

FIRST REGULAR SESSION

[CORRECTED]

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 221

## 92ND GENERAL ASSEMBLY

---

Reported from the Committee on Financial Services February 13, 2003, with recommendation that the House Committee Substitute for House Bill No. 221 Do Pass.

Taken up for Perfection February 19, 2003. House Committee Substitute for House Bill No. 221 ordered Perfected and printed.

STEPHEN S. DAVIS, Chief Clerk

0997L.02P

---

### AN ACT

To repeal sections 59.163, 59.800, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 369.159, 400.1-103, 400.3-102, 400.4-102, 400.9-525, 400.9-626, 407.433, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.557, 408.653, and 408.654, RSMo, and to enact in lieu thereof twenty-six new sections relating to banking, with an emergency clause for a certain section and penalty provisions.

---

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

Section A. Sections 59.163, 59.800, 173.387, 173.390, 306.410, 361.130, 361.140, 2 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 369.159, 3 400.1-103, 400.3-102, 400.4-102, 400.9-525, 400.9-626, 407.433, 408.450, 408.455, 408.460, 4 408.465, 408.467, 408.470, 408.557, 408.653, and 408.654, RSMo, are repealed and twenty-six 5 new sections enacted in lieu thereof, to be known as sections 59.163, 59.800, 173.387, 173.390, 6 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.111, 362.170, 7 362.295, 362.910, 362.923, 369.159, 370.171, 400.1-103, 400.3-102, 400.4-102, 400.9-525, 8 400.9-626, 407.433, and 408.455, to read as follows:

59.163. In any county of the first class in which the recorder of deeds is required by law

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.**

2 to keep offices both at the county seat and at another place within the county, all deeds, deeds  
3 of trust, mortgages, and other instruments affecting real property situated in that range in the  
4 county where the office outside of the county seat is located shall be recorded in such office and  
5 not at the county seat; and the proper place to file, or to file for record if goods are or are to  
6 become fixtures, [all financing statements or other instruments or statements incidental thereto,  
7 such as continuation statements, termination statements, statements of assignment, statements  
8 of release, in order to perfect, continue, terminate, assign, release or affect a security interest in  
9 accordance with article 9, part 4, chapter 400, the Uniform Commercial Code,] is as follows:

10 (1) [When the collateral is equipment used in farming operations, or farm products, or  
11 accounts, contract rights or general intangibles arising from or relating to the sale of farm  
12 products by a farmer, or consumer goods (as such types of collateral are defined in the Uniform  
13 Commercial Code) and the debtor's residence is in that range where the office outside the county  
14 seat is located, then in such office outside the county seat, or if the debtor is not a resident of this  
15 state and the goods are kept in that range where the office outside the county seat is located, then  
16 in such office outside the county seat, and in addition, when the collateral is crops, and the land  
17 on which the crops are growing or are to be grown is located in that range where the office  
18 outside the county seat is located, then in such office outside the county seat;

19 (2)] When the collateral is goods which at the time the security interest attaches are or  
20 are to become fixtures, and the land to which the fixtures are or are to be attached is located in  
21 that range where the office outside the county seat is located, then in such office outside the  
22 county seat, and any such filing shall be for record;

23 [(3) When the collateral is any other kind of property, in the office of the secretary of  
24 state and in addition: (a) If the debtor has a place of business only in such county of this state  
25 and only in that range where the office outside the county seat is located, also in such office  
26 outside the county seat, or (b) If the debtor has places of business only in such county of this state  
27 but has a place of business both in that range where the office outside the county seat is located,  
28 and also elsewhere in such county, then also in such office outside the county seat and also in  
29 such office at the county seat, or (c) If the debtor has no place of business in this state, but resides  
30 in that range where the office outside the county seat is located, then also in such office outside  
31 the county seat;

32 (4)] (2) In all other cases where the proper place, or one of the proper places, to file or  
33 to file for record is in the office of the recorder of deeds of such county, then only in such office  
34 at the county seat and not in such office outside the county seat;

35 (3) **All financing statements or other instruments or statements incidental thereto,**  
36 **such as continuation statements, termination statements, statements of assignment, in order**  
37 **to perfect, continue, terminate, assign, release, or affect a security interest in accordance**

38 **with article 9, chapter 400, the Uniform Commercial Code, shall have priority over liens**  
39 **filed under this section for the time period after June 30, 2001, and before August 28, 2003.**

59.800. 1. Beginning on July 1, [2001] **2003**, notwithstanding any other condition  
2 precedent required by law to the recording of any instrument specified in subdivisions (1) and  
3 (2) of section 59.330, an additional fee of [five] **six** dollars shall be charged and collected by  
4 every recorder of deeds in this state on each instrument recorded; **for subdivisions (3), (4), and**  
5 **(5) of section 59.330, an additional fee of one dollar shall be charged and collected by every**  
6 **recorder of deeds in this state on each instrument recorded and the additional fee shall be**  
7 **distributed pursuant to subdivision (4) of this section.** The additional fee **for subdivisions**  
8 **(1) and (2) of section 59.330** shall be distributed as follows:

9 (1) One dollar and twenty-five cents to the recorder's fund established pursuant to  
10 subsection 1 of section 59.319, provided, however, that all funds received pursuant to this section  
11 shall be used exclusively for the purchase, installation, upgrade and maintenance of modern  
12 technology necessary to operate the recorder's office in an efficient manner;

13 (2) One dollar and seventy-five cents to the county general revenue fund; [and]

14 (3) Two dollars to the fund established in subsection 2 of this section; **and**

15 **(4) One dollar to the county employees' retirement fund established pursuant to**  
16 **section 50.1010, RSMo, provided, however, that in any charter county or city not within**  
17 **a county whose employees are not members of the county employees' retirement fund, the**  
18 **one dollar fee collected for the county employees' retirement fund established pursuant to**  
19 **section 50.1010, RSMo, shall go to the general revenue of that charter county or city not**  
20 **within a county.**

21 2. There is hereby established a revolving fund known as the "Statutory County  
22 Recorder's Fund", which shall receive funds paid to the recorders of deeds of the counties of this  
23 state pursuant to subdivision (3) of subsection 1 of this section. The director of the department  
24 of revenue shall be custodian of the fund and shall make disbursements from the fund for the  
25 purpose of subsidizing the fees collected by counties that hereafter elect or have heretofore  
26 elected to separate the offices of clerk of the circuit court and recorder. The subsidy shall consist  
27 of the total amount of moneys collected pursuant to subdivisions (1) and (2) of subsection 1 of  
28 this section subtracted from fifty-five thousand dollars. The moneys paid to qualifying counties  
29 pursuant to this subsection shall be deposited in the county general revenue fund. For purposes  
30 of this section a "qualified county" is a county that hereafter elects or has heretofore elected to  
31 separate the offices of clerk of the circuit court and recorder and in which the office of the  
32 recorder of deeds collects less than fifty-five thousand dollars in fees pursuant to subdivisions  
33 (1) and (2) of subsection 1 of this section, on an annual basis. Moneys in the statutory county  
34 recorder's fund shall not be considered state funds and shall be deemed nonstate funds.

173.387. The authority shall not, under any circumstances, be the originator of any  
2 federally guaranteed student loan, except for consolidation of existing student loans, **parent**  
3 **loans for undergraduate students (PLUS)**, and upon designation by the commissioner as  
4 lender of last resort.

173.390. Bonds of the authority may be issued as serial bonds, as term bonds, or as a  
2 combination of both types. All such bonds issued by the authority shall be payable solely from  
3 and secured by a pledge of revenues derived from or by reason of the ownership of student loan  
4 notes and investment income or as may be designated in a bond resolution authorized by the  
5 authority. Such bonds may be executed and delivered by the authority at any time and from time  
6 to time, may be in such form and denomination or denominations and of such terms and  
7 maturities, may be in fully registered form or in bearer form, registrable either as to principal or  
8 interest or both, may bear such conversion privileges, may be payable in such installment or  
9 installments and at such time or times not exceeding [thirty] **forty** years from the date of the  
10 issuance thereof, may be payable at such place or places whether within or without the state of  
11 Missouri, may bear interest at such rate or rates per annum as determined by the authority  
12 without regard to section 108.170, RSMo, may be made payable at such time or times and at  
13 such place or places, may be evidenced in such manner, may be executed by such officers of the  
14 authority, may have attached thereto, in the case of bearer bonds or bonds registrable as to  
15 principal only, interest coupons bearing the facsimile signature of the secretary of the authority,  
16 and may contain such provisions not inconsistent herewith, all as shall be provided in the bond  
17 resolution or resolutions of the authority whereunder the bonds shall be authorized to be issued.  
18 If deemed advisable by the authority, there may be retained in the bond resolution under which  
19 any bonds of the authority are authorized to be issued an option to call for redemption in advance  
20 of maturity all or any part of such bonds as may be specified in the bond resolution, at such price  
21 or prices, upon the giving of such notice or notices, and upon such terms and conditions as may  
22 be set forth in the bond resolution and as may be recited on the face of the bonds, but nothing in  
23 this section shall be construed to confer upon the authority the right or option to call for  
24 redemption in advance of maturity any bonds except as may be provided in the bond resolution  
25 under which they shall be issued. The bonds of the authority may be sold at public or private  
26 sale for such price, in such manner, and from time to time as may be determined by the authority  
27 notwithstanding the provisions of section 108.170, RSMo, and the authority may pay all  
28 expenses, premiums, and commissions which it may deem necessary or advantageous in  
29 connection with the issuance thereof from the proceeds of the bonds. Other forms of  
30 indebtedness issued by the authority shall have such terms as may be provided in a bond  
31 resolution authorized by the authority. Any such indebtedness may bear interest at such rates and  
32 be sold in such manner as may be determined by the authority notwithstanding the provisions

33 of section 108.170, RSMo, and the authority may pay all expenses, premiums and commissions  
34 which it may deem necessary or advantageous in connection with the issuance thereof from  
35 proceeds therefrom or from other funds of the authority.

306.410. If an owner creates a lien or encumbrance on an outboard motor, motorboat,  
2 vessel, or watercraft:

3 (1) The owner shall immediately execute the application, either in the space provided  
4 therefor on the certificate of title or on a separate form the director of revenue prescribes, to  
5 name the lienholder on the certificate of title, showing the name and address of the lienholder  
6 and the date of his or her security agreement, and shall cause the certificate of title, the  
7 application and the required fee to be mailed or delivered to the director of revenue. Failure of  
8 the owner to do so is a class A misdemeanor;

9 (2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to  
10 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the  
11 director accompanied by all other necessary documentation to perfect a lien pursuant to section  
12 306.400;

13 (3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs,  
14 the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a  
15 completed notice of lien to the department of revenue, accompanied by authorization from the  
16 first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application  
17 for title at the time the application is made to the department of revenue. To perfect a lien for  
18 a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in  
19 possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the  
20 owner's application for title, certificate, notice of lien, authorization from the first lienholder and  
21 title fee to the department of revenue. The delivery of the certificate and executing a notice of  
22 authorization to add a subordinate lien does not affect the rights of the first lienholder under the  
23 security agreement;

24 (4) Upon receipt of the documents and fee required in subdivision (3) of this section, the  
25 director of revenue shall issue a new certificate of title containing the name and address of the  
26 new lienholder, and mail the certificate of title to the [first lienholder] **owner** named in it or if  
27 a lienholder has elected to have the director of revenue retain possession of an electronic  
28 certificate of title, the lienholder shall either mail or deliver to the director a notice of  
29 authorization for the director to add a subordinate lienholder to the existing certificate as  
30 prescribed in section 306.405. Upon receipt of such authorization and a notice of lien from a  
31 subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title  
32 being electronically retained by the director and provide confirmation of the addition to both  
33 lienholders.

361.130. 1. The director shall require all financial institutions under his **or her** supervision to make regular periodic reports of their condition to him **or her**, and in addition [he] **the director** may require special reports at such times as he **or she** may prescribe. The director shall prescribe the form and contents of all such reports. Such reports shall be verified and the director shall prescribe the form of verification.

2. The director, at least two times in each year, shall designate some day as of which every bank or trust company under [his] **the director's** supervision shall report to him **or her**. [He] **The director** shall serve a notice designating such day by delivering a copy thereof to some officer of such corporation at its place of business or by mail, postage prepaid, addressed to such corporation at its principal place of business.

**3. In lieu of requiring direct filing of reports of condition, the director may obtain the information from data filed with federal regulatory agencies but may require verification and the filing of supplemental information as the director deems necessary.**

361.140. 1. The director of finance shall prepare the following information to be included in the report of the director of the department of economic development:

(1) A summary of the state and condition of every corporation required to report to him **or her** and from which reports have been received **or obtained pursuant to subsection 3 of section 361.130** during the preceding two years, at the several dates to which such reports refer, with an abstract of the whole amount of capital reported by them, the whole amount of their debts and liabilities and the total amount of their resources, specifying in the case of banks and trust companies the amount of lawful money held by them at the time of their several reports, and such other information in relation to such corporations as, in his **or her** judgment, may be useful;

(2) A statement of all corporations authorized by him **or her** to do business during the previous biennium with their names and locations and the dates on which their respective certificates of incorporation were issued, particularly designating such as have commenced business during the biennium;

(3) A statement of the corporations whose business has been closed either voluntarily or involuntarily, during the biennium, with the amount of their resources and of their deposits and other liabilities as last reported by them and the amount of unclaimed and unpaid deposits, dividends and interest held by him **or her** on account of each;

(4) A statement of the amount of interest earned upon all unclaimed deposits, dividends and interest held by him **or her** pursuant to the requirements of this chapter;

(5) Any amendments to this chapter, which, in his **or her** judgment, may be desirable;

(6) The names and compensation of the deputies, clerks, examiners, special agents and other employees employed by him **or her**, and the whole amount of the receipts and expenditures of the division during each of the last two preceding fiscal years.

24           2. All such reports shall be printed at the expense of the state and paid for as other public  
25 printing.

          361.160. 1. The director of finance at least once each year, either personally or by a  
2 deputy or examiner appointed by the director, shall visit and examine every bank and trust  
3 company organized and doing business under the laws of this state, and every other corporation  
4 which is by law required to report to the director; except, for banks or trust companies receiving  
5 a Camel 1 or Camel 2 rating from the division of finance, the director of finance at least once  
6 each eighteen calendar months either personally or by a deputy or examiner appointed by the  
7 director, shall visit and examine such bank or trust company, and the director of finance, at the  
8 director's discretion, may conduct the director's examination, or any part thereof, on the basis of  
9 information contained in examination reports of other states, the Federal Deposit Insurance  
10 Corporation or the Federal Reserve Board or in audits performed by certified public accountants.  
11 **The director shall be afforded prompt and free access to any workpapers upon which a**  
12 **certified public accountant bases an audit. A certified public accountant shall retain**  
13 **workpapers for a minimum of three years after the date of issuance of the certified public**  
14 **accountant's report to the bank or trust company.** The director or the director's agent may  
15 concentrate the examinations on institutions which the director believes have safety or soundness  
16 concerns.

17           2. The director, or the deputy or examiners designated by the director for that purpose,  
18 shall have power to examine any such corporation whenever, in the director's judgment, it may  
19 be deemed necessary or expedient, and shall have power to examine every agency located in this  
20 state of any foreign banking corporation and every branch in this state of any out-of-state bank,  
21 for the purpose of ascertaining whether it has violated any law of this state, and for such other  
22 purposes and as to such other matters as the director may prescribe.

23           3. The director and the director's deputy and examiners shall have power to administer  
24 oaths to any person whose testimony may be required in such examination or investigation of  
25 any such corporation or agency, and to compel the appearance and attendance of any person for  
26 the purpose of any such examination or investigation.

27           4. On every such examination inquiry shall be made as to the condition and resources  
28 of such corporation, the mode of conducting and managing its affairs, the actions of its directors  
29 or trustees, the investment of its funds, the safety and prudence of its management, the security  
30 afforded to its creditors, and whether the requirements of its charter and of law have been  
31 complied with in the administration of its affairs, and as to such other matters as the director may  
32 prescribe.

33           5. The director may also make such special investigations as the director deems  
34 necessary to determine whether any individual or corporation has violated any of the provisions

35 of this law.

36           6. Such examination may be made and such inquiry instituted or continued in the  
37 discretion of the director after the director has taken possession of the property and business of  
38 any such corporation, until it shall resume business or its affairs shall be finally liquidated in  
39 accordance with the provisions of this chapter.

40           7. The result of each examination shall be certified by the director or the examiner upon  
41 the records of the corporation examined and the result of all examinations during the biennial  
42 period shall be embodied in the report to be made by the director of the department of economic  
43 development to the legislature.

44           8. The director may contract with regulators in other states to provide for the  
45 examination of Missouri branches of out-of-state banks and branches of banks whose home state  
46 is Missouri. The agreements may provide for the payment by the home state of the cost of  
47 examinations conducted by the host state at the request of the home state regulators.

          361.170. 1. The expense of every regular and every special examination, together with  
2 the expense of administering the banking laws, including salaries, travel expenses, supplies and  
3 equipment, and including the direct and indirect expenses for rent and other supporting services  
4 furnished by the state, shall be paid by the banks and trust companies of the state, and for this  
5 purpose the director shall, prior to the beginning of each fiscal year, make an estimate of the  
6 expenses to be incurred by the division during such fiscal year. To this, there shall be added an  
7 amount equal to fifteen percent of the estimated expenses to pay the costs of rent and other  
8 supporting services such as the costs related to the division's services from the state auditor and  
9 attorney general and an amount sufficient to cover the cost of fringe benefits furnished by the  
10 state. From this total amount the director shall deduct the estimated amount of the anticipated  
11 annual income to the fund from all sources other than bank or trust company assessments. The  
12 director shall allocate and assess the remainder to the several banks and trust companies in the  
13 state on the basis of a weighted formula to be established by the director, which will take into  
14 consideration their total assets, as reflected in the last preceding report called for by the director  
15 pursuant to the provisions of section 361.130 **or from information obtained pursuant to**  
16 **subsection 3 of section 361.130** and, for trust companies which do not take deposits or make  
17 loans, the volume of their trust business, and the relative cost, in salaries and expenses, of  
18 examining banks and trust companies of various size and this calculation shall result in an  
19 assessment for each bank and trust company which reasonably represents the costs of the  
20 division of finance incurred with respect to such bank or trust company. A statement of such  
21 assessment shall be sent by the director to each bank and trust company on or before July first.  
22 One-half of the amount so assessed to each bank or trust company shall be paid by it to the state  
23 director of the department of revenue on or before July fifteenth, and the remainder shall be paid



24 on or before January fifteenth of the next year.

25       2. Any expenses incurred or services performed on account of any bank, trust company  
26 or other corporation subject to the provisions of this chapter, outside of the normal expense of  
27 any annual or special examination, shall be charged to and paid by the corporation for whom they  
28 were incurred or performed.

29       3. The state treasurer shall credit such payments to a special fund to be known as the  
30 "Division of Finance Fund", which is hereby created and which shall be devoted solely to the  
31 payment of expenditures actually incurred by the division and attributable to the regulation of  
32 banks, trust companies, and other corporations subject to the jurisdiction of the division. Any  
33 amount, other than the fifteen percent for supporting services and the amount of fringe benefits  
34 described in subsection 1 of this section, remaining in such fund at the end of any fiscal year up  
35 to five percent of the amount assessed to the banks and trust companies pursuant to subsection  
36 1 of this section shall not be transferred and placed to the credit of the general revenue fund as  
37 provided in section 33.080, RSMo, but shall be applicable by appropriation of the general  
38 assembly to the payment of such expenditures of the division in the succeeding fiscal year and  
39 shall be applied by the division to the reduction of the amount to be assessed to banks and trust  
40 companies in such succeeding fiscal year; provided the fifteen percent for supporting services  
41 and the amount of fringe benefits described in subsection 1 of this section and any amount  
42 remaining in the division of finance fund at the end of the fiscal year which exceeds five percent  
43 of the amount assessed to the banks and trust companies pursuant to subsection 1 of this section  
44 shall be returned to general revenue.

362.010. When used in this chapter, the term:

2       (1) "Aggregate demand deposits" means the deposit against which reserves must be  
3 maintained by banks and trust companies and includes total deposits, all amounts due to banks,  
4 bankers and trust companies, the amount due on certified and cashier's checks, and for unpaid  
5 dividends, less the following items:

6       (a) Total time deposits;

7       (b) The amounts due it on demand from banks, bankers and trust companies, other than  
8 its reserve depositaries, including foreign exchange balances credited to it and subject to draft;

9       (c) The excess due it from reserve depositaries over the amount required to maintain its  
10 total reserves;

11       (2) "Assessment" shall be construed as synonymous with the word "forfeiture";

12       (3) "Bank" means any corporation soliciting, receiving or accepting money, or its  
13 equivalent, on deposit as a business, whether the deposit is made subject to check, or is  
14 evidenced by a certificate of deposit, a passbook, a note, a receipt, or other writing, **and**  
15 **specifically a commercial bank chartered under this chapter or a national bank located in**

16 **this state;**

17 (4) "Demand deposits" means deposits, payment of which can legally be required [within  
18 thirty days] **as provided in federal law and regulation;**

19 (5) "Dividend period" means the period from the date as of which the last dividend of  
20 any corporation to which this chapter is applicable was declared to the date selected for the  
21 declaration of the next dividend; or the period from the date when its corporate existence began  
22 to the date as of which the first dividend is declared;

23 (6) "Net earnings" means the excess of gross earnings of any corporation to which this  
24 chapter is applicable over expenses and losses chargeable against the earnings during any  
25 dividend period;

26 (7) "Population" means population as determined by the last state or federal  
27 enumeration; or when used in connection with the words "unincorporated village" as determined  
28 by the finance commissioner from the best available sources of information, **except as otherwise**  
29 **provided in this chapter;**

30 (8) "Reserve depository" means a bank, trust company or banking corporation approved  
31 by the finance director as a depository for reserves on deposit;

32 (9) "Reserves on deposit" means the reserves against deposits maintained by any  
33 corporation pursuant to this chapter in reserve depositories, or in a federal reserve bank of which  
34 the corporation is a member, and not in excess of the amount authorized by this chapter;

35 (10) "Reserves on hand" means the reserves against deposits kept in the vault of any  
36 individual or corporation pursuant to the provisions of this chapter;

37 (11) "Stockholder", unless otherwise qualified, means a person who appears by the books  
38 of a stock corporation to be the owner and holder of one or more shares of the stock of the  
39 corporation;

40 (12) "Surplus" means the excess of assets over liabilities including liability to  
41 stockholders;

42 (13) "Surplus fund" means a fund created pursuant to the provisions of this chapter by  
43 a bank or trust company from its net earnings or undivided profits, which to the amount specified  
44 in this chapter is not available for the payment of dividends and cannot be used for the payment  
45 of expenses or losses so long as any corporation has undivided profits;

46 (14) "Time deposits" means all deposits, the payment of which cannot legally be required  
47 [within thirty days] **as provided in federal law and regulation;**

48 (15) "Total profits" means the total amount of undistributed net earnings of any  
49 corporation to which this chapter is applicable from the date of its organization, including such  
50 portions of its surplus fund or guaranty fund as have been derived from net earnings or from  
51 undivided profits;

52 (16) "Total reserves" means the aggregate of reserves on hand and reserves on deposit  
53 maintained pursuant to the provisions of this chapter;

54 (17) "Undivided profits" means the credit balance of the profit and loss account of any  
55 corporation to which this chapter is applicable.

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

4 (1) Conduct the business of receiving money on deposit and allowing interest thereon  
5 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) Hold a noncontrolling equity interest in any business entity that conducts only  
36 activities that are financial in nature or incidental to financial activity or that is established  
37 pursuant to subdivision (16) of this subsection where the majority of the stock or other interest  
38 is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any  
39 foreign bank with a branch or branches in Missouri, or any combination of these financial  
40 institutions; provided that if the entity is defined pursuant to Missouri law as any type of  
41 financial institution subsidiary or other type of entity subject to special conditions or regulations,  
42 those conditions and regulations shall remain applicable, and provided that such business entity  
43 may be formed as any type of business entity, in which each investor's liability is limited to the  
44 investment in and loans to the business entity as otherwise provided by law;

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

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

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

58 (10) [~~Purchase, lease, hold~~] **Acquire** or convey real property for the following purposes:

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

63 (b)] Real property conveyed to it in satisfaction or part satisfaction of debts previously  
64 contracted in the course of its business; **and**

65 [~~(c)~~] **(b)** Real property purchased at sales under judgment, decrees or liens held by it;

66 (11) Purchase, hold and become the owner and lessor of personal property acquired upon  
67 the specific request of and for use of a customer; and, in addition, leases that neither anticipate  
68 full purchase price repayment on the leased asset, nor require the lease to cover the physical life

69 of the asset, other than those for motor vehicles which will not be used by bank or trust company  
70 personnel, and may incur such additional obligations as may be incident to becoming an owner  
71 and lessor of the property, subject to the following limitations:

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

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

78 (12) Contract with another bank or trust company, bank service corporation or other  
79 partnership, corporation, association or person, within or without the state, to render or receive  
80 services such as check and deposit sorting and posting, computation and posting of interest and  
81 other credits and charges, preparation and mailing of checks, statements, notices, and similar  
82 items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar  
83 services, or the storage, transmitting or processing of any information or data; except that, the  
84 contract shall provide, to the satisfaction of the director of finance, that the party providing such  
85 services to a bank or trust company will be subject to regulation and examination to the same  
86 extent as if the services were being performed by the bank or trust company on its own premises.  
87 This subdivision shall not be deemed to authorize a bank or trust company to provide any  
88 customer services through any system of electronic funds transfer at places other than bank  
89 premises;

90 (13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease,  
91 hold or convey real property of a character which the bank or trust company holding stock in the  
92 corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph  
93 (a) of subdivision (10) of this subsection; provided, the purchase and holding of the stock is first  
94 duly authorized by resolution of the board of directors of the bank or trust company and by the  
95 written approval of the director, and that all of the shares of the corporation shall be purchased  
96 and held by the bank or trust company and shall not be sold or transferred except as a whole;

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

104 (15) Make debt or equity investments in corporations or projects, whether for profit or

105 not for profit, designed to promote the development of the community and its welfare, provided  
106 that the aggregate investment in all such corporations and in all such projects does not exceed  
107 five percent of the unimpaired capital of the bank, and provided that this limitation shall not  
108 apply to loans made under the authority of other provisions of law, and other provisions of law  
109 shall not limit this subdivision;

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

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

118 (1) [Invest up to its legal loan limit in a building or buildings suitable for the convenient  
119 conduct of its business, including, but not limited to, a building or buildings suitable for the  
120 convenient conduct of its functions, parking for bank, trust company and leasehold employees  
121 and customers and real property for landscaping. Revenue may be derived from renting or  
122 leasing a portion of the building or buildings and the contiguous real estate; provided that, such  
123 bank or trust company has assets of at least two hundred million dollars] **Purchase or lease, in  
124 an amount not exceeding its legal loan limit, real property and improvements thereto  
125 suitable for the convenient conduct of its functions. The bank may derive income from  
126 renting or leasing such real property or improvements or both. If the purchase or lease of  
127 such real property or improvements exceeds the legal loan limit or is from an officer,  
128 director, employee, affiliate, principal shareholder or a related interest of such person,  
129 prior approval shall be obtained from the director of finance; and**

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

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

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

137 (2) Accept and execute all such trusts and perform such duties of every description as  
138 may be committed to it by any person or persons whatsoever, or any corporation, and act as  
139 assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform  
140 such duties of every description as may be committed or transferred to it by order, judgment or

141 decree of any courts of record of this state or other states, or of the United States;

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

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

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

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

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

157 4. (1) In addition to the powers and authorities granted in this section, the director of  
158 finance may, from time to time, with the approval of the state banking board, issue orders  
159 granting such other powers and authorities as have been granted to financial institutions subject  
160 to the supervision of the federal government to:

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

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

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

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

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

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

174 6. A bank or trust company to which authority is granted by regulation in subsection 4  
175 of this section, based on the population of the political subdivision, may continue to exercise  
176 such authority for up to five years after the appropriate decennial census indicates that the

177 population of the town in which such bank or trust company is located has exceeded the limits  
178 provided for by regulation pursuant to subsection 4 of this 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 or convenient  
3 to effect any of the purposes for which the bank or trust company has been formed and any  
4 powers incidental to the business of banking;

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

8 (3) Notwithstanding any other law to the contrary, every bank or trust company created  
9 under the laws of this state may, for a fee or other consideration, directly or through a subsidiary  
10 company, and upon complying with any applicable licensing statute, acquire and hold the voting  
11 stock of one or more corporations the activities of which are managing or owning agricultural  
12 property, owning and leasing governmental structures except as limited by other law, subdividing  
13 and developing real property and building residential housing or commercial improvements on  
14 such property, and owning, renting, leasing, managing, operating for income and selling such  
15 property; provided that, the total of all investments, loans and guarantees made pursuant to the  
16 authority of this subdivision shall not exceed five percent of the total assets of the bank or trust  
17 company as shown on the next preceding published report of such bank or trust company to the  
18 director of finance, **or obtained by the director pursuant to subsection 3 of section 361.130,**  
19 **RSMo**, unless the director of the division of finance approves a higher percentage by regulation,  
20 but in no event shall such percentage exceed that allowed national banks by the appropriate  
21 regulatory authority, and, in addition to the investments permitted by this subdivision, a bank or  
22 trust company may extend credit, not to exceed the lending limits of section 362.170, to each of  
23 the corporations in which it has invested. No provision of this section authorizes a bank,  
24 **nondepository trust company**, or trust company to own or operate, directly or through a  
25 subsidiary company, a real estate brokerage company;

26 (4) Notwithstanding any other law to the contrary except for bank regulatory powers in  
27 chapter 361, RSMo, powers incidental to the business of banking shall include the authority of  
28 every Missouri bank, for a fee or other consideration, and upon complying with any applicable  
29 licensing and registration law, to conduct any activity that national banks are expressly  
30 authorized by federal law to conduct, if such Missouri bank meets the prescribed standards,  
31 provided that powers conferred by this subdivision:

32 (a) Shall always be subject to the same limitations applicable to a national bank for  
33 conducting the activity;

34 (b) Shall be subject to applicable Missouri insurance law;



35 (c) Shall be subject to applicable Missouri licensing and registration law for the activity;  
36 (d) Shall be subject to the same treatment prescribed by federal law; and any enabling  
37 federal law declared invalid by a court of competent jurisdiction or by the responsible federal  
38 chartering agency shall be invalid for the purposes of this subdivision; and  
39 (e) May be exercised by a Missouri bank after that institution has notified the director  
40 of its intention to exercise such specific power at the close of the notice period and the director,  
41 in response, has made a determination that the proposed activity is not an unsafe or unsound  
42 practice and such institution meets the prescribed standards required for the activity permitted  
43 national banks in the interpretive letter. The director may either take no action or issue an  
44 interpretive letter to the institution more specifically describing the activity permitted, and any  
45 limitations on such activity. The notice provided by the institution requesting such activity shall  
46 include copies of the specific law authorizing the power for national banks, and documentation  
47 indicating that such institution meets the prescribed standards. The notice period shall be thirty  
48 days but the director may extend it for an additional sixty days. After a determination has been  
49 made authorizing any activity pursuant to this subdivision, any Missouri bank may exercise such  
50 power as provided in subdivision (5) of this section without giving notice;  
51 (5) When a determination is made pursuant to paragraph (e) of subdivision (4) of this  
52 section, the director shall issue a public interpretative letter or statement of no action regarding  
53 the specific power authorized pursuant to subdivision (4) of this section; such interpretative  
54 letters and statements of no action shall be made with the name of the specific institution and  
55 related identifying facts deleted. Such interpretative letters and statements of no action shall be  
56 published on the division of finance public Internet web site, and filed with the office of the  
57 secretary of state for ten days prior to effectiveness. Any other Missouri bank may exercise any  
58 power approved by interpretative letter or statement of no action of the director pursuant to this  
59 subdivision; provided, the institution meets the requirements of the interpretative letter or  
60 statement of no action and the prescribed standards required for the activity permitted national  
61 banks in the interpretive letter. Such Missouri bank shall not be required to give the notice  
62 pursuant to paragraph (e) of subdivision (4) of this section. For the purposes of this subdivision  
63 and subdivision (4) of this section, "activity" shall mean the offering of any product or service  
64 or the conducting of any other activity; "federal law" shall mean any federal statute or regulation  
65 or an interpretive letter issued by the Office of the Comptroller of the Currency; "Missouri bank"  
66 shall mean any bank or trust company created pursuant to the laws of this state.

**362.111. A bank or trust company may impose fees or service charges on deposit  
2 accounts; however, such fees or service charges are subject to such conditions or  
3 requirements that may be fixed by regulations pursuant to section 361.105, RSMo, by the  
4 director of the division of finance and the state banking board. Notwithstanding any law**

5 **to the contrary, no such condition or requirement shall be more restrictive than the fees**  
6 **or service charges on deposit accounts or similar accounts permitted any federally**  
7 **chartered depository institution.**

362.170. 1. As used in this section, the term "unimpaired capital" includes common and  
2 preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject  
3 to known charges as shown on the next preceding published report of the bank or trust company  
4 to the director of finance **or obtained by the director pursuant to subsection 3 of section**  
5 **361.130, RSMo.**

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

7 (1) Directly or indirectly, lend to any individual, partnership, corporation, limited  
8 liability company or body politic, either by means of letters of credit, by acceptance of drafts, or  
9 by discount or purchase of notes, bills of exchange, or other obligations of the individual,  
10 partnership, corporation, limited liability company or body politic an amount or amounts in the  
11 aggregate which will exceed the greater of: (i) twenty-five percent of the unimpaired capital of  
12 the bank or trust company, provided such bank or trust company has a composite rating of 1 or  
13 2 under the Capital, Assets, Management, Earnings, Liquidity and Sensitivity (CAMELS) rating  
14 system of the Federal Financial Institute Examination Counsel (FFIEC); (ii) fifteen percent of  
15 the unimpaired capital of the bank or trust company if located in a city having a population of  
16 one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust  
17 company if located in a city having a population of less than one hundred thousand and over  
18 seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company  
19 if located elsewhere in the state, with the following exceptions:

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

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

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

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

34 d. Loans to the extent that they are insured or covered by guaranties or by commitments  
35 or agreements to take over or purchase made by any department, bureau, board, commission, or  
36 establishment of the United States or of the state of Missouri, including any corporation, wholly  
37 owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the  
38 authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted  
39 or amended or pursuant to the authority of any executive order of the President of the United  
40 States or the governor of Missouri heretofore or hereafter made or amended under the authority  
41 of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not  
42 so agreed to be purchased or discounted is within the restrictive provisions of this section;

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

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

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

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

70 corporations or with individuals licensed to do an insurance business by the state or country of  
71 their incorporation or residence; and all policies covering property on which the loan is made  
72 shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and  
73 provided further, that in arriving at the amount that may be loaned by any bank or trust company  
74 to any individual, partnership, corporation or limited liability company on elevator or warehouse  
75 receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of  
76 all other liabilities of the individual, partnership, corporation or limited liability company to the  
77 bank or trust company;

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

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

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

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

104 (2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly  
105 purchase or be interested in the purchase of any certificate of deposit, pass book, promissory

106 note, or other evidence of debt issued by it, for less than the principal amount of the debt, without  
107 interest, for which it was issued. Every bank or trust company or person violating the provisions  
108 of this subdivision shall forfeit to the state the face value of the note or other evidence of debt  
109 so purchased;

110 (3) Make any loan or discount on the security of the shares of its own capital stock, or  
111 be the purchaser or holder of these shares, unless the security or purchase shall be necessary to  
112 prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired  
113 shall be sold at public or private sale, or otherwise disposed of, within six months from the time  
114 of its purchase or acquisition unless the time is extended by the finance director. Any bank or  
115 trust company violating any of the provisions of this subdivision shall forfeit to the state the  
116 amount of the loan or purchase;

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

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

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

138 .....

139 .....

140 .....

141 .....

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

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

(6) Invest or keep invested in the stock of any private corporation, provided however, a bank or trust company may invest in equity stock in the Federal Home Loan Bank up to twice the limit described in subdivision (1) of this subsection and except as otherwise provided in this chapter.

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

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

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

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the

178 payment of real estate securities, or investing in other securities in which trust companies may  
179 invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to  
180 January 1, 1915, and the prohibition for investments in this subsection shall not apply to  
181 investments otherwise provided by law other than subdivision (4) of subsection 3 of section  
182 362.105.

183 7. Any bank or trust company to which the provisions of subsection 2 of this section  
184 apply may continue to make loans pursuant to the provisions of subsection 2 of this section for  
185 up to five years after the appropriate decennial census indicates that the population of the city  
186 in which such bank or trust company is located has exceeded the limits provided in subsection  
187 2 of this section.

362.295. 1. Within ten days after service upon it of the notice provided for by section  
2 361.130, RSMo, every bank and trust company shall make a written report to the director, which  
3 report shall be in the form and shall contain the matters prescribed by the director and shall  
4 specifically state the items of capital, deposits, specie and cash items, public securities and  
5 private securities, real estate and real estate securities, and such other items as may be necessary  
6 to inform the public as to the financial condition and solvency of the bank or trust company, or  
7 which the director may deem proper to include therein. **In lieu of requiring direct filing of**  
8 **reports of condition, the director may accept reports of condition or their equivalent as**  
9 **filed with federal regulatory agencies and may require verification and the filing of**  
10 **supplemental information as the director deems necessary.**

11 2. Every report shall be verified by the oaths of the president or vice president and  
12 cashier or secretary or assistant cashier or assistant secretary, and the verification shall state that  
13 the report is true and correct in all respects to the best of the knowledge and belief of the persons  
14 verifying it, and the report shall be attested by three directors, and shall be a report of the actual  
15 condition of the bank or trust company at the close of business on the day designated and which  
16 day shall be prior to the call. **If the director of finance obtains the data pursuant to**  
17 **subsection 3 of section 361.130, RSMo, the director may rely on the verification provided**  
18 **to the federal regulatory agency.**

19 3. Every report, exclusive of the verification, shall, within thirty days after it shall have  
20 been filed with the director, be published by the bank or trust company in one newspaper of the  
21 place where its place of business is located, or if no newspaper is published there, in a newspaper  
22 of general circulation in the town and community in which the bank or trust company is located;  
23 the newspaper to be designated by the board of directors and a copy of the publication, with the  
24 affidavit of the publisher thereto, shall be attached to the report; provided, if the bank or trust  
25 company is located in a town or city having a population exceeding ten thousand inhabitants,  
26 then the publication must be in a daily newspaper, if published in that city; but if the bank or

27 trust company is located in a town or city having a population of ten thousand inhabitants or less,  
28 then the publication may be in either a daily or weekly newspaper published in the town or city  
29 as aforesaid; and in all cases a copy of the statement shall be posted in the banking house  
30 accessible to all.

31 4. The bank and trust company shall also make such other special reports to the director  
32 as he may from time to time require, in such form and at such date as may be prescribed by him,  
33 and the report shall, if required by him, be verified in such manner as he may prescribe.

34 5. If the bank or trust company shall fail to make any report required by this section on  
35 or before the day designated for the making thereof, or shall fail to include therein any matter  
36 required by the director, the bank or trust company shall forfeit to the state the sum of one  
37 hundred dollars for every day that the report shall be delayed or withheld, and for every day that  
38 it shall fail to report any omitted matter, unless the time therefor shall have been extended by the  
39 director. Should any president, cashier or secretary of the bank or trust company or any director  
40 thereof fail to make the statement so required of him or them, or willfully and corruptly make  
41 a false statement, he or they, and each of them, shall be deemed guilty of a misdemeanor, and,  
42 upon conviction thereof, upon information, punished by a fine for each offense not exceeding  
43 five hundred dollars and not less than one hundred dollars, or by imprisonment not less than one  
44 or more than twelve months in the city or county jail, or by both such fine and imprisonment.

45 6. A bank or trust company may provide each written report required to be published free  
46 of charge to the public; and when each bank or trust company notifies their customers that such  
47 information is available; and when one copy of such information is available to each person that  
48 requests it, the newspaper publication provisions of this section shall not be enforced against  
49 such bank or trust company.

362.910. As used in sections 362.910 to 362.940, [except for section 362.925,] unless  
2 the context clearly indicates otherwise, the following terms mean:

3 (1) "Bank", any bank, trust company or national banking association which accepts  
4 demand deposits and makes loans, and which has its principal banking house in Missouri and  
5 a branch of any bank, trust company or national banking association which accepts demand  
6 deposits and which has a physical presence in Missouri, other than a branch located outside of  
7 Missouri;

8 (2) "Bank holding company", any company which has control over any bank or over any  
9 company that is a bank holding company;

10 (3) "Company", any corporation, partnership, business trust, association, or similar  
11 organization, or any other trust unless by its terms it must terminate within twenty-five years or  
12 not later than twenty-one years and ten months after the death of individuals living on the  
13 effective date of the trust, but shall not include any corporation the majority of the shares of



14 which are owned by the United States or by any state;

15 (4) "Control", a company has control over a bank, **trust company** or company if:

16 (a) The company directly or indirectly or acting through one or more other persons owns,  
17 controls, or has power to vote twenty-five percent or more of any class of voting securities of the  
18 bank or company;

19 (b) The company controls in any manner the election of a majority of the directors or  
20 trustees of the bank or company; or

21 (c) The company directly or indirectly exercises a controlling influence over the  
22 management or policies of the bank or company;

23 (d) Provided, however, no company shall be deemed to have control over a bank or a  
24 company by virtue of its ownership or control of shares acquired by it in connection with its  
25 underwriting of securities and which are held only for such period of time as will permit the sale  
26 thereof upon a reasonable basis, or which is formed for the sole purpose of participating in a  
27 proxy solicitation, or which acquires ownership or control of shares in securing or collecting a  
28 debt previously contracted in good faith, until two years after the date of acquisition, or which  
29 acquires ownership or control of shares in a fiduciary capacity. For the purpose of sections  
30 362.910 to 362.940, bank shares shall not be deemed to have been acquired in a fiduciary  
31 capacity if the acquiring bank or company in its capacity as trustee of a trust has sole  
32 discretionary authority to exercise voting rights with reference thereto; except that this limitation  
33 is applicable in the case of a bank or company which acquired such shares prior to December 31,  
34 1970, only if the bank or company had the right consistent with its obligations under the  
35 instrument, agreement, or other arrangement establishing the trust relationship to divest itself of  
36 such voting rights and failed to exercise that right to divest prior to December 31, 1971;

37 (5) "Director" or "director of finance", the director of the division of finance of the  
38 department of economic development;

39 (6) **"Trust holding company", any company which has control over any trust**  
40 **company or over any company that is a trust holding company.**

362.923. 1. The director of the division of finance may enter into cooperative and  
2 reciprocal agreements with the federal reserve banks for periodic examination of bank holding  
3 companies on a joint or alternating basis, but, except in extraordinary situations, no such  
4 agreements may be concluded which would result in a bank holding company being examined  
5 more frequently than once every twelve months. The director may accept reports of examination  
6 and other exchanges of information from such agencies in lieu of conducting his own  
7 examinations and compiling his own reports, and may provide reports of examination and other  
8 information to such agencies.

9 2. **A trust holding company or a company formed to be a trust holding company,**

10 as hereinafter described, is a new business entity under Missouri law and is not subject to  
11 federal reserve examination. The director of the division of finance shall contract with the  
12 parties that charter such entity to obtain safety and soundness authority as a condition for  
13 such entity's acquisition of a trust company. To simplify such process:

14 (1) A trust holding company or a company formed to be a trust holding company  
15 which seeks to acquire control of any nondepository trust company shall file an application  
16 with the division of finance;

17 (2) The director shall determine if the proposed acquisition of a nondepository trust  
18 company by a trust holding company is consistent with the interests of promoting and  
19 maintaining sound trust companies;

20 (3) The director may issue an order approving or disapproving the proposed  
21 acquisition of a nondepository trust company by a trust holding company and may present,  
22 enforce, advocate, or defend the order in any judicial or administrative proceeding; and

23 (4) The director may examine and investigate any trust holding company as  
24 appropriate or necessary to carry out the director's duties. The director may enter into  
25 cooperative and reciprocal agreements with federal and state regulatory authorities  
26 appropriate to such functions and may share reports and information or pursue joint  
27 actions or concurrent jurisdiction with federal and state regulatory authorities.

369.159. [An association may make a service charge on accounts subject to such  
2 conditions or requirements as may be fixed by regulations of the director of the division of  
3 finance. No limitation shall be placed upon service charges on NOW accounts.] An association  
4 may impose fees or service charges on accounts; however, such fees or service charges are  
5 subject to such conditions or requirements that may be fixed by regulations pursuant to  
6 section 369.301 by the director of the division of finance and the state savings and loan  
7 commission. Notwithstanding any law to the contrary, no such condition or requirement  
8 shall be more restrictive than the fees or service charges on deposit accounts or similar  
9 accounts permitted any federally chartered depository institution.

370.171. A credit union may impose fees or service charges on deposit accounts or  
2 similar accounts; however, such fees or service charges are subject to such conditions or  
3 requirements that may be fixed by regulations pursuant to this chapter by the director of  
4 credit union supervision and the credit union commission. Notwithstanding any law to the  
5 contrary, no such condition or requirement shall be more restrictive than the fees or  
6 service charges on deposit accounts or similar accounts permitted any federally chartered  
7 depository institution.

400.1-103. Unless displaced by the particular provisions of this chapter, the principles  
2 of law and equity, including the law merchant and the law relative to capacity to contract,

3 principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy,  
4 or other validating or invalidating cause shall supplement its provisions. **Any transaction or**  
5 **series of transactions that complies with articles 3, 4, and 9 of this chapter shall not be**  
6 **subject to claims other than statutory provisions that are specifically provided for in this**  
7 **chapter.**

400.3-102. (a) This Article applies to negotiable instruments. It does not apply to  
2 money, to payment orders governed by Article 4A, or to securities governed by Article 8.

3 (b) If there is conflict between this Article and Article 4 or 9, Articles 4 and 9 govern;  
4 **however, as between Article 4 and this Article, the more specific provision governs.**

5 (c) Regulations of the Board of Governors of the Federal Reserve System and operating  
6 circulars of the Federal Reserve Banks supersede any inconsistent provision of this Article to the  
7 extent of the inconsistency.

400.4-102. (a) To the extent that items within this article are also within articles 3 and  
2 8, they are subject to those articles. If there is conflict, this article governs article 3, but article  
3 8 governs this article.

4 (b) The liability of a bank for action or nonaction with respect to an item handled by it  
5 for purposes of presentment, payment or collection is governed by the law of the place where the  
6 bank is located. In the case of action or nonaction by or at a branch or separate office of a bank,  
7 its liability is governed by the law of the place where the branch or separate office is located.

8 (c) **Any transaction or series of transactions that complies with this article shall not**  
9 **be subject to common law claims provided the bank has acted in good faith for the benefit**  
10 **of such bank's customers.**

400.9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and  
2 indexing a record under this part, other than an initial financing statement of the kind described  
3 in section 400.9-502(c), is:

4 (1) If the filing office is the secretary of state's office, then twelve dollars for the first  
5 page and one dollar for each subsequent page if the record is communicated in writing, or **five**  
6 **dollars** by [another] **an electronic** medium authorized by filing-office rule[, of which fee seven  
7 dollars is received and collected by the secretary of state on behalf of the counties of this state  
8 for deposit in the uniform commercial code transition fee trust fund]; or

9 (2) If the filing office is other than the secretary of state's office, then the fee otherwise  
10 allowed by law.

11 (b) Except as otherwise provided in subsection (e), the fee for filing and indexing an  
12 initial financing statement of the kind described in section 400.9-502(c) is:

13 (1) If the filing office is the secretary of state's office, then twelve dollars for the first  
14 page and one dollar for each subsequent page if the record is communicated in writing, or **five**

15 **dollars** by [another] **an electronic** medium authorized by filing-office rule[, of which fee seven  
16 dollars is received and collected by the secretary of state on behalf of the counties of this state  
17 for deposit in the uniform commercial code transition fee trust fund]; or

18 (2) If the filing office is other than the secretary of state's office, then the fee otherwise  
19 allowed by law.

20 (c) The number of names required to be indexed does not affect the amount of the fee  
21 in subsections (a) and (b).

22 (d) The fee for responding to a request for information from the filing office, including  
23 for communicating whether there is on file any financing statement naming a particular debtor,  
24 is:

25 (1) If the filing office is the secretary of state's office, then twenty-two dollars for the first  
26 page and one dollar for each subsequent page if the record is communicated in writing or by  
27 another medium authorized by filing-office rule[, of which fee seven dollars is received and  
28 collected by the secretary of state on behalf of the counties of this state for deposit in the uniform  
29 commercial code transition fee trust fund]; or

30 (2) If the filing office is other than the secretary of state's office, then the fee otherwise  
31 allowed by law.

32 (e) This section does not require a fee with respect to a record of a mortgage which is  
33 effective as a financing statement filed as a fixture filing or as a financing statement covering  
34 as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording  
35 and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

36 [(f) The department of revenue shall administer a special trust fund, which is hereby  
37 established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and  
38 which shall be funded by seven dollars of each of the fees received and collected pursuant to  
39 subdivisions (a), (b) and (d) of this section on behalf of the counties of this state for deposit in  
40 the uniform commercial code transition fee trust fund.

41 (1) The secretary of state shall keep and provide to the department of revenue and the  
42 county employees' retirement fund an accurate record of the moneys to be deposited in the  
43 uniform commercial code transition fee trust fund allocated to each county and city not within  
44 a county on the basis of where such record, financing statement or other document would have  
45 been filed prior to July 1, 2001, and the department of revenue shall distribute the moneys  
46 pursuant to subdivision (2) of this subsection on that basis.

47 (2) The moneys in the uniform commercial code transition fee trust fund shall be  
48 distributed to the county employees' retirement fund established pursuant to section 50.1010,  
49 RSMo, or the general revenue fund of any charter county or city not within a county whose  
50 employees are not members of the county employees' retirement fund.

51 (3) The moneys in the uniform commercial code transition fee trust fund shall be deemed  
52 to be nonstate funds, as defined in section 15 of article IV of the Missouri Constitution, to be  
53 administered by the department of revenue, provided, however that interest, if any, earned by the  
54 money in the trust fund shall be deposited into the general revenue fund in the state treasury.]

400.9-626. [(a)] In an action arising from a transaction, [other than a consumer  
2 transaction,] in which the amount of a deficiency or surplus is in issue, the following rules apply:

3 (1) A secured party need not prove compliance with the provisions of this part relating  
4 to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor  
5 places the secured party's compliance in issue.

6 (2) If the secured party's compliance is placed in issue, the secured party has the burden  
7 of establishing that the collection, enforcement, disposition, or acceptance was conducted in  
8 accordance with this part.

9 (3) Except as otherwise provided in section 400.9-628, if a secured party fails to prove  
10 that the collection, enforcement, disposition, or acceptance was conducted in accordance with  
11 the provisions of this part relating to collection, enforcement, disposition, or acceptance, the  
12 liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the  
13 sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

14 (A) The proceeds of the collection, enforcement, disposition, or acceptance; or

15 (B) The amount of proceeds that would have been realized had the noncomplying  
16 secured party proceeded in accordance with the provisions of this part relating to collection,  
17 enforcement, disposition, or acceptance.

18 (4) For purposes of paragraph (3)(B), the amount of proceeds that would have been  
19 realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the  
20 secured party proves that the amount is less than that sum.

21 (5) If a deficiency or surplus is calculated under section 400.9-615(f), the debtor or  
22 obligor has the burden of establishing that the amount of proceeds of the disposition is  
23 significantly below the range of prices that a complying disposition to a person other than the  
24 secured party, a person related to the secured party, or a secondary obligor would have brought.

25 [(b) The limitation of the rules in subsection (a) to transactions other than consumer  
26 transactions is intended to leave to the court the determination of the proper rules in consumer  
27 transactions. The court may not infer from that limitation the nature of the proper rule in  
28 consumer transactions and may continue to apply established approaches.

29 (c) This section shall apply on and after January 1, 2003.]

407.433. 1. No person, other than the cardholder, shall:

2 (1) Disclose more than the last five digits of a credit card or debit card account number  
3 on any sales receipt **provided to the cardholder** for merchandise sold in this state;

4           (2) Use a scanning device to access, read, obtain, memorize, or store, temporarily or  
5 permanently, information encoded on the magnetic strip or stripe of a credit or debit card without  
6 the permission of the cardholder and with the intent to defraud any person, the issuer, or a  
7 merchant; or

8           (3) Use a reencoder to place information encoded on the magnetic strip or stripe of a  
9 credit or debit card onto the magnetic strip or stripe of a different card without the permission  
10 of the cardholder from which the information is being reencoded and with the intent to defraud  
11 any person, the issuer, or a merchant.

12           2. Any person who knowingly violates this section is guilty of an infraction and any  
13 second or subsequent violation of this section is a class A misdemeanor.

14           3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:

15           (1) The sole means of recording the credit card number or debit card number is by  
16 handwriting or, prior to January 1, 2005, by an imprint of the credit card or debit card; and

17           (2) For handwritten or imprinted copies of credit card or debit card receipts, only the  
18 merchant's copy of the receipt lists more than the last five digits of the account number.

19           4. This section shall become effective on January 1, 2003, and applies to any cash  
20 register or other machine or device that prints or imprints receipts of credit card or debit card  
21 transactions and which is placed into service on or after January 1, 2003. Any cash register or  
22 other machine or device that prints or imprints receipts on credit card or debit card transactions  
23 and which is placed in service prior to January 1, 2003, shall be subject to the provisions of this  
24 section on or after January 1, 2005.

          408.455. All contracts or agreements **originally** subject to [section] **sections 408.450**  
2 **to 408.470** shall also be subject to the provisions of sections 408.140, 408.150, 408.160 and  
3 408.550 to 408.562, **until the extension of credit is paid off or the debtor requests an**  
4 **extension or refinancing. At such time the debtor requests an extension of the current**  
5 **credit, the creditor may convert the extension of credit to any loan contract or times sales**  
6 **agreement such creditor is permitted to offer on the terms and conditions permitted in**  
7 **those extensions of credit, provided the provisions of sections 408.140, 408.150, 408.160 and**  
8 **408.550 to 408.562 shall still apply.**

          Section B. Because immediate action is necessary to ensure the efficient operation of  
2 business procedures regulated by the secretary of state in this state, the repeal and reenactment  
3 of section 400.9-525 of section A of this act is deemed necessary for the immediate preservation  
4 of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act  
5 within the meaning of the constitution, and the repeal and reenactment of section 400.9-525 of  
6 section A of this act shall be in full force and effect on July 1, 2003, or upon its passage and  
7 approval, whichever later occurs.

2 [408.450. 1. Notwithstanding the provisions of any other law, the parties to  
3 any written contract may agree to and stipulate for any rate per annum of interest time  
4 charge or time price differential not in excess of twenty-four percent per annum that  
5 does not exceed for any calendar period, as set forth in subsections 2 and 3 of this  
6 section, the average auction rate quoted on a nominal discount basis by the Federal  
7 Reserve Board for twenty-six-week treasury bills for the preceding auction,  
8 multiplied by two; however, if the preceding auction shall fall on the last day of the  
9 preceding month, then the rate shall be determined by the next preceding auction.

10 2. All open-end accounts shall fluctuate no more often than monthly and no  
11 less often than quarterly.

12 3. All closed-end accounts shall fluctuate no more often than quarterly and  
13 no less than annually; and only one formula and one index shall be used to determine  
14 the rate or time price differential for any one closed-end account.

15 4. This section shall not apply to open-end credit under which a credit card  
16 has been issued or any extension of credit made pursuant to sections 408.250 to  
17 408.370.

18 5. Interest or time price differential on contracts subject to sections 408.450  
19 to 408.467 shall be computed on a simple interest basis.

20 6. There shall be no prepayment penalty on any contract subject to sections  
21 408.450 to 408.467.

22 7. No creditor shall refuse credit to a person solely because of his refusal to  
23 accept the provisions of sections 408.450 to 408.467.

24 8. The amount of regular, periodic payments on closed-end accounts shall not  
25 be changed, but the total number of payments due may be increased or decreased as  
a result of changes in the rate.]

2 [408.460. 1. If an open-end contract provides for or is amended to provide  
3 for, pursuant to section 408.450, a variable rate or amount according to any index,  
4 formula or provision of law disclosed to the obligor, the applicable rate ceiling is the  
5 ceiling as disclosed to the obligor. The monthly or quarterly ceiling shall be adjusted  
6 in accordance with and limited by section 408.450.

7 2. In any open-end account, the creditor may provide in the agreement  
8 covering the open-end account, or may amend the agreement to provide that the  
9 terms, including the formula used to determine the rate on the open-end account, will  
10 be subject to revision as to current and future balances, from time to time, by notice  
11 from the creditor to the obligor. Any creditor revising an open-end account pursuant  
12 to sections 408.450 to 408.467 shall disclose in the notice:

13 (1) The new formula to be used in computing the rate;

14 (2) The date on which the new rate formula will become effective;

15 (3) Whether the rate shall change monthly or quarterly and whether or not it  
16 will affect current as well as future balances;

17 (4) The obligor's rights under this section and the procedures for the obligor  
18 to exercise those rights;

(5) The address to which the obligor may send notification of the obligor's

election not to continue the open-end account. If the amendment increases the rate, the notice shall contain the following printed in not less than 10-point bold-face type or equivalent: "YOU MAY TERMINATE THIS ACCOUNT IF YOU DO NOT WISH TO PAY THE NEW RATE."

3. With a notice required by subsection 2 of this section, the creditor shall include a form which may be returned at the expense of the creditor and on which the obligor may indicate his decision to terminate the account by checking or marking an appropriate box, or similar arrangement. The form may be included on a portion of the account statement to be returned to the creditor or on a separate sheet. Any obligor who is mailed a notice required by subsection 2 of this section, addressed to the obligor's last known address as shown by the creditor's records, is considered to have agreed to the revision if the obligor, or a person authorized by the obligor, after the expiration of five days after the notice is mailed, accepts or uses any extensions of credit or if the obligor elects to retain the privilege of using the open-end account. Such an election is considered to have occurred unless the obligor notifies the creditor in writing before the twenty-first day after the date on which the notice is sent that the obligor does not wish to continue the open-end account. The parties may also amend the contract by any other means permitted by any applicable law. Any obligor who rejects a rate change in accordance with this section has the right to pay off the then existing balance on the open-end account at the rate, and over the time period, in effect prior to the change, and at the same minimum payment terms previously agreed to, unless the obligor agrees to the new rates in accordance with this section. Rejection of the new rates may constitute termination of the account at the lender's option; however, the lender may not, in absence of an existing delinquency, accelerate the balance due.]

[408.465. 1. If the furnishing of any of the information required to compute the ceiling is discontinued so that it is no longer available to the lender from the Federal Reserve Board on a timely basis, the lender shall obtain that information from reliable sources satisfactory to the commissioner of finance.

2. If the information required to compute a ceiling is not available, then that ceiling remains at the level at which it was when the information became available until the information again becomes available.]

[408.467. The maximum rate on any contract to renew or extend the terms of payment of any indebtedness made pursuant to sections 408.450 to 408.465 is the applicable ceiling allowed by sections 408.450 to 408.465 for a contract entered at the time the renewal or extension is made or agreed to.]

[408.470. Sections 408.450 to 408.467 shall not apply to any loans or time price sales on which the rate of interest or time price differential charged is lawful without regard to the rates permitted in section 408.450.]

[408.557. When a lender sells or otherwise disposes of collateral in a transaction in which an action for a deficiency may be commenced against the borrower, prior to bringing any such action or upon written request of the borrower, the lender shall give the borrower the notice provided in section 400.9-614, RSMo,



5 for consumer goods transactions or section 400.9- 613, RSMo, for all other  
6 transactions that are not consumer goods transactions.]

2 [408.653. 1. A depository institution including any state or federally  
3 chartered bank, credit union, savings and loan association or any similar institution  
4 may charge no more than fifteen dollars as an overdraft charge or as a charge for a  
5 check, draft or similar sight order returned for insufficient or uncollected funds.

6 2. Any person to whom a check, draft, order or like instrument is tendered  
7 may, if such instrument is dishonored or returned unpaid for any reason, charge and  
8 collect from the maker or drawer, or the person for whose benefit such instrument  
9 was given, the amount of twenty dollars plus an amount equal to the actual charge  
10 by the depository institution for the return of each unpaid or dishonored instrument.  
11 No such charge will be considered interest, finance charge, time price differential or  
anything of a similar nature for purposes of any statute in this state.]

2 [408.654. Notwithstanding any other provisions of law to the contrary, a  
3 depository institution, including any state or federally chartered bank, credit union,  
4 savings and loan association or similar institution, may charge up to twenty dollars  
5 as an overdraft charge when the check, draft or similar sight order is presented for the  
6 first time to the depository institution and the depository institution pays such check,  
7 draft or similar sight order upon presentation or up to fifteen dollars as a charge for  
8 a check, draft or similar sight order returned because the customer has insufficient  
or uncollected funds in the customer's depository institution account.]