

---

## DIVISION OF BANKING

1601 N. Harrison Avenue, Suite 1, Pierre, SD 57501  
605-773-3421

## MEMORANDUM

---

NUMBER: 20-016

DATE: November 10, 2016

TO: SOUTH DAKOTA MONEY LENDERS

FROM: BRET AFDAHL, Director

RE: INITIATED MEASURE 21

Below is a summary of Initiated Measure 21 (IM 21) which was approved by voters on November 8, 2016. It is our understanding the amendments to existing laws and new laws established in IM 21 will become effective on November 16, 2016, after the South Dakota Secretary of State's Office completes its official canvas of the votes on November 15, 2016. I would encourage you to immediately review IM 21 in detail at the following link: <https://sdsos.gov/elections-voting/upcoming-elections/general-information/2016-ballot-questions.aspx>.

The initiated measure prohibits all State-licensed money lenders licensed under South Dakota Codified Laws chapter 54-4 from making a loan that imposes total interest, fees, and charges (including all charges for any ancillary product or service and any other charge or fee incident to the extension of credit) at an annual percentage rate greater than 36%. The initiated measure also prohibits these money lenders from evading this rate limitation by indirect means. A violation of this measure is a misdemeanor crime. In addition, a loan made in violation of this measure is void, and any principal, fee, interest, or charge is uncollectable.

The initiated measure's prohibitions apply to all money lenders licensed under South Dakota Codified Laws chapter 54-4. The initiated measure does not apply to state and national banks, bank holding companies, other federally insured financial institutions, and state chartered trust companies. The initiated measure also does not apply to businesses that provide financing for goods and services they sell.

The provisions of IM 21 apply to all loans originated, refinanced, rolled over, renewed, or flipped after November 15, 2016.

All current South Dakota money lenders licensed under South Dakota Codified Laws chapter 54-4 are directed to indicate in writing to the South Dakota Division of Banking whether they intend to surrender or not renew their South Dakota money lender license as a result of the passage of IM 21, or if they intend to maintain a South Dakota money lender license. Please be aware current South Dakota money lenders will need to maintain licensure while they service existing loans even if they intend to surrender their license or not renew their license. Any South Dakota money lender that

intends to maintain a South Dakota money lender license is also directed to provide a written business plan, with appropriate documentation, indicating how the lender intends to comply with the provisions of IM 21. Please provide the requested information no later than close of business on November 16, 2016.

If you would like additional information regarding IM 21, or if you have any questions, please do not hesitate to contact the South Dakota Division of Banking at 605-773-3421.