

FIRST REGULAR SESSION

HOUSE BILL NO. 736

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LIESE.

Read 1st time February 12, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1799L.011

AN ACT

To repeal sections 143.471, 148.064, 362.015, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 408.052 and 408.140, RSMo 2000, relating to banking, and to enact in lieu thereof sixteen new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 143.471, 148.064, 362.015, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 408.052 and 408.140, RSMo 2000, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 143.471, 148.064, 362.015, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 408.052, 408.140 and 427.220, to read as follows:

143.471. 1. An S corporation, as defined by Section 1361 (a)(1) of the Internal Revenue Code, shall not be subject to the taxes imposed by section 143.071, or other sections imposing income tax on corporations.

2. A shareholder of an S corporation shall determine such shareholder's S corporation modification and pro rata share, including its character, by applying the following:

(1) Any modification described in sections 143.121 and 143.141 which relates to an item of S corporation income, gain, loss, or deduction shall be made in accordance with the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates. Where a shareholder's pro rata share of any such item is not required to be taken into account separately for federal income tax purposes, the shareholder's pro rata share of such item shall be determined in accordance with his pro rata share, for federal income tax

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 purposes, of S corporation taxable income or loss generally;

13 (2) Each item of S corporation income, gain, loss, or deduction shall have the same
14 character for a shareholder pursuant to sections 143.005 to 143.998 as it has for federal income
15 tax purposes. Where an item is not characterized for federal income tax purposes, it shall have
16 the same character for a shareholder as if realized directly from the source from which realized
17 by the S corporation or incurred in the same manner as incurred by the S corporation.

18 3. A nonresident shareholder of an S corporation shall determine such shareholder's
19 Missouri nonresident adjusted gross income and his or her nonresident shareholder modification
20 by applying the provisions of this subsection. Items shall be determined to be from sources
21 within this state pursuant to regulations of the director of revenue in a manner consistent with
22 the division of income provisions of section 143.451, section 143.461, or section 32.200, RSMo
23 (Multistate Tax Compact). In determining the adjusted gross income of a nonresident
24 shareholder of any S corporation, there shall be included only that part derived from or connected
25 with sources in this state of the shareholder's pro rata share of items of S corporation income,
26 gain, loss or deduction entering into shareholder's federal adjusted gross income, as such part is
27 determined pursuant to regulations prescribed by the director of revenue in accordance with the
28 general rules in section 143.181. Any modification described in subsections 2 and 3 of section
29 143.121 and in section 143.141, which relates to an item of S corporation income, gain, loss, or
30 deduction shall be made in accordance with the shareholder's pro rata share, for federal income
31 tax purposes, of the item to which the modification relates, but limited to the portion of such item
32 derived from or connected with sources in this state.

33 4. The director of revenue shall permit S corporations to file composite returns and to
34 make composite payments of tax on behalf of its nonresident shareholders not otherwise required
35 to file a return. If the nonresident shareholder's filing requirements result solely from one or
36 more interests in any other partnerships or subchapter S corporations, that nonresident
37 shareholder may be included in the composite return.

38 5. If an S corporation pays or credits amounts to any of its nonresident individual
39 shareholders as dividends or as their share of the S corporation's undistributed taxable income
40 for the taxable year, the S corporation shall either timely file with the department of revenue an
41 agreement as provided in subsection 6 of this section or withhold Missouri income tax as
42 provided in subsection 7 of this section. An S corporation that timely files an agreement as
43 provided in subsection 6 of this section with respect to a nonresident shareholder for a taxable
44 year shall be considered to have timely filed such an agreement for each subsequent taxable year.
45 An S corporation that does not timely file such an agreement for a taxable year shall not be
46 precluded from timely filing such an agreement for subsequent taxable years. An S corporation
47 is not required to deduct and withhold Missouri income tax for a nonresident shareholder if:

48 (1) The nonresident shareholder not otherwise required to file a return agrees to have the
49 Missouri income tax due paid as part of the S corporation's composite return;

50 (2) The nonresident shareholder not otherwise required to file a return had Missouri
51 assignable federal adjusted gross income from the S corporation of less than twelve hundred
52 dollars;

53 (3) The S corporation is liquidated or terminated;

54 (4) Income was generated by a transaction related to termination or liquidation; or

55 (5) No cash or other property was distributed in the current and prior taxable year.

56 6. The agreement referred to in subdivision (1) of subsection 5 of this section is an
57 agreement of a nonresident shareholder of the S corporation to:

58 (1) File a return in accordance with the provisions of section 143.481 and to make timely
59 payment of all taxes imposed on the shareholder by this state with respect to income of the S
60 corporation; and

61 (2) Be subject to personal jurisdiction in this state for purposes of the collection of
62 income taxes, together with related interest and penalties, imposed on the shareholder by this
63 state with respect to the income of the S corporation.

64

65 The agreement will be considered timely filed for a taxable year, and for all subsequent taxable
66 years, if it is filed at or before the time the annual return for such taxable year is required to be
67 filed pursuant to section 143.511.

68 7. The amount of Missouri income tax to be withheld is determined by multiplying the
69 amount of dividends or undistributed income allocable to Missouri that is paid or credited to a
70 nonresident shareholder during the taxable year by the highest rate used to determine a Missouri
71 income tax liability for an individual, except that the amount of the tax withheld may be
72 determined based on withholding tables provided by the director of revenue if the shareholder
73 submits a Missouri withholding allowance certificate.

74 8. An S corporation shall be entitled to recover for a shareholder on whose behalf a tax
75 payment was made pursuant to this section, if such shareholder has no tax liability.

76 9. With respect to S corporations that are banks or bank holding companies, a pro rata
77 share of the tax credit for the tax payable pursuant to chapter 148, RSMo, shall be allowed
78 against each S corporation shareholders' state income tax as follows, provided the bank otherwise
79 complies with section 148.112:

80 (1) The credit allowed by this subsection shall be equal to the bank tax calculated
81 pursuant to chapter 148, RSMo, based on bank income **and other tax returns** in 1999 and after,
82 on a bank that makes an election pursuant to 26 U.S.C. Section 1362, and such credit shall be
83 allocated to the qualifying shareholder according to stock ownership, determined by multiplying

84 a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock
85 issued by such bank or bank holding company;

86 (2) The tax credit authorized in this subsection shall be permitted only to the
87 shareholders that qualify as S corporation shareholders, provided the stock at all times during the
88 taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such
89 stock is held by the shareholder during the taxable period. The credit created by this section on
90 a yearly basis is available to each qualifying shareholder, including shareholders filing joint
91 returns. A bank holding company is not allowed this credit, except that, such credit shall flow
92 through to such bank holding company's qualified shareholders, and be allocated to such
93 shareholders under the same conditions; [and]

94 (3) In the event such shareholder cannot use all or part of the tax credit in the taxable
95 period of receipt, such shareholder may carry forward such tax credit for a period of the lesser
96 of five years or until used, provided such credits are used as soon as the taxpayer has Missouri
97 taxable income; and

98 (4) For the purpose of this subsection, the term "tax credit" shall include the
99 amount determined pursuant to subdivision (1) of subsection 2 of section 148.030, RSMo,
100 plus any amount actually paid pursuant to subdivision (2) of subsection 2 of section
101 148.030, RSMo, and other tax credits permitted for S corporations in section 148.064,
102 RSMo.

103 **10. Notwithstanding other provisions of the law to the contrary, a resident**
104 **shareholder of a nonresident S corporation bank or S corporation bank holding company,**
105 **shall be permitted a tax credit similar to the tax credit that is permitted in subsection 9 of**
106 **this section for resident shareholders of S corporation banks or bank holding companies,**
107 **provided that:**

108 (1) When such nonresident S corporation bank is located in part in Missouri, it is
109 subject in part to Missouri taxes as provided in sections 148.010 to 148.112, RSMo;

110 (2) Such nonresident S corporation bank, directly, as part of a holding company,
111 or in any other manner, pays the taxes for the S corporation shareholders as provided for
112 in the foreign state law;

113 (3) The resident shareholders pay Missouri income taxes on such nonresident S
114 corporation bank or bank holding company income and are limited to tax credits equal to
115 the shareholders' pro rata share of the actual taxes paid by the Subchapter S bank to the
116 foreign state; and

117 (4) Such tax credits determined by the payment of any category of income and
118 franchise taxes paid by the nonresident bank as provided in subdivision (2) of this
119 subsection, shall not exceed six percent of net income of such bank. The department of

120 **revenue may develop tax forms to facilitate granting of tax credits.**

148.064. 1. Notwithstanding any law to the contrary, this section shall determine the
2 ordering and limit reductions for certain taxes and tax credits which may be used as credits
3 against various taxes paid or payable by banking institutions. Except as adjusted in subsections
4 2, 3 and 6 of this section, such credits shall be applied in the following order until used against:

5 (1) The tax on banks determined under subdivision (2) of subsection 2 of section
6 148.030;

7 (2) The tax on banks determined under subdivision (1) of subsection 2 of section
8 148.030;

9 (3) The state income tax in section 143.071, RSMo.

10 2. The tax credits permitted against taxes payable pursuant to subdivision (2) of
11 subsection 2 of section 148.030 shall be utilized first and include taxes referenced in
12 subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without
13 reduction for any tax credits identified in subsection 5 of this section which are used to reduce
14 such taxes. Where a banking institution subject to this section joins in the filing of a
15 consolidated state income tax return under chapter 143, RSMo, the credit allowed under this
16 section for state income taxes payable under chapter 143, RSMo, shall be determined based upon
17 the consolidated state income tax liability of the group and allocated to a banking institution,
18 without reduction for any tax credits identified in subsection 5 of this section which are used to
19 reduce such consolidated taxes as provided in chapter 143, RSMo.

20 3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may
21 be reduced by the tax credits in subsection 5 of this section without regard to any adjustments
22 in subsection 2 of this section.

23 4. To the extent that certain tax credits which the taxpayer is entitled to claim are
24 transferable, such transferability may include transfers among such taxpayers who are members
25 of a single consolidated income tax return, and this subsection shall not impact other tax credit
26 transferability.

27 5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall
28 include tax credits available for economic development, low-income housing and neighborhood
29 assistance which the taxpayer is entitled to claim for the year, including by way of example and
30 not of limitation, tax credits pursuant to the following sections: section 32.115, RSMo, section
31 100.286, RSMo, and sections 135.110, 135.225, 135.352 and 135.403, RSMo.

32 6. For tax returns filed on or after January 1, 2001, including returns based on income
33 in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal
34 to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the
35 outstanding shares and surplus exceed one million dollars, determined in the same manner as in

36 section 147.010, RSMo. This tax credit shall be taken as a dollar-for-dollar credit against the
37 bank tax provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was
38 already reduced to zero by other credits, then against the corporate income tax provided for in
39 chapter 143, RSMo.

40 **7. In the event the corporate franchise tax in chapter 147, RSMo, is repealed by the**
41 **general assembly, there shall also be a reduction in the taxation of banks as follows: in lieu**
42 **of the loss of the corporate franchise tax credit reduction in subdivision (1) of subsection**
43 **2 of section 148.030, the bank shall receive a tax credit equal to one and one-half percent**
44 **of net income as determined in this chapter. This subsection shall take effect at the same**
45 **time the corporate franchise tax in chapter 147, RSMo, is repealed.**

46 **8. An S corporation bank or bank holding company that otherwise qualifies to**
47 **distribute tax credits to its shareholders, shall pass through any tax credits referred to in**
48 **subsection 5 of this section to its shareholders as otherwise provided for in subsection 9 of**
49 **section 143.471, RSMo, with no reductions or limitations resulting from the transfer**
50 **through such S corporation, and on the same terms originally made available to the**
51 **original taxpayer, subject to any original dollar or percentage limitations on such credits,**
52 **and when such S corporation is the original taxpayer, treating such S corporation as**
53 **having not elected Subchapter S status.**

54 **9. Notwithstanding any law to the contrary, in the event the corporate franchise tax**
55 **in chapter 147, RSMo, is repealed by the general assembly, after such repeal all Missouri**
56 **taxes of any nature and type imposed directly or used as a tax credit against the bank's**
57 **taxes, shall be passed through to the S corporation bank or bank holding company**
58 **shareholder in the form otherwise permitted by law, except for the following:**

59 **(1) Credits for taxes on real estate and tangible personal property owned by the**
60 **bank and held for lease or rental to others;**

61 **(2) Contributions paid pursuant to the unemployment compensation tax law of**
62 **Missouri; or**

63 **(3) State and local sales and use taxes collected by the bank on its sales of tangible**
64 **personal property and the services enumerated in chapter 144, RSMo.**

362.015. 1. From and after the passage of this law no private banks shall be established
2 in this state.

3 2. When authorized by the finance director as provided in section 362.035 any five or
4 more persons who shall have associated themselves by articles of agreement, in writing, as
5 provided by law, for the purpose of establishing a bank or trust company may be incorporated
6 under any name or title designating such business. Such persons may act on behalf of a bank
7 holding company.

8 **3. Notwithstanding the provisions of any law in this chapter to the contrary, a not-**
9 **for-profit corporation may be chartered as an FDIC insured bank or if otherwise chartered**
10 **as an FDIC insured bank may establish a branch of such bank in Missouri, provided such**
11 **bank has a civic, charitable, or educational purpose under a written agreement with the**
12 **Federal Deposit Insurance Corporation and receives required contributions to such bank's**
13 **capital at least yearly from its parent corporation; such bank or branch is not subject to**
14 **those parts of sections 362.050, 362.067 and 362.077, RSMo, that would limit the bank's**
15 **ability to operate a charter or branch as a not-for-profit corporation, for a civic, charitable**
16 **or educational purpose, but is otherwise a Missouri bank subject to chapters 361 and 362,**
17 **RSMo, and such other laws as are applicable. The division of finance may promulgate**
18 **regulations to implement this section. No rule or portion of a rule promulgated pursuant**
19 **to this section shall take effect unless such rule has been promulgated pursuant to chapter**
20 **536, RSMo.**

 362.044. 1. Stockholders' meetings may be held at such place, within this state, as may
2 be prescribed in the bylaws. In the absence of any such provisions, all meetings shall be held at
3 the principal banking house of the bank or trust company.

4 2. An annual meeting of stockholders for the election of directors shall be held on a day
5 which each bank or trust company shall fix by its bylaws; and if no day be so provided, then on
6 the second Monday of January.

7 3. Special meetings of the stockholders may be called by the directors or upon the written
8 request of the owners of a majority of the stock.

9 4. Notice of annual or special stockholders' meetings shall state the place, day and hour
10 of the meeting, and shall be published at least ten days prior to the meeting and once a week after
11 the first publication with the last publication being not more than seven days before the day fixed
12 for such meeting, in some daily or weekly newspaper printed and published in the city or town
13 in which the bank or trust company is located, and if there be none, then in some newspaper
14 printed and published in the county in which the bank or trust company is located, and if there
15 be none, then in some newspaper printed and published in an adjoining county. A written or
16 printed copy of the notice shall be delivered personally or mailed to each stockholder at least ten
17 but not more than fifty days prior to the day fixed for the meeting, and shall state, in addition to
18 the place, day and hour, the purpose of any special meeting or an annual meeting at which the
19 stockholders will consider a change in the par value of the corporation stock, the issuance of
20 preferred shares, a change in the number of directors, an increase or reduction of the capital stock
21 of the bank or trust company, a change in the length of the corporate life, an extension or change
22 of its business, a change in its articles to avail itself of the privileges and provisions of this
23 chapter, or any other change in its articles in any way not inconsistent with the provisions of this

chapter. Any stockholder may waive notice by causing to be delivered to the secretary during, prior to or after the meeting a written, signed waiver of notice, or by attending such meeting except where a stockholder attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Unless otherwise provided in the articles of incorporation, a majority of the outstanding shares entitled to vote at any meeting represented in person or by proxy shall constitute a quorum at a meeting of stockholders; provided, that in no event shall a quorum consist of less than a majority of the outstanding shares entitled to vote, but less than a quorum shall have the right successively to adjourn the meeting to a specified date no longer than ninety days after the adjournment, and no notice need be given of the adjournment to shareholders not present at the meeting. Every decision of a majority of the quorum shall be valid as a corporate act of the bank or trust company unless a larger vote is required by this chapter.

6. (1) The stockholders of the bank or trust company may approve business by proxy and cancel any stockholders' meeting, provided:

(a) The stockholders are sent notice of such stockholders' meeting and a proxy referred to in this section;

(b) Within such proxy the stockholders are given the opportunity to approve or disapprove the cancellation of such stockholders' meeting;

(c) At least eighty percent of such bank or trust company's stock is voted by proxy; and

(d) All stockholders voting by proxy vote to cancel such stockholders' meeting.

(2) No business shall be voted on by proxy other than that expressly set out and clearly explained by the proxy material. If such stockholders' meeting is canceled by proxy, notice of such cancellation shall be sent to all stockholders at least five days prior to the date originally set for such stockholders' meeting. The corporate secretary shall reflect all proxy votes by subject and in chronological order in the board of directors' minute book. The notice for such stockholders' meeting shall state the effective date of any of the following: new directors' election, change in corporate structure and any other change requiring stockholder approval.

7. If the bank or trust company is owned by a bank holding company and such company effectively owns one hundred percent of such bank's capital common stock, the stockholder may transact all business required at an annual or special stockholders' meeting by written consent.

362.105. 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling

6 exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or
7 personal property, and upon collateral of personal security at a rate of interest not exceeding that
8 allowed by law, and also of buying, investing in, selling and discounting negotiable and
9 nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and
10 for all loans and discounts made, the corporation may receive and retain the interest in advance;

11 (2) Accept for payment, at a future date, drafts drawn upon it by its customers and to
12 issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its
13 correspondents at sight or on time not exceeding one year; provided, that no bank or trust
14 company shall incur liabilities under this subdivision to an amount equal at any time in the
15 aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with
16 the approval of the director under such general regulations as to amount of acceptances as the
17 director may prescribe;

18 (3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve
19 Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank
20 pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act"
21 and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and
22 exercise all powers, not in conflict with the laws of this state, which are conferred upon any
23 member by the Federal Reserve Act and any amendments thereto. The member bank or trust
24 company and its directors, officers and stockholders shall continue to be subject, however, to all
25 liabilities and duties imposed upon them by any law of this state and to all the provisions of this
26 chapter relating to banks or trust companies;

27 (4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation
28 and to make such payments to and to make such deposits with the Federal Deposit Insurance
29 Corporation and to pay such assessments made by such corporation as will enable the bank or
30 trust company to obtain the benefits of the insurance of deposits under the act of Congress known
31 as "The Banking Act of 1933" and any amendments thereto;

32 (5) Invest in a bank service corporation as defined by the act of Congress known as the
33 "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same
34 extent as provided by that act or any amendment thereto;

35 (6) **Invest as a passive investor, in any business entity where the majority of the**
36 **stock or other interest is held by Missouri banks, trust companies, national banks located**
37 **in Missouri, or any branch of a foreign bank that but for its location would otherwise**
38 **qualify as an investor, or any combination of these financial institutions, the entity may not**
39 **engage in any activity that a bank subsidiary may not engage in, and such business entity**
40 **includes any type of business entity, provided each investor's bank liability is limited by**
41 **the investment in and loans to the business entity as otherwise provided by law;**

42 (7) Receive upon deposit for safekeeping personal property of every description, and to
43 own or control a safety vault and rent the boxes therein;

44 [(7)] (8) Purchase and hold the stock of one safe deposit company organized and
45 existing under the laws of the state of Missouri and doing a safe deposit business on premises
46 owned or leased by the bank or trust company at the main banking house and any branch
47 operated by the bank or trust company; provided, that the purchasing and holding of the stock
48 is first duly authorized by resolution of the board of directors of the bank or trust company and
49 by the written approval of the director, and that all of the shares of the safe deposit company shall
50 be purchased and held, and shall not be sold or transferred except as a whole and not be pledged
51 at all, all sales or transfers or pledges in violation hereof to be void;

52 [(8)] (9) Act as the fiscal or transfer agent of the United States, of any state, municipality,
53 body politic or corporation and in such capacity to receive and disburse money, to transfer,
54 register and countersign certificates of stock, bonds and other evidences of indebtedness;

55 [(9)] (10) Purchase, lease, hold or convey real property for the following purposes:

56 (a) With the approval of the director, plots whereon there is or may be erected a building
57 or buildings suitable for the convenient conduct of its functions or business or for customer or
58 employee parking even though a revenue may be derived from portions not required for its own
59 use, and as otherwise permitted by law;

60 (b) Real property conveyed to it in satisfaction or part satisfaction of debts previously
61 contracted in the course of its business;

62 (c) Real property purchased at sales under judgment, decrees or liens held by it;

63 [(10)] (11) Purchase, hold and become the owner and lessor of personal property
64 acquired upon the specific request of and for use of a customer; and, in addition, leases that
65 neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover
66 the physical life of the asset, other than those for motor vehicles which will not be used by bank
67 or trust company personnel, and may incur such additional obligations as may be incident to
68 becoming an owner and lessor of the property, subject to the following limitations:

69 (a) Lease transactions do not result in loans for the purpose of section 362.170, but the
70 total amount disbursed under leasing obligations or rentals by any bank to any person,
71 partnership, association, or corporation shall at no time exceed the legal loan limit permitted by
72 statute except upon the written approval of the director of finance;

73 (b) Lease payments are in the nature of rent rather than interest, and the provisions of
74 chapter 408, RSMo, are not applicable;

75 [(11)] (12) Contract with another bank or trust company, bank service corporation or
76 other partnership, corporation, association or person, within or without the state, to render or
77 receive services such as check and deposit sorting and posting, computation and posting of

78 interest and other credits and charges, preparation and mailing of checks, statements, notices, and
79 similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling,
80 or similar services, or the storage, transmitting or processing of any information or data; except
81 that, the contract shall provide, to the satisfaction of the director of finance, that the party
82 providing such services to a bank or trust company will be subject to regulation and examination
83 to the same extent as if the services were being performed by the bank or trust company on its
84 own premises. This subdivision shall not be deemed to authorize a bank or trust company to
85 provide any customer services through any system of electronic funds transfer at places other
86 than bank premises;

87 [(12)] **(13)** Purchase and hold stock in a corporation whose only purpose is to purchase,
88 lease, hold or convey real property of a character which the bank or trust company holding stock
89 in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of
90 paragraph (a) of subdivision (9) of this subsection; provided, the purchase and holding of the
91 stock is first duly authorized by resolution of the board of directors of the bank or trust company
92 and by the written approval of the director, and that all of the shares of the corporation shall be
93 purchased and held by the bank or trust company and shall not be sold or transferred except as
94 a whole;

95 [(13)] **(14)** Purchase and sell investment securities, without recourse, solely upon order
96 and for the account of customers; and establish and maintain one or more mutual funds and offer
97 to the public shares or participations therein. Any bank which engages in such activity shall
98 comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of
99 sales personnel for mutual funds so offered, provided that such banks shall register as a
100 broker-dealer with the office of the commissioner of securities and shall consent to supervision
101 and inspection by that office and shall be subject to the continuing jurisdiction of that office;

102 [(14)] **(15)** Make debt or equity investments in corporations or projects, whether for
103 profit or not for profit, designed to promote the development of the community and its welfare,
104 provided that the aggregate investment in all such corporations and in all such projects does not
105 exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall
106 not apply to loans made under the authority of other provisions of law, and other provisions of
107 law shall not limit this subdivision;

108 [(15)] **(16)** Offer through one or more subsidiaries any products and services which a
109 national bank may offer through its financial subsidiaries, subject to the limitations that are
110 applicable to national bank financial subsidiaries, and provided such bank or trust company
111 meets the division of finance safety and soundness considerations. This subdivision is enacted
112 to provide in part competitive equality with national banks' powers under the
113 Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may:

(1) Invest up to its legal loan limit in a building or buildings suitable for the convenient conduct of its business, including, but not limited to, a building or buildings suitable for the convenient conduct of its functions, parking for bank, trust company and leasehold employees and customers and real property for landscaping. Revenue may be derived from renting or leasing a portion of the building or buildings and the contiguous real estate; provided that, such bank or trust company has assets of at least two hundred million dollars; **and**

(2) Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of

150 finance may, from time to time, with the approval of the state banking board, issue orders
151 granting such other powers and authorities as have been granted to financial institutions subject
152 to the supervision of the federal government to:

153 (a) State-chartered banks and trust companies which are necessary to enable such banks
154 and trust companies to compete;

155 (b) State-chartered banks and trust companies to establish branches to the same extent
156 that federal law permits national banks to establish branches;

157 (c) Subsidiaries of state-chartered banks and trust companies to the same extent powers
158 are granted to national bank subsidiaries to enable such banks and trust companies to compete;

159 (d) State-chartered banks and trust companies to establish trust representative offices to
160 the same extent national banks are permitted such offices.

161 (2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall
162 not be inconsistent with the constitution and the laws of this state.

163 5. As used in this section, the term "subsidiary" shall include one or more business
164 entities of which the bank or trust company is the owner, provided the owner's liability is limited
165 by the investment in and loans to the subsidiary as otherwise provided for by law.

166 **6. A bank or trust company to which authority is granted by regulation in**
167 **subsection 4 of this section, based on the population of the political subdivision, may**
168 **continue to exercise such authority for up to five years after the appropriate decennial**
169 **census indicates that the population of the town in which such bank or trust company is**
170 **located has exceeded the limits provided for by regulation pursuant to subsection 4 of this**
171 **section.**

362.106. In addition to the powers authorized by section 362.105:

2 (1) A bank or trust company may exercise all powers necessary, proper and convenient
3 to effect any or all of the purposes for which the bank or trust company has been formed;

4 (2) A bank or trust company may offer any direct and indirect benefits to a bank
5 customer for the purpose of attracting deposits or making loans, provided said benefit is not
6 otherwise prohibited by law, and the income or expense of such activity is nominal;

7 (3) Notwithstanding any other law to the contrary, every bank or trust company created
8 under the laws of this state may, for a fee or other consideration, directly or through a subsidiary
9 company, and upon complying with any applicable licensing statute, acquire and hold the voting
10 stock of one or more corporations the activities of which are managing or owning agricultural
11 property, subdividing and developing real property and building residential housing or
12 commercial improvements on such property, and owning, renting, leasing, managing, operating
13 for income and selling such property; provided that, the total of all investments, loans and
14 guarantees made pursuant to the authority of this subdivision shall not exceed five percent of the

15 total assets of the bank or trust company as shown on the next preceding published report of such
16 bank or trust company to the director of finance, unless the director of the division of finance
17 approves a higher percentage by regulation, but in no event shall such percentage exceed that
18 allowed national banks by the appropriate regulatory authority, and, in addition to the
19 investments permitted by this subdivision, a bank or trust company may extend credit, not to
20 exceed the lending limits of section 362.170, to each of the corporations in which it has invested.
21 No provision of this section authorizes a bank or trust company to own or operate, directly or
22 through a subsidiary company, a real estate brokerage company;

23 **(4) Notwithstanding any other law to the contrary, every bank or trust company**
24 **created under the laws of this state, for a fee or other consideration, and upon complying**
25 **with any applicable licensing statute, may offer any product or service that is at the time**
26 **authorized or permitted to a national bank under the applicable federal law or regulation,**
27 **provided that powers conferred by this subdivision:**

28 **(a) Shall always be subject to the same limitations and restrictions that are**
29 **applicable to a national bank for the product or service by such applicable law;**

30 **(b) Shall be subject to applicable provisions of the insurance law of this state as**
31 **provided in section 375.017, RSMo, to the extent such insurance laws are not preempted**
32 **by the Gramm-Leach-Bliley Act of 1999, Public Law 106-102 or other federal law; and**

33 **(c) Shall be subject to the same treatment as applicable federal law or regulation,**
34 **and in the event any law or regulation that provides authority pursuant to this subsection**
35 **is preempted or declared invalid pursuant to federal law by a court of competent**
36 **jurisdiction or by the responsible federal chartering authority, that law is invalid as a**
37 **source of regulations in this state.**

362.119. Any bank organized under the laws of this state may invest not to exceed five
2 percent of its capital, surplus and undivided profits in shares of stock in any new or existing trust
3 company or companies **or any new or existing holding company or companies controlling**
4 **a trust company or companies, provided that such holding company is either a bank**
5 **holding company or other holding company, except that the sole purpose of any such**
6 **nonbank holding company shall be to own a trust company,** if the direct or indirect
7 ownership of a majority of such stock or class of stock in such [trust company or companies]
8 **entity or entities** is restricted to banks authorized to do business in the state of Missouri. For
9 purposes of this section, the term "ownership of a majority of such stock or class of stock" does
10 not mean or infer that such owner or owners have a controlling interest or voting interest in such
11 trust company or companies, **and the term "entity" means a trust company, bank holding**
12 **company or a holding company that is not a bank so long as the sole purpose of such non-**
13 **bank holding company is to own a trust company.**

362.170. 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the aggregate which will exceed fifteen percent of the unimpaired capital of the bank or trust company if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority

37 of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not
38 so agreed to be purchased or discounted is within the restrictive provisions of this section;

39 e. Obligations to any bank or trust company in the form of notes of any person,
40 copartnership, association, corporation or limited liability company, secured by not less than a
41 like amount of direct obligations of the United States which will mature in not exceeding five
42 years from the date the obligations to the bank are entered into;

43 f. Loans to the extent they are secured by a segregated deposit account in the lending
44 bank if the lending bank has obtained a perfected security interest in such account;

45 g. Evidences of debt which are direct obligations of, or which are guaranteed by, the
46 Government National Mortgage Association, the Federal National Mortgage Association, the
47 Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit
48 Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully
49 collateralized by direct obligations of, and which are issued by, the Government National
50 Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing
51 Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home
52 Loan Mortgage Corporation;

53 (b) The total liabilities to the bank or trust company of any individual, partnership,
54 corporation or limited liability company may equal but not exceed thirty-five percent of the
55 unimpaired capital of the bank or trust company; provided, that all of the total liabilities in
56 excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon
57 paper based upon the collateral security of warehouse receipts covering agricultural products or
58 the manufactured or processed derivatives of agricultural products in public elevators and public
59 warehouses subject to state supervision and regulation in this state or in any other state of the
60 United States, under the following conditions: first, that the actual market value of the property
61 held in store and covered by the receipt shall at all times exceed by at least fifteen percent the
62 amount loaned upon it; and second, that the property covered by the receipts shall be insured to
63 the full market value thereof against loss by fire and lightning, the insurance policies to be issued
64 by corporations or individuals licensed to do business by the state in which the property is
65 located, and when the insurance has been used to the limit that it can be secured, then in
66 corporations or with individuals licensed to do an insurance business by the state or country of
67 their incorporation or residence; and all policies covering property on which the loan is made
68 shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and
69 provided further, that in arriving at the amount that may be loaned by any bank or trust company
70 to any individual, partnership, corporation or limited liability company on elevator or warehouse
71 receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of
72 all other liabilities of the individual, partnership, corporation or limited liability company to the

73 bank or trust company;

74 (c) In computing the total liabilities of any individual to a bank or trust company there
75 shall be included all liabilities to the bank or trust company of any partnership of which the
76 individual is a member, and any loans made for the individual's benefit or for the benefit of the
77 partnership; of any partnership to a bank or trust company there shall be included all liabilities
78 of and all loans made for the benefit of the partnership; of any corporation to a bank or trust
79 company there shall be included all loans made for the benefit of the corporation and of any
80 limited liability company to a bank or trust company there shall be included all loans made for
81 the benefit of the limited liability company;

82 (d) The purchase or discount of drafts, or bills of exchange drawn in good faith against
83 actually existing values, shall not be considered as money borrowed within the meaning of this
84 section; and the purchase or discount of negotiable or nonnegotiable installment consumer paper
85 which carries the full recourse endorsements or guaranty or agreement to repurchase of the
86 person, copartnership, association, corporation or limited liability company negotiating the same,
87 shall not be considered as money borrowed by the endorser or guarantor or the repurchaser
88 within the meaning of this section, provided that the files of the bank or trust company acquiring
89 the paper contain the written certification by an officer designated for this purpose by its board
90 of directors that the responsibility of the makers has been evaluated and the acquiring bank or
91 trust company is relying primarily upon the makers thereof for the payment of the paper;

92 (e) For the purpose of this section, a loan guaranteed by an individual who does not
93 receive the proceeds of the loan shall not be considered a loan to the guarantor;

94 (f) Investments in mortgage-related securities, as described in the Secondary Mortgage
95 Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g.
96 of paragraph (a) of subdivision (1) of subsection 2 of this section, shall be subject to the
97 restrictions of this section, provided that a bank or trust company may invest up to two times its
98 legal loan limit in any such securities that are rated in one of the two highest rating categories
99 by at least one nationally recognized statistical rating organization;

100 (2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly
101 purchase or be interested in the purchase of any certificate of deposit, pass book, promissory
102 note, or other evidence of debt issued by it, for less than the principal amount of the debt, without
103 interest, for which it was issued. Every bank or trust company or person violating the provisions
104 of this subdivision shall forfeit to the state the face value of the note or other evidence of debt
105 so purchased;

106 (3) Make any loan or discount on the security of the shares of its own capital stock, or
107 be the purchaser or holder of these shares, unless the security or purchase shall be necessary to
108 prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired

109 shall be sold at public or private sale, or otherwise disposed of, within six months from the time
110 of its purchase or acquisition unless the time is extended by the finance director. Any bank or
111 trust company violating any of the provisions of this subdivision shall forfeit to the state the
112 amount of the loan or purchase;

113 (4) Knowingly lend, directly or indirectly, any money or property for the purpose of
114 enabling any person to pay for or hold shares of its stock, unless the loan is made upon security
115 having an ascertained or market value of at least fifteen percent more than the amount of the
116 loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the
117 state the amount of the loan;

118 (5) No salaried officer of any bank or trust company shall use or borrow for himself or
119 herself, directly or indirectly, any money or other property belonging to any bank or trust
120 company of which the person is an officer, in excess of ten percent of the unimpaired capital of
121 the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank
122 or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust
123 company. Where loans and a line of credit are made to salaried officers, the loans and line of
124 credit shall first be approved by a majority of the board of directors or of the executive or
125 discount committee, the approval to be in writing and the officer to whom the loans are made,
126 not voting. The form of the approval shall be as follows:

127 We, the undersigned, constituting a majority of the of the (bank
128 or trust company), do hereby approve a loan of \$..... or a line of credit of
129 \$....., or both, to, it appearing that the loan or line of credit,
130 or both, is not more than 10 percent of the unimpaired capital of (bank
131 or trust company); it further appearing that the loan (money actually advanced) will not make the
132 aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank
133 or trust company.

134

135

136

137

138 Dated this day of, 20.....

139

140 Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan
141 to that corporation shall be considered for the purpose of this subdivision as a loan to the officer.
142 Every bank or trust company or officer thereof knowingly violating the provisions of this
143 subdivision shall, for each offense, forfeit to the state the amount lent;

144 (6) Invest or keep invested in the stock of any private corporation, except as provided

145 in this chapter.

146 3. Provided, that the provisions in this section shall not be so construed as in any way
147 to interfere with the rules and regulations of any clearinghouse association in this state in
148 reference to the daily balances; and provided, that this section shall not apply to balances due
149 from any correspondent subject to draft.

150 4. Provided, that a trust company which does not accept demand deposits shall be
151 permitted to make loans secured by a first mortgage or deed of trust on real estate to any
152 individual, partnership, corporation or limited liability company, and to deal and invest in the
153 interest-bearing obligations of any state, or any city, county, town, village, or political
154 subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate
155 not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

156 5. Any officer, director, agent, clerk, or employee of any bank or trust company who
157 willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any
158 individual, partnership, corporation or limited liability company or by means of letters of credit,
159 by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation
160 of any person, partnership, corporation or limited liability company, in excess of the amounts set
161 out in this section, shall be deemed guilty of a class C felony.

162 6. A trust company in existence on October 15, 1967, or a trust company incorporated
163 thereafter which does not accept demand deposits, may invest in but shall not invest or keep
164 invested in the stock of any private corporation an amount in excess of fifteen percent of the
165 capital and surplus fund of the trust company; provided, however, that this limitation shall not
166 apply to the ownership of the capital stock of a safe deposit company as provided in section
167 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its
168 stockholders of a part or all of the capital stock of one bank organized under the laws of the
169 United States or of this state, nor to the ownership of a part or all of the capital of one
170 corporation organized under the laws of this state for the principal purpose of receiving savings
171 deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the
172 payment of real estate securities, or investing in other securities in which trust companies may
173 invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to
174 January 1, 1915, **and the prohibition for investments in this subsection shall not apply to**
175 **investments otherwise provided for by law.**

176 7. Any bank or trust company to which the provisions of subsection 2 of this section
177 apply may continue to make loans pursuant to the provisions of subsection 2 of this section for
178 up to five years after the appropriate decennial census indicates that the population of the city
179 in which such bank or trust company is located has exceeded the limits provided in subsection
180 2 of this section.

362.270. Within thirty days after the date on which the annual meeting of the stockholders is held the directors elected at such meeting shall, after subscribing the oath required in section 362.250, hold a meeting at which they shall elect a **chief executive officer which the board may designate as president or another appropriate title**, from their own number, one or more vice presidents, and such other officers as are provided for by the bylaws to be elected annually.

362.325. 1. Any bank or trust company may, at any time, and in any amount, increase or, with the approval of the director, reduce its capital stock (as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. A bank or trust company may, but shall not be obligated to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and one certified copy filed in the public records of the division of finance.

6. Upon the filing of the certified copy the director shall promptly satisfy himself or herself that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he or she is so satisfied he or she shall issue a certificate that the bank or trust company has complied with the law made and provided

31 for the increase or decrease of capital stock, and the amount to which the capital stock has been
32 increased or decreased or for the change in the length of its corporate life or any other change
33 provided for in this section. Thereupon, the capital stock of the bank or trust company shall be
34 increased or decreased to the amount specified in the certificate or the length of the corporate life
35 of the bank shall be changed or other authorized change made as specified in the certificate. The
36 certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of
37 the increase, decrease or change.

38 7. Provided, however, that if the change undertaken by the bank or trust company in its
39 articles of agreement shall provide for the relocation of the bank or trust company in another
40 community, the director shall make or cause to be made an examination to ascertain whether the
41 convenience and needs of the new community wherein the bank desires to locate are such as to
42 justify and warrant the opening of the bank therein and whether the probable volume of business
43 at the new location is sufficient to ensure and maintain the solvency of the bank and the solvency
44 of the then existing banks and trust companies at the location, without endangering the safety of
45 any bank or trust company in the locality as a place of deposit of public and private moneys, and,
46 if the director, as a result of the examination, be not satisfied in the particulars mentioned or
47 either of them, he or she may refuse to issue the certificate applied for, in which event he or she
48 shall forthwith give notice of his or her refusal to the bank applying for the certificate, which if
49 it so desires may, within ten days thereafter, appeal from the refusal to the state banking board.

50 8. All certificates issued by the director of finance relating to amendments to the charter
51 of any bank shall be provided to the bank or trust company and one certified copy filed in the
52 public records of the division of finance.

53 **9. The board of directors may designate a chief executive officer, and such officer**
54 **will replace the president for purposes of this section.**

362.335. 1. The directors may appoint and remove any cashier, secretary or other officer
2 or employee at pleasure.

3 2. The cashier, secretary or any other officer or employee shall not endorse, pledge or
4 hypothecate any notes, bonds or other obligations received by the corporation for money loaned,
5 until such power and authority is given the cashier, secretary or other officer or employee by the
6 board of directors, pursuant to a resolution of the board of directors, a written record of which
7 proceedings shall first have been made; and a certified copy of the resolution, signed by the
8 president and cashier or secretary with the corporate seal annexed, shall be conclusive evidence
9 of the grant of this power; and all acts of endorsing, pledging and hypothecating done by the
10 cashier, secretary or other officer or employee of the bank or trust company without the authority
11 from the board of directors shall be null and void. **The board of directors may designate a**
12 **chief executive officer who is not the president, but who shall perform all the duties of the**

13 **president required by this section.**

2 362.495. Whenever unusual withdrawals from any bank or trust company doing a
3 banking business in this state, organized under the laws of this state are being made, or whenever
4 in the judgment of the president and cashier or president and secretary of such bank or trust
5 company and/or the board of directors thereof, unusual withdrawals are about to be made, such
6 officers and/or directors are hereby authorized to suspend payment of checks of depositors and
7 any and all other withdrawals of assets of such bank or trust company for a period of six banking
8 days. **The board of directors may designate a chief executive officer who is not the
president, but who shall perform all the duties of the president required by this section.**

2 362.935. The director of finance shall administer and carry out the provisions of sections
3 362.910 to 362.940 and may issue such regulations and orders as may be necessary to discharge
4 this duty and to prevent evasion of subsection 1 of section 362.920 [or subsection 1 of section
5 362.925].

2 [362.942. 1. No bank holding company whose bank subsidiaries' operations
3 are principally conducted in a state other than the state of Missouri, and which
4 acquires control of a bank located in the state of Missouri, may acquire any other
5 banks or establish branch banks for a two-year period beginning on the date such
6 acquisition is consummated. During such two-year period, the bank holding
7 company shall not be treated as a bank holding company whose bank subsidiaries'
8 operations are principally conducted in the state of Missouri for purposes of
9 acquiring other banks or establishing branch banks.

10 2. Notwithstanding any law to the contrary, nothing in this section shall limit
11 the Missouri regional interstate banking law as contained in section 362.925.

12 3. The provisions of this section are severable. In the event that a court of
13 competent jurisdiction shall enter a decision finding subsection 1 of this section
14 unconstitutional or otherwise invalid and if such decision remains in force after all
15 appeals therefrom have been exhausted, all remaining provisions of this section shall
16 remain in full force and effect notwithstanding such decision and such decision shall
17 not be given retroactive effect by any court and shall not invalidate any acquisitions
18 completed in reliance on any provisions of law prior to the date when all such appeals
have been exhausted.]

2 408.052. 1. No lender shall charge, require or receive, on any residential real estate loan,
3 any points or other fees of any nature whatsoever, excepting insurance, including insurance for
4 involuntary unemployment coverage, and a one-percent origination fee, whether from the buyer
5 or the seller or any other person, except that the lender may charge bona fide expenses paid by
6 the lender to any other person or entity except to an officer, employee, or director of the lender
7 or to any business in which any officer, employee or director of the lender owns any substantial
8 interest for services actually performed in connection with a loan. In addition to the foregoing,
if the loan is for the construction, repair, or improvement of residential real estate, the lender may

9 charge a fee not to exceed one percent of the loan amount for inspection and disbursement of the
10 proceeds of the loan to third parties. Notwithstanding the foregoing, the parties may contract for
11 a default charge for any installment not paid in full within fifteen days of its scheduled due date.

12 The restrictions of this section shall not apply:

13 (1) To any loan which is insured or covered by guarantee made by any department,
14 board, bureau, commission, agency or establishment of the United States, pursuant to the
15 authority of any act of Congress heretofore or hereafter adopted; and

16 (2) To any loan for which an offer or commitment or agreement to purchase has been
17 received from and which is made with the intention of reselling such loan to the Federal Housing
18 Administration, Farmers Home Administration, Federal National Mortgage Association,
19 Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or to
20 any successor to the above-mentioned organizations, to any other state or federal governmental
21 or quasi-governmental organization; and

22 (3) Provided that the 1994 reenactment of this section shall not be construed to be action
23 taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in
24 excess of those permitted under this section shall be returned to the person from whom received
25 upon demand.

26 2. Notwithstanding the language in subsection 1 of this section, a lender may pay to an
27 officer, employee or director of the lender, or to any business in which such person has an
28 interest, bona fide fees for services actually and necessarily performed in good faith in
29 connection with a residential real estate loan, provided:

30 (1) Such services are individually listed by amount and payee on the loan-closing
31 documents; and

32 (2) Such lender may use the preemption of Public Law 96-221, Section 501 with respect
33 to the residential real estate loan in question. When fees charged need not be disclosed in the
34 annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations
35 thereunder because such fees are de minimus amounts or for other reasons, such fees need not
36 be included in the annual percentage rate for state examination purposes.

37 **3. The lender may charge and collect bona fide fees for services actually and**
38 **necessarily performed in good faith in connection with a residential real estate loan as**
39 **provided in subsection 2 of this section; however, the bank's board of directors shall**
40 **determine whether such bona fide fees shall be paid to the bank or the bank-related parties**
41 **in subsection 2 of this section, but may allow current contractual relationships to continue**
42 **for up to two years.**

43 4. If any points or fees are charged, required or received, which are in excess of those
44 permitted by this section, or which are not returned upon demand when required by this section,

45 then the person paying the same points or fees or his or her legal representative may recover
46 twice the amount paid together with costs of the suit and reasonable attorney's fees, provided that
47 the action is brought within five years of such payment.

48 [4.] 5. Any lender who knowingly violates the provisions of this section is guilty of a
49 class B misdemeanor.

408.140. 1. No further or other charge or amount whatsoever shall be directly or
2 indirectly charged, contracted for or received for interest, service charges or other fees as an
3 incident to any such extension of credit except as provided and regulated by sections 367.100 to
4 367.200, RSMo, and except:

5 (1) On loans for thirty days or longer which are other than "open-end credit" as such term
6 is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not
7 to exceed five percent of the principal amount loaned not to exceed fifty dollars may be charged
8 by the lender; however, no such fee shall be permitted on any extension, refinance, restructure
9 or renewal of any such loan, unless any investigation is made on the application to extend,
10 refinance, restructure or renew the loan;

11 (2) The lawful fees actually and necessarily paid out by the lender to any public officer
12 for filing, recording, or releasing in any public office any instrument securing the loan, which
13 fees may be collected when the loan is made or at any time thereafter; however, premiums for
14 insurance in lieu of perfecting a security interest required by the lender may be charged if the
15 premium does not exceed the fees which would otherwise be payable;

16 (3) If the contract so provides, a charge for late payment on each installment or minimum
17 payment in default for a period of not less than fifteen days in an amount not to exceed five
18 percent of each installment due or the minimum payment due or twenty-five dollars, whichever
19 is less; except that, a minimum charge of ten dollars may be made. If the contract so provides,
20 a charge for late payment on each twenty-five dollars or less installment in default for a period
21 of not less than fifteen days shall not exceed five dollars;

22 (4) **If the contract so provides, a charge for late payment for a single payment note**
23 **in default for a period of not less than fifteen days in an amount not to exceed five percent**
24 **of the payment due; provided that, the late charge for a single payment note shall not**
25 **exceed fifty dollars;**

26 (5) Charges or premiums for insurance written in connection with any loan against loss
27 of or damage to property or against liability arising out of ownership or use of property as
28 provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with
29 the consent of the borrower, such insurance may cover property all or part of which is pledged
30 as security for the loan, and charges or premiums for insurance providing life, health, accident,
31 or involuntary unemployment coverage;

32 [(5)] (6) Charges assessed by any institution for processing a refused instrument plus a
33 handling fee of not more than fifteen dollars;

34 [(6)] (7) If the contract or promissory note, signed by the borrower, provides for attorney
35 fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the
36 amount due and payable under such contract or promissory note, together with any court costs
37 assessed. The attorney fees shall only be applicable where the contract or promissory note is
38 referred for collection to an attorney, and is not handled by a salaried employee of the holder of
39 the contract;

40 [(7)] (8) Provided the debtor agrees in writing, the lender may collect a fee in advance
41 for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more
42 than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are
43 made until the first loan payment is collected and no more than one deferral in a twelve- month
44 period is agreed to and collected on any one loan. This section applies to nonprecomputed loans
45 only and does not affect any other sections.

46 2. Other provisions of law to the contrary notwithstanding, an open-end credit contract
47 under which a credit card is issued by a company, financial institution, savings and loan or other
48 credit issuing company whose credit card operations are located in Missouri may charge an
49 annual fee, provided that no finance charge shall be assessed on new purchases other than cash
50 advances if such purchases are paid for within twenty-five days of the date of the periodic
51 statement therefor.

52 3. Notwithstanding any other provision of law to the contrary, in addition to charges
53 allowed pursuant to section 408.100, an open-end credit contract provided by a company,
54 financial institution, savings and loan or other credit issuing company which is regulated
55 pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

**427.220. 1. No depository financial institution, its subsidiary, affiliate or entity
2 controlled by common ownership, otherwise permitted to sell insurance through an
3 insurance agency, shall be subject to more restrictive laws or regulations on insurance
4 commissions than an independent insurance agent and agency or company insurance agent
5 and agency that sells credit-related insurance to one or more persons for credit extended
6 from a related creditor, including any law redefining agent and agency from time to time.**

7 **2. For the purposes of this section, the following terms shall mean:**

8 **(1) "Commissions", in addition to insurance commissions, this term shall include
9 any other compensation received for the sale of insurance products whether such
10 compensation is classified as salary, bonus or other remuneration;**

11 **(2) "Credit-related insurance", any insurance sold by an insurance agent within
12 thirty days before or after a related extension of credit to one or more of such parties**

13 insured by such insurance agent or agency, and is in any manner offered, referred, or
14 actually extended with an affiliated creditor, except for any credit insurance commissions
15 subject to regulation pursuant to chapter 385, RSMo;

16 (3) "Related creditor", any creditor that extends credit for which the insurance
17 agent and agency receives a commission for credit-related insurance, and includes the
18 extension of credit when the insurance commission is received by a depository financial
19 institution director, officer, employee or agent and any direct or indirect affiliate,
20 subsidiary, other entity insurance agent and agency related by common ownership and the
21 directors, officers, employees and agents thereof;

22 (4) "Related extension of credit", any credit extended by a related creditor that
23 repayment is improved by the placement of credit-related insurance.

24 3. The primary regulator of such depository financial institution may require that
25 such commission income to any one or more agents and agencies be reported to the
26 financial institution or other business entity to insure that no business corporate
27 opportunity is lost to the business, may impose limitations on credit-related insurance
28 premiums with related creditors provided such limitations are substantially similar to any
29 limitation the department of insurance imposes on independent insurance agents and
30 agencies or any categories of insurance business from those entities with related creditors.