sections 408.100 through 408.220 and exceeds five hundred dollars, the rate of interest that may be charged is set forth in Section 408.200, RSMo 1969. That section provides:

"No lender shall permit any borrower to be indebted to such lender on two or more contracts at any time for the purpose or with the result of contracting for or receiving the interest permitted by section 408.100 on more than five hundred dollars of principal (excluding interest). It shall be lawful for a lender to lend

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at the same or different times to the same borrower five hundred dollars or less under and at the rates permitted by section 408.100 and additional amounts at not more than eight percent per annum even though such additional amounts brings the aggregate amount outstanding to an amount in excess of five hundred dollars and whether such loan or loans be evidenced by one or more than one note or loan contract. When such aggregate principal amount outstanding exceeds five hundred dollars and is evidenced by one note or loan contract, it shall be treated as one loan and interest may be computed at the rates permitted under section 408.100 on that part of the unpaid principal balance of the total indebtedness not exceeding five hundred dollars and at no more than eight percent per annum on any remainder of such unpaid principal balance and the provisions of sections 408.120, 408.130 and 408.160 to 408.180 shall apply to the full amount of the note or loan contract."

It is the opinion of this office that the maximum rate of interest on loans to individuals for insurance premium financing is regulated by Sections 408.020, 408.030 and 408.100 through 408.220, RSMo 1969.

Yours very truly,

JOHN C. DANFORTH
Attorney General