

insights

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New credit agreement language goes into effect in Missouri on August 28

Lenders dealing with Missouri borrowers should be aware of a small, but very important, change in Missouri law regarding credit agreements that becomes effective on August 28, 2013.

Missouri law has long protected lenders from claims by borrowers arising out of alleged oral agreements or commitments to loan money, extend credit, or forbear from enforcing repayment of obligations so long as a statutory disclaimer is included in the written credit agreement. This statutory disclaimer is outlined in RSMo § 432.047. A recent Court of Appeals decision, however, permitted a borrower to circumvent the statutory restriction by examining internal bank documents never shared with the borrower. We [previously wrote about that decision](#), *Bailey v. Hawthorn Bank*.

In the most recent legislative session, the Missouri General Assembly passed an amendment to Section 432.047 to mitigate the effects of the Bailey decision. The new law simply inserts the words “or unexecuted” into the statutory disclaimer. Effective August 28, 2013, lenders should include in all Missouri credit agreements the following language:

“Oral or unexecuted agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable, regardless of the legal theory upon which it is based that is in any way related to the credit agreement. To protect you (borrower(s)) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.”

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