

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 707
93RD GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 11, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1970S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 361.060, 361.070, 361.080, 361.262, 361.365, 362.042, 362.107, 362.170, 362.210, 362.213, 362.215, 362.217, 362.225, 362.300, 362.305, 362.310, 362.315, 362.520, and 362.600, RSMo, and to enact in lieu thereof thirteen new sections relating to banking, with penalty provisions.

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

Section A. Sections 361.060, 361.070, 361.080, 361.262, 361.365, 362.042, 362.107, 2 362.170, 362.210, 362.213, 362.215, 362.217, 362.225, 362.300, 362.305, 362.310, 362.315, 3 362.520, and 362.600, RSMo, are repealed and thirteen new sections enacted in lieu 4 thereof, to be known as sections 361.060, 361.070, 361.080, 361.262, 361.365, 362.042, 5 362.107, 362.170, 362.225, 362.310, 362.315, 362.520, and 362.600, to read as follows:

361.060. 1. The director of finance, with the approval of the governor, shall 2 appoint a deputy director of finance and such examiners, assistant examiners and other 3 assistants as, subject to the approval of the governor, he shall deem necessary to 4 properly discharge the duties of the division of finance.

5 2. The deputy director shall possess the qualifications required for the director 6 of finance. [Appointments of examiners and assistant examiners shall be so made that, 7 as near as may be, one-half of their number respectively shall be members of the political 8 party polling the highest number of votes for governor at the last preceding general state 9 election, and the remaining one-half shall be members of the political party polling the 10 next highest number of votes for governor at the last preceding state election.]

11 3. All employees of the division of finance shall perform such duties as shall be 12 required of them by the director of finance, shall devote all of their time to their official 13 duties, and shall hold their offices during and at the pleasure of the director of finance.

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

361.070. 1. The director of finance[, deputy director, other assistants and
2 examiners, and all special agents and other employees shall each] **and all employees**
3 **of the division of finance, which term shall, for purposes of this section and**
4 **section 361.080, include special agents, shall**, before entering upon the discharge
5 of [his] **their** duties, take [and subscribe] the oath of office [as] prescribed by the
6 constitution, and, in addition, **take an oath** that [he] **they** will not reveal the
7 conditions or affairs of any [bank, banker or trust company in this state or of any credit
8 union or small loan business] **financial institution** or any facts pertaining to the same,
9 that may come to [his] **their** knowledge by virtue of [his] **their** official [position]
10 **positions**, unless required by law [so] to do **so** in the discharge of the duties of [his
11 said] **their** [office] **offices** or [as a witness] **when testifying** in any **court** proceeding
12 [in a court of justice]. **For purposes of this section and section 361.080,**
13 **"financial institution" shall mean any entity subject to chartering, licensing,**
14 **or regulation by the division of finance.**

15 2. The director of finance[, deputy, assistants and examiners] **and all**
16 **employees of the division of finance** shall further execute to the state of Missouri
17 good and sufficient bonds with corporate surety, to be approved by the governor and
18 attorney general, conditioned that they will faithfully and impartially discharge the
19 duties of their offices, and pay over to the persons entitled by law to receive it, all
20 [moneys] **money** coming into their hands by virtue of their offices[; and any special
21 agent or other employee shall give a bond, approved as aforesaid, as may be
22 required]. The principal amount of bond applicable to each employee shall be
23 determined by the state banking board. The bond, after approval by the governor and
24 attorney general, [as above provided,] shall be filed with the secretary of state for
25 safekeeping. The **bond** premiums [on the bond], not to exceed one percent on the
26 amount thereof, shall be paid out of the state treasury in the same manner as other
27 expenses of the division.

28 3. [No employee] **Neither the director of finance nor any employees** of the
29 **division of finance** who [participates] **participate** in the examination of any bank or
30 trust company, or who may be called upon to make any official decision or determination
31 affecting the operation of any bank or trust company, other than the [two] banker
32 members of the state banking board, shall be an officer, director, attorney, owner, or
33 holder of stock in any bank or trust company or any bank holding company as that term
34 is defined in section 362.910, RSMo, [or] **nor shall they** receive, directly or indirectly,
35 any payment or gratuity from any such organization, [or] **nor** engage in the negotiation
36 of loans for others with any state bank or trust company, [or] **nor** be indebted to any

37 state bank or trust company.

38 **4. The director of finance, in connection with any examination or**
39 **investigation of any person, company, or event, shall have the authority to**
40 **compel the production of documents, in whatever form they may exist, and**
41 **shall have the authority to compel the attendance of and administer oaths to**
42 **any person having knowledge of any issue involved with the examination or**
43 **investigation. The director may seek judicial enforcement of an**
44 **administrative subpoena by application to the appropriate court. An**
45 **administrative subpoena shall be subject to the same defenses or subject to**
46 **a protective order or conditions as provided and deemed appropriate by the**
47 **court in accordance with the Missouri Supreme Court Rules.**

361.080. 1. [To ensure the integrity of the bank examination process, the
2 director of finance, his deputies, clerks, stenographers, each examiner and every
3 employee shall be bound, under oath, to keep secret all facts and information obtained
4 in the course of all examinations, except so far as the public duty of such officer requires
5 him to report upon or take special action regarding the affairs of any bank, trust
6 company or small loan business, and except when he is called as a witness in any
7 proceeding in a court of justice relating to such financial institution's safety and
8 soundness or in any criminal proceeding.

9 2. In all other circumstances, facts and information obtained by the division of
10 finance in the course of examinations or investigations of a bank or trust company shall
11 be held in confidence and not disclosed absent a court's finding of compelling reasons for
12 disclosure. Such finding shall demonstrate that the need for the information sought
13 outweighs the public interest in free and open communications during the bank
14 examination process. In no event shall a bank, trust company, or any director, officer,
15 employee, or agent thereof be held liable for libel, slander or defamation of character for
16 any good faith communications by such bank, trust company or any director, officer,
17 employee, or agent thereof to the director of finance or his deputies, examiners, or
18 employees. Provided, however, that nothing in this section shall prohibit the disclosure
19 of examination or investigation reports and work papers to a bank or trust company
20 when a dispute arises concerning the examination or investigation of such bank or trust
21 company.

22 3. If any director of finance, deputy, clerk, stenographer or examiner shall
23 disclose the name of any debtor of any bank, trust company or small loan business, or
24 anything relative to the private accounts, affairs or transactions of the bank, trust
25 company or small loan business, or shall disclose any facts obtained in the course of his

26 or their examination of any bank, trust company or small loan business, except as herein
27 provided, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall
28 be subject to a forfeiture of his office and the payment of a fine of not more than one
29 thousand dollars; provided, however, that the director of finance, his deputies, and each
30 examiner may exchange information with the Federal Reserve Board, the federal reserve
31 banks, or with examiners duly appointed by the Federal Reserve Board, or by the federal
32 reserve banks, the Comptroller of Currency of the United States, or with examiners duly
33 appointed by him, the Federal Deposit Insurance Corporation or the examiners duly
34 appointed by it, or any other agency which regulates financial institutions under the
35 laws of the federal government or of this state or any other state when the director of
36 finance determines that the sharing of such information is necessary for the proper
37 performance of the bank examination, supervisory or regulatory duties of such agencies
38 and examiners, that such information will receive protection from disclosure comparable
39 to that accorded by section 361.070 and this section, and such agencies and examiners
40 routinely share such information with the division of finance; and provided, further, that
41 reports shall be made of the condition of the affairs of a bank or trust company
42 ascertained from the examination to the officers and directors of the bank or trust
43 company examined, and to the finance director, and to any holding company owning
44 control of such bank or trust company if authorized by the board of directors of the bank
45 or trust company.] **To ensure the integrity of the examination process, the**
46 **director of finance and all employees of the division of finance shall be bound**
47 **under oath to keep secret all facts and information obtained in the course of**
48 **all examinations and investigations except:**

49 **(1) To the extent that the public duty of the director requires the**
50 **director to report information to another government official or agency or**
51 **take administrative or judicial enforcement action regarding the affairs of a**
52 **financial institution;**

53 **(2) When called as a witness in a court proceeding relating to such**
54 **financial institution's safety and soundness or in any criminal proceeding;**

55 **(3) When reporting on the condition of the financial institution to the**
56 **officers and directors of the financial institution or to a holding company**
57 **which owns the financial institution;**

58 **(4) When reporting findings to a complainant, provided the disclosure**
59 **is limited to such complainant's account information;**

60 **(5) When exchanging information with any agency which regulates**
61 **financial institutions under federal law or the laws of any state when the**

62 director of finance determines that the sharing of information is necessary
63 for the proper performance by the director of finance and the other agencies,
64 that such information will remain confidential as though subject to section
65 361.070 and this section and that said agencies routinely share information
66 with the division of finance;

67 (6) When authorized by the financial institution's board of directors to
68 provide the information to anyone else; or

69 (7) When disclosure is necessary or required, the director may set
70 conditions and limitations, including an agreement of confidentiality or a
71 judicial or administrative protective order.

72 2. In all other circumstances, facts, and information obtained by the
73 director of finance and the employees of the division of finance through
74 examinations or investigations shall be held in confidence absent a court's
75 finding of compelling reasons for disclosure. Such finding shall demonstrate
76 that the need for the information sought outweighs the public interest in free
77 and open communications during the examination or investigation process. To
78 assure a meaningful hearing, any financial institution that is not already a
79 party to the judicial proceeding and whose information is the subject of a
80 records request or subpoena shall be joined or notified and permitted to
81 intervene in the hearing and to participate regarding the production request
82 or subpoena. In no event shall a financial institution, or any officer, director,
83 or employee thereof, be charged with libel, slander, or defamation for any
84 good faith communications with the director of finance or any employees of
85 the division of finance.

86 3. If the director or any employees of the division of finance disclose
87 the name of any debtor of any financial institution or disclose any facts
88 obtained in the course of any examination or investigation of any financial
89 institution, except as herein provided, the disclosing party shall be deemed
90 guilty of a misdemeanor and upon conviction shall be subject to forfeiture of
91 office and the payment of a fine not to exceed one thousand dollars.

361.262. 1. Whenever it shall appear to the director, from any examination made
2 by him or his examiners, that any director, officer, or any other person participating in
3 the conduct of the affairs of a corporation subject to this chapter has committed any
4 violation of law or regulation or of a cease and desist order, or has violated any condition
5 imposed in writing by the director in connection with the grant of any application or
6 other request by such corporation or any written agreement between such corporation
7 and the director, or has engaged or participated in any unsafe or unsound practice in

8 connection with the corporation, or has committed or engaged in any act, omission, or
9 practice which constitutes a breach of his fiduciary duty to the corporation, and the
10 director determines that the corporation has suffered or will probably suffer financial
11 loss or other damage or that the interests of its depositors could be prejudiced by reason
12 of such violation or practice or breach of fiduciary duty, or that the director or officer or
13 other person has received financial gain by reason of such violation or practice or breach
14 of fiduciary duty, and such violation or practice or breach of fiduciary duty is one
15 involving personal dishonesty on the part of such director, officer or other person, or one
16 which demonstrates a willful or continuing disregard for the safety or soundness of the
17 corporation, the director may serve upon such director, officer, or other person, a written
18 notice of his intention to remove him from office.

19 2. When it shall appear to the director from any examination made by him or his
20 examiners that any director or officer of a corporation subject to this chapter, by conduct
21 or practice with respect to another such corporation or any business institution which
22 resulted in financial loss or other damage, has evidenced either his personal dishonesty
23 or a willful or continuing disregard for its safety and soundness and, in addition, has
24 evidenced his unfitness to continue as a director or officer and whenever it shall appear
25 to the director that any other person participating in the conduct of the affairs of a
26 corporation subject to this chapter, by conduct or practice with respect to such
27 corporation or other corporation or other business institution which resulted in financial
28 loss or other damage, has evidenced either his personal dishonesty or willful or
29 continuing disregard for its safety and soundness and, in addition, has evidenced his
30 unfitness to participate in the conduct of the affairs of such corporation, the director may
31 serve upon such director, officer, or other person a written notice of intention to remove
32 him from office or to prohibit his further participation in any manner in the conduct of
33 the affairs of the corporation **or from any other banking, savings, or trust**
34 **institution supervised by the director.**

35 3. Whenever it shall appear to the director to be necessary for the protection of
36 any corporation or its depositors, he may, by written notice to such effect served upon
37 any director, officer, or other person referred to in subsection 1 or 2 of this section,
38 suspend him from office or prohibit him from further participation in any manner in the
39 conduct of the affairs of the corporation. Such suspension or prohibition shall become
40 effective upon service of such notice and shall remain in effect pending the completion
41 of the administrative proceedings pursuant to the notice served under subsection 1 or
42 2 of this section and until such time as the director shall dismiss the charges specified
43 in such notice or, if an order of removal or prohibition is issued against the director or

44 officer or other person, until the effective date of any such order. Copies of any such
45 notice shall also be served upon the corporation of which he is a director or officer or in
46 the conduct of whose affairs he has participated.

47 4. Except as provided in subsection 5 of this section, any person who, pursuant
48 to an order issued under this section, has been removed or suspended from office in a
49 corporation or prohibited from participating in the conduct of the affairs of a corporation
50 may not, while such order is in effect, continue or commence to hold any office in, or
51 participate in any manner in, the conduct of the affairs of any other corporation subject
52 to the provisions of this chapter.

53 5. If, on or after the date an order is issued under this section which removes or
54 suspends from office any person or prohibits such person from participating in the
55 conduct of the affairs of a corporation, such party receives the written consent of the
56 director, subsection 4 of this section shall, to the extent of such consent, cease to apply
57 to such person with respect to the corporation described in the written consent and the
58 director shall publicly disclose such consent. Any violation of subsection 4 of this section
59 by any person who is subject to an order described in such subsection shall be treated
60 as a violation of the order.

361.365. The director may appoint the Federal Deposit Insurance Corporation as
2 liquidating agent of any banking corporation insured thereby of which he has duly taken
3 possession under any provision of this chapter, and the Federal Deposit Insurance
4 Corporation as liquidating agent shall thereupon be vested with both legal and equitable
5 title to all the assets, rights, claims and other real and personal property of the closed
6 bank. The Federal Deposit Insurance Corporation as liquidating agent shall have power
7 to perform all acts of the director in the liquidation of the closed bank. [The director
8 shall petition the circuit court in the judicial district in which the principal office of such
9 insured banking corporation is located for an order confirming the appointment of the
10 Federal Deposit Insurance Corporation as liquidating agent of such bank.]

362.042. 1. Any bank or trust company may at any time restate its articles of
2 agreement as theretofore amended, in the following manner:

3 (1) The directors may adopt a resolution setting forth the proposed restated
4 articles of agreement and directing that they be submitted to a vote at a meeting of
5 stockholders, which may be either an annual or a special meeting, except that the
6 proposed restated articles of agreement need not be adopted by the directors and may
7 be submitted directly to an annual or special meeting of stockholders.

8 (2) Notice shall be given as provided in section 362.044.

9 (3) At the meeting a vote of the stockholders entitled to vote thereon shall be

10 taken on the proposed restated articles. The proposed restated articles shall be adopted
11 upon receiving the affirmative vote of a majority of the outstanding shares entitled to
12 vote.

13 (4) Upon such approval, restated articles of agreement shall be executed in
14 duplicate by the bank or trust company by its president or a vice president and by its
15 cashier or secretary or an assistant cashier or secretary, and verified by one of the
16 officers signing the articles. The restated articles shall contain a statement that the
17 restated articles correctly set forth without change the corresponding provisions of the
18 articles of agreement as heretofore amended, and that the restated articles of agreement
19 supersede the original articles of agreement and all amendments thereto.

20 (5) Duplicate originals of the restated articles of agreement shall be delivered to
21 the director of finance. If the director finds that the restated articles conform to law,
22 and that all required fees have been paid, he or she shall file the same, and one of such
23 copies shall be retained by the director in the public records of the division of finance.

24 (6) The director thereupon shall issue a restated certificate of incorporation
25 setting forth the name of the bank or trust company, the amount of its capital subscribed
26 and paid up in full, the period of its existence, and the address and location in the city
27 or town at which the corporation is authorized to conduct its business. A certified copy
28 of the restated articles shall be attached to the restated certificate of incorporation and
29 delivered to the bank or trust company.

30 (7) Upon the issuance of the restated certificate of incorporation by the director
31 of finance, the restated articles shall supersede the original articles of agreement and
32 all amendments thereto.

33 **2. The articles of incorporation may be amended at the time of**
34 **restatement of the articles of incorporation in the following manner:**

35 **(1) The procedure required by this chapter for effecting an amendment**
36 **to the articles of incorporation may be carried out concurrently with the**
37 **procedure for restatement so that the proposed amendment and the restated**
38 **articles may be presented to the same meetings of directors and shareholders;**

39 **(2) Such amendment, upon adoption by that percentage vote of**
40 **shareholders required for that particular amendment, and on being set forth**
41 **in the certificate of amendment required by this chapter, may then be**
42 **incorporated into such restated articles of incorporation;**

43 **(3) Duplicate originals of the amended and restated articles of**
44 **agreement shall be delivered to the director of finance. If the director finds**
45 **that the amended and restated articles conform to law, and that all required**

46 fees have been paid, he or she shall file the same, and one of such copies shall
47 be retained by the director in the public records of the division of finance.

48 (4) The director thereupon shall issue a restated certificate of
49 incorporation setting forth the name of the bank or trust company, the
50 amount of its capital subscribed and paid up in full, the period of its
51 existence, and the address and location at which the corporation is
52 authorized to conduct its business. A certified copy of the amended and
53 restated articles shall be attached to the restated certificate of incorporation
54 and delivered to the bank or trust company.

55 (5) Upon the issuance of the restated certificate of incorporation by the
56 director of finance, the amended and restated articles shall supersede the
57 original articles of agreement and all amendments thereto.

362.107. 1. Every bank and every trust company organized under Missouri law
2 may, upon compliance with this section, establish, maintain and operate branches
3 separate and apart from the location designated in its articles of agreement.

4 2. No bank or trust company may establish, maintain or operate any branch
5 without having first obtained the approval of the director of finance; **provided that a**
6 **drop box for deposit purposes shall not be considered a branch.**

7 3. All those services which a bank or trust company is authorized by law to
8 provide may be provided at any of its branches.

9 4. Whenever any bank or trust company desires to establish, maintain and
10 operate a branch, or to move a branch previously established to another location, it shall
11 apply to the director of finance for such authority and provide the director of finance
12 with such relevant information as he may reasonably request. In determining whether
13 or not to approve the application, the director of finance shall consider:

14 (1) The convenience, needs and welfare of the people of the community and area
15 to be served;

16 (2) The financial strength of the bank or trust company making application for
17 the branch in relation to the cost of establishing, maintaining and operating the branch;

18 (3) Whether any other banks or trust companies will be seriously injured by the
19 approval of the application for the branch; provided, however, any bank which purchases
20 assets of a **closed** bank or a failed savings and loan association closed by its chartering
21 authority, may establish, maintain and operate branches at all locations which were
22 operated by the closed bank or failed savings and loan association. For purposes of this
23 section, the terms "closed bank" or "failed savings and loan association" shall include a
24 bank or savings and loan association whose sale is arranged by the Federal Deposit

25 Insurance Corporation[, Resolution Trust Corporation,] or similar [organization] **agency**
26 in order to avoid failure.

27 5. The decision of the director of finance granting or denying any such application
28 may be appealed in the same manner as decisions by him pursuant to section 362.040
29 may be appealed.

30 6. National banking associations located in Missouri shall have the same but no
31 greater right under or by virtue of this section as banks and trust companies which are
32 organized under Missouri law.

362.170. 1. As used in this section, the term "unimpaired capital" includes
2 common and preferred stock, capital notes, the surplus fund, undivided profits and any
3 reserves, not subject to known charges as shown on the next preceding published report
4 of the bank or trust company to the director of finance or obtained by the director
5 pursuant to subsection 3 of section 361.130, RSMo. For purposes of lending limitations,
6 goodwill may comprise no more than ten percent of unimpaired capital.

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

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

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

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

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

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

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

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

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

54 g. Evidences of debt which are direct obligations of, or which are guaranteed by,
55 the Government National Mortgage Association, the Federal National Mortgage
56 Association, the Student Loan Marketing Association, the Federal Home Loan Banks,
57 the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or
58 evidences of debt which are fully collateralized by direct obligations of, and which are
59 issued by, the Government National Mortgage Association, the Federal National
60 Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan
61 Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;

62 (b) The total liabilities to the bank or trust company of any individual,
63 partnership, corporation or limited liability company may equal but not exceed thirty-five
64 percent of the unimpaired capital of the bank or trust company; provided, that all of the

65 total liabilities in excess of the legal loan limit of the bank or trust company as defined
66 in this subdivision are upon paper based upon the collateral security of warehouse
67 receipts covering agricultural products or the manufactured or processed derivatives of
68 agricultural products in public elevators and public warehouses subject to state
69 supervision and regulation in this state or in any other state of the United States, under
70 the following conditions: first, that the actual market value of the property held in store
71 and covered by the receipt shall at all times exceed by at least fifteen percent the
72 amount loaned upon it; and second, that the property covered by the receipts shall be
73 insured to the full market value thereof against loss by fire and lightning, the insurance
74 policies to be issued by corporations or individuals licensed to do business by the state
75 in which the property is located, and when the insurance has been used to the limit that
76 it can be secured, then in corporations or with individuals licensed to do an insurance
77 business by the state or country of their incorporation or residence; and all policies
78 covering property on which the loan is made shall have endorsed thereon, "loss, if any,
79 payable to the holder of the warehouse receipts"; and provided further, that in arriving
80 at the amount that may be loaned by any bank or trust company to any individual,
81 partnership, corporation or limited liability company on elevator or warehouse receipts
82 there shall be deducted from the thirty-five percent of its unimpaired capital the total
83 of all other liabilities of the individual, partnership, corporation or limited liability
84 company to the bank or trust company;

85 (c) In computing the total liabilities of any individual to a bank or trust company
86 there shall be included all liabilities to the bank or trust company of any partnership of
87 which the individual is a member, and any loans made for the individual's benefit or for
88 the benefit of the partnership; of any partnership to a bank or trust company there shall
89 be included all liabilities of and all loans made for the benefit of the partnership; of any
90 corporation to a bank or trust company there shall be included all loans made for the
91 benefit of the corporation and of any limited liability company to a bank or trust
92 company there shall be included all loans made for the benefit of the limited liability
93 company;

94 (d) The purchase or discount of drafts, or bills of exchange drawn in good faith
95 against actually existing values, shall not be considered as money borrowed within the
96 meaning of this section; and the purchase or discount of negotiable or nonnegotiable
97 paper which carries the full recourse endorsements or guaranty or agreement to
98 repurchase of the person, copartnership, association, corporation or limited liability
99 company negotiating the same, shall not be considered as money borrowed by the
100 endorser or guarantor or the repurchaser within the meaning of this section, provided

101 that the files of the bank or trust company acquiring the paper contain the written
102 certification by an officer designated for this purpose by its board of directors that the
103 responsibility of the makers has been evaluated and the acquiring bank or trust company
104 is relying primarily upon the makers thereof for the payment of the paper;

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

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

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

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

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

133 (5) [No salaried officer of any bank or trust company shall use or borrow for
134 himself or herself, directly or indirectly, any money or other property belonging to any
135 bank or trust company of which the person is an officer, in excess of ten percent of the
136 unimpaired capital of the bank or trust company, nor shall the total amount loaned to

137 all salaried officers of any bank or trust company exceed twenty-five percent of the
138 unimpaired capital of the bank or trust company. Where loans and a line of credit are
139 made to salaried officers, the loans and line of credit shall first be approved by a
140 majority of the board of directors or of the executive or discount committee, the approval
141 to be in writing and the officer to whom the loans are made, not voting. The form of the
142 approval shall be as follows:

143 We, the undersigned, constituting a majority of the of the
144 (bank or trust company), do hereby approve a loan of \$..... or a
145 line of credit of \$....., or both, to, it appearing that the loan
146 or line of credit, or both, is not more than 10 percent of the unimpaired capital of
147 (bank or trust company); it further appearing that the loan (money
148 actually advanced) will not make the aggregate of loans to salaried officers more than
149 25 percent of the unimpaired capital of the bank or trust company.

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153

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

155 Provided, if the officer owns or controls a majority of the stock of any other corporation,
156 a loan to that corporation shall be considered for the purpose of this subdivision as a
157 loan to the officer.] **Loans or other extensions of credit to officers and directors**
158 **shall be in accordance with Federal Reserve Board Regulation O (12 CFR**
159 **215.1, et seq.).** Every bank or trust company or officer thereof knowingly violating the
160 provisions of this subdivision shall, for each offense, forfeit to the state the amount [lent]
161 **of the loan or extension of credit;**

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

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

170 4. Provided, that a trust company which does not accept demand deposits shall
171 be permitted to make loans secured by a first mortgage or deed of trust on real estate
172 to any individual, partnership, corporation or limited liability company, and to deal and

173 invest in the interest-bearing obligations of any state, or any city, county, town, village,
174 or political subdivision thereof, in an amount not to exceed its unimpaired capital, the
175 loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value
176 of the real estate.

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

184 6. A trust company in existence on October 15, 1967, or a trust company
185 incorporated thereafter which does not accept demand deposits, may invest in but shall
186 not invest or keep invested in the stock of any private corporation an amount in excess
187 of fifteen percent of the capital and surplus fund of the trust company; provided,
188 however, that this limitation shall not apply to the ownership of the capital stock of a
189 safe deposit company as provided in section 362.105; nor to the ownership by a trust
190 company in existence on October 15, 1967, or its stockholders of a part or all of the
191 capital stock of one bank organized under the laws of the United States or of this state,
192 nor to the ownership of a part or all of the capital of one corporation organized under the
193 laws of this state for the principal purpose of receiving savings deposits or issuing
194 debentures or loaning money on real estate or dealing in or guaranteeing the payment
195 of real estate securities, or investing in other securities in which trust companies may
196 invest under this chapter; nor to the continued ownership of stocks lawfully acquired
197 prior to January 1, 1915, and the prohibition for investments in this subsection shall not
198 apply to investments otherwise provided by law other than subdivision (4) of subsection
199 3 of section 362.105.

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

 362.225. [1. Any bank or trust company may keep not more than fifty percent
2 of the reserves on deposit provided for by sections 362.210, 362.215 and 362.217 invested
3 in:

4 (1) Unencumbered obligations of the United States government or obligations

5 which are fully guaranteed as to principal and interest by the United States government
6 maturing in five years or less; or

7 (2) Unencumbered funds sold to approved depositories to the extent permitted
8 by the Federal Deposit Insurance Corporation for insured institutions; or

9 (3) Securities of the type eligible for investment under subdivision (1) purchased
10 from approved depositories under agreements to resell, to the extent permitted by the
11 Federal Deposit Insurance Corporation for insured institutions.

12 2. All required reserves not so invested may be kept in a depository or
13 depositories designated by it, and which, except as otherwise provided in said sections,
14 shall be a bank, trust company or national banking association approved by the finance
15 director.] **Missouri banks and depository trust companies shall maintain**
16 **reserves against aggregate deposits as provided by the Federal Reserve Act**
17 **and any amendments thereto or of regulations duly adopted and promulgated**
18 **under the Federal Reserve Act for banks and trust companies of similar size**
19 **and classification according to the requirements for the Federal Reserve**
20 **District in which the bank or deposit trust company is located. Federal**
21 **Reserve Banks located in this state are approved depositories for all banks**
22 **and trust companies.**

362.310. Every bank and trust company shall create a fund to be known as a
2 "surplus fund". This fund may be created or increased by contributions[,] or by
3 transfers from undivided profits[, or from net earnings]. The fund up to forty percent
4 of the capital of the bank or trust company shall be used only for the payment of losses
5 in excess of undivided profits; provided, that the excess of surplus over forty percent,
6 upon the approval of the director of finance, may be capitalized as a stock dividend or
7 may be transferred to undivided profits and used for cash dividends in the discretion of
8 the board of directors.

362.315. 1. **To determine the amount of net income or loss for the**
2 **dividend period, every bank or trust company shall account for all items of**
3 **income and expense in accordance with regulatory instructions for**
4 **completing reports of condition and income.** When the net [earnings] **income or**
5 **loss** of a bank or trust company [have] **has** been determined at the close of a dividend
6 period [as provided in sections 362.300 and 362.305], if its surplus fund does not equal
7 forty percent of the capital of the bank or trust company, one-tenth of such net
8 [earnings] **income** shall be credited to the surplus fund or so much thereof, less than
9 one-tenth, as will make the fund equal forty percent of the capital; provided, that until
10 the capital and surplus fund of any bank or trust company now existing, the capital of

11 which is not equal to the requirements of section 362.050, equals forty percent more than
12 the minimum of capital for a bank or trust company in its location, one-tenth of its net
13 [earnings] **income** at the close of each dividend period shall be credited to the surplus
14 fund.

15 2. [The balance of the net earnings, or the entire amount thereof if the fund
16 equals the forty percent, may be credited to the profit and loss account of the bank or
17 trust company; or, if its expenses and losses for the dividend period exceed its gross
18 earnings, the excess shall be charged to its profit and loss account.

19 3.] The credit balance of the [account shall constitute the] undivided profits
20 **account** at the close of the dividend period[, and shall] **may** be available for
21 dividends. The directors of any bank or trust company may from time to time declare
22 such dividends as they shall judge expedient from the undivided profits.

23 [4.] 3. No bank or trust company shall declare, credit or pay any dividend to its
24 stockholders until it shall have made good any existing impairment of its capital, and
25 all officers or directors of the bank or trust company who shall assent to declaring and
26 paying a dividend while the capital stock is so impaired shall be jointly and severally
27 liable to the creditors of the bank or trust company to the amount of the dividend for any
28 loss resulting from the payment of the dividend.

362.520. 1. Any bank or trust company organized under the laws of the state of
2 Missouri or any national bank doing business in Missouri may remain closed on any
3 Sunday or public holiday, as defined in section 9.010, RSMo, and, in addition, on any day
4 of the week fixed at least fifteen days in advance by the adoption of a resolution to such
5 effect by a majority vote of the board of directors thereof, and notice thereof posted in the
6 bank or trust company for the same time.

7 2. Any bank or trust company may be closed or remain closed whenever in the
8 judgment of the directors, the president or other officer in charge, the lives or safety of
9 the institution's employees or the institution itself would be endangered or placed in
10 jeopardy by an emergency arising from fire, flood, storm, snow, power failure, shortage
11 of fuel, robbery, riot or threat of riot, or similar emergency. The bank or trust company
12 so closed shall notify the director of finance of its action and the reasons therefor within
13 twelve hours thereafter and such bank or trust company shall reopen within twenty-four
14 hours after such closing unless permission shall be granted by the director of finance to
15 remain closed for a longer period of time. On all closings under this section a full report
16 in writing shall be furnished the director of finance.

17 3. Any day on which a bank or trust company organized under the laws of the
18 state of Missouri or national bank doing business in Missouri pursuant to this section,

19 remains closed, shall, with respect to the bank or trust company or national bank, be
20 deemed a holiday for the purposes of chapter 400, RSMo, and amendments thereto, and
21 the bank or trust company or national bank shall not be required to permit access to its
22 safe-deposit vaults while it is so closed.

23 4. Where a contract by its terms requires the payment of money or the
24 performance of a condition on any such day by or at such bank or trust company or
25 national bank the payment may be made or condition performed on the next business
26 day succeeding the day when the bank, trust company or national bank shall so remain
27 or be closed, with the same force and effect as if made or performed in accordance with
28 the terms of the contract.

29 5. A branch of any bank or trust company may be closed as provided in
30 subsection 2 of this section, whether or not the main banking house is so closed, but the
31 day shall not be a bank holiday as provided in subsections 3 and 4 of this section unless
32 the main banking house is closed.

33 **6. A branch office of any bank or trust company organized under the**
34 **laws of the state of Missouri may be temporarily closed for any reasonable**
35 **period of time for repairs, remodeling, or other purposes decided upon by the**
36 **board of directors provided that notice of the board's resolution concerning**
37 **such is both posted in the lobby and on the entrances of the affected location**
38 **and supplied to the director of finance at least thirty days prior to the**
39 **temporary closing.**

362.600. 1. The term "[foreign corporation] **out-of-state bank or trust**
2 **company**", as used in this section, shall mean:

3 (1) Any bank or [other corporation] **trust company** now or hereafter organized
4 under the laws of any state of the United States other than Missouri; and

5 (2) Any national banking association **or any thrift institution under the**
6 **jurisdiction of the office of thrift supervision** having its principal place of business
7 in any state of the United States other than Missouri.

8 2. Except as provided in subsection 5 of this section, any [foreign corporation]
9 **out-of-state bank or trust company** may act in this state as trustee, executor,
10 administrator, guardian, or in any other like fiduciary capacity, without the necessity
11 of complying with any law of this state relating to the licensing of foreign banking
12 corporations by the director of finance or relating to the qualifications of foreign
13 corporations to do business in this state, and notwithstanding any prohibition, limitation
14 or restriction contained in any other law of this state, provided only that:

15 (1) The [foreign corporation] **out-of-state bank or trust company** is

16 authorized to act in this fiduciary capacity or capacities in the state in which it is
17 incorporated, or, if the [foreign corporation] **out-of-state bank or trust company** be
18 a national banking association, **or a thrift institution, it is authorized to act in**
19 **this fiduciary capacity or capacities in the state** in which it has its principal place
20 of business; and

21 (2) Any bank or other corporation organized under the laws of this state or a
22 national banking association **or thrift institution** having its principal place of business
23 in this state may act in these fiduciary capacities in that state without further showing
24 or qualification, other than that it is authorized to act in these fiduciary capacities in
25 this state, **compliance with minimum capital, bonding, or securities pledge**
26 **requirements applicable to all banks and trust companies doing business in**
27 **that state**, and compliance with any law of that state concerning service of process:

28 (a) Which may require the appointment of an official or other person for the
29 receipt of process; or

30 (b) Which contains provisions to the effect that any bank [or other corporation,]
31 **or trust company** which is not incorporated under the laws of that state, or if a
32 national bank **or thrift institution** then which does not have its principal place of
33 business in that state, acting in that state in a fiduciary capacity pursuant to provisions
34 of law making it eligible to do so, shall be deemed to have appointed an official of that
35 state to be its true and lawful attorney upon whom may be served all legal process in
36 any action or proceeding against it relating to or growing out of any trust, estate or
37 matter in respect of which the [corporation] **entity** has acted or is acting in that state
38 in this fiduciary capacity, and that the acceptance of or engagement in that state in any
39 acts in this fiduciary capacity shall [be signification of] **deemed** its agreement that the
40 process against it, which is so served, shall be of the same legal force and validity as
41 though served upon it personally, or which contains any substantially similar provisions.

42 **3.** Any [foreign corporation] **out-of-state bank or trust company** eligible to
43 act in any fiduciary capacity in this state pursuant to the provisions of this section may
44 so act whether or not a resident of this state be acting with it in this capacity, may use
45 its corporate name in connection with such activity in this state, and may be appointed
46 to act in this fiduciary capacity by any court having jurisdiction in the premises, all
47 notwithstanding any provision of law to the contrary. Nothing in this section contained
48 shall be construed to prohibit or make unlawful any activity in this state by a bank or
49 [other corporation] **trust company** which is not incorporated under the laws of this
50 state, or if a national bank **or thrift institution** then which does not have its principal
51 place of business in this state, which would be lawful in the absence of this section.

52 [3.] 4. Except as provided in subsection [5] 6 of this section, prior to the time
53 when any [foreign corporation] **out-of-state bank or trust company** acts pursuant
54 to the authority of this section in any fiduciary capacity or capacities in this state, the
55 [foreign corporation] **out-of-state bank or trust company** shall file with the director
56 of finance a written application for a certificate of reciprocity and the director of finance
57 shall issue the certificate to the [foreign corporation] **out-of-state bank or trust**
58 **company**. The application shall state:

59 (1) The correct corporate name of the [foreign corporation] **out-of-state bank**
60 **or trust company**;

61 (2) The name of the state under the laws of which it is incorporated, or if the
62 [foreign corporation] **out-of-state bank or trust company** is a national banking
63 association **or thrift institution** shall state that fact;

64 (3) The address of its principal business office;

65 (4) In what fiduciary capacity or capacities it desires to act, in the state of
66 Missouri;

67 (5) That it is authorized to act in a similar fiduciary capacity or capacities in the
68 state in which it is incorporated, or, if it is a national banking association, in which it
69 has its principal place of business;

70 (6) That the application shall constitute the irrevocable appointment of the
71 director of finance of Missouri as its true and lawful attorney to receive service of all
72 legal process in any action or proceeding against it relating to or growing out of any
73 trust, estate or matter in respect of which the [foreign corporation] **out-of-state bank**
74 **or trust company** may act in this state in the fiduciary capacity pursuant to the
75 certificate of reciprocity applied for;

76 (7) [Unless the applicant is subject to the jurisdiction of the Office of Thrift
77 Supervision, that the applicant has provided with the application a fiduciary bond in the
78 amount of one million dollars for the benefit of the director of the division of finance in
79 a format approved by the director of the division of finance.] **Unless the out-of-state**
80 **bank or trust company verifies to the director of the division of finance that**
81 **it satisfies capital requirements equal to the new charter requirement for a**
82 **Missouri trust company or that it maintains a bond for the faithful**
83 **performance of all its fiduciary activities equivalent to the Missouri capital**
84 **requirements, the director may require the applicant to submit a bond issued**
85 **by a surety company authorized to do business in the state of Missouri in the**
86 **minimum amount of one million dollars in a form or such greater amount**
87 **acceptable to the director of the division of finance. The surety bond shall**

88 **secure the faithful performance of the fiduciary obligations of the out-of-state**
89 **bank or trust company in Missouri.**

90 The application shall be verified by an officer of the [foreign corporation] **out-of-state**
91 **bank or trust company**, and there shall be filed with it such certificates of public
92 officials and copies of documents certified by public officials as may be necessary to show
93 that the [foreign corporation] **out-of-state bank or trust company** is authorized to
94 act in a fiduciary capacity or capacities similar to those in which it desires to act in the
95 state of Missouri, in the state in which it is incorporated, or, if it is a national banking
96 association in which it has its principal place of business. The director of finance shall,
97 thereupon, if the [foreign corporation] **out-of-state bank or trust company** is one
98 which may act in the fiduciary capacity or capacities as provided in subsection 2 of this
99 section, issue to the [corporation] **entity** a certificate of reciprocity, retaining a duplicate
100 thereof together with the application and accompanying documents in his or her
101 office. The certificate of reciprocity shall recite and certify that the [foreign corporation]
102 **out-of-state bank or trust company** is eligible to act in this state pursuant to this
103 section and shall recite the fiduciary capacity or capacities in which the [foreign
104 corporation] **out-of-state bank or trust company** is eligible so to act.

105 [4.] **5.** A certificate of reciprocity issued to any [foreign corporation] **out-of-**
106 **state bank or trust company** shall remain in effect until the [foreign corporation]
107 **out-of-state bank or trust company** shall cease to be entitled under subsection 2 of
108 this section to act in this state in the fiduciary capacity or capacities covered by the
109 certificate, and thereafter until revoked by the director of finance. If at any time the
110 [foreign corporation] **out-of-state bank or trust company** shall cease to be entitled
111 under subsection 2 of this section to act in this state in the fiduciary capacity or
112 capacities covered by the certificate, the director of finance shall revoke the certificate
113 and give written notice of the revocation to the [foreign corporation] **out-of-state bank**
114 **or trust company**. No revocation of any certificate of reciprocity shall affect the right
115 of the [foreign corporation] **out-of-state bank or trust company** to continue to act in
116 this state in a fiduciary capacity in estates or matters in which it has theretofore begun
117 to act in a fiduciary capacity pursuant to the certificate.

118 [5.] **6.** A [foreign corporation] **out-of-state bank or trust company** shall not
119 establish or maintain in this state a place of business, branch office or agency for the
120 conduct in this state of business as a fiduciary unless:

121 (1) The [foreign corporation] **out-of-state bank or trust company** is under the
122 control of a Missouri bank or a Missouri bank holding company, as these terms are
123 defined in section 362.925, and the [foreign corporation] **out-of-state bank or trust**

124 **company** has complied with the requirements relating to the qualifications of [foreign
125 corporations] **out-of-state bank or trust company** to do business in this state;

126 (2) The [foreign corporation] **out-of-state bank or trust company** is a bank,
127 trust company or national banking association in good standing that possesses fiduciary
128 powers from its chartering authority and is the surviving corporation to a merger or
129 consolidation with a national banking association located in Missouri or a Missouri bank
130 or trust company. The provisions of this subdivision are enacted to implement
131 subsection 2 of this section and section 362.610, and the provisions of Title 12, U.S.C.
132 36(f)(2) of the National Bank Act; or

133 (3) The [foreign corporation] **out-of-state bank or trust company** is a
134 state-chartered bank, savings and loan association, trust company [or], national banking
135 association, **or thrift institution** in good standing that possesses fiduciary powers and
136 has received a certificate of reciprocity, in which case it may only open a trust
137 representative office in Missouri which is not otherwise a branch of such [foreign
138 corporation] **out-of-state bank or trust company**, provided a bank, savings and loan
139 association or trust company chartered under the laws of Missouri and a national bank
140 **or thrift institution** with its principal location in Missouri, all with fiduciary powers,
141 are permitted to open and operate a trust representative office under the same or less
142 restrictive conditions in the state in which the [foreign corporation] **out-of-state bank**
143 **or trust company** is organized or has its principal office.

144 [6.] 7. [A foreign corporation] **An out-of-state bank or trust company**,
145 insofar as it acts in a fiduciary capacity in this state pursuant to the provisions of this
146 section, shall not be deemed to be transacting business in this state, if the [foreign
147 corporation] **out-of-state bank or trust company** does not establish or maintain in
148 this state a place of business, branch office, or agency for the conduct in this state of
149 business as a fiduciary.

150 [7.] 8. Every [foreign corporation] **out-of-state bank or trust company** to
151 which a certificate of reciprocity shall have been issued shall be deemed to have
152 appointed the director of finance to be its true and lawful attorney upon whom may be
153 served all legal process in any action or proceeding against it relating to or growing out
154 of any trust, estate or matter in respect of which the [foreign corporation] **out-of-state**
155 **bank or trust company** acts in this state in any fiduciary capacity pursuant to the
156 certificate of reciprocity. Service of the process shall be made by delivering a copy of the
157 summons or other process, with a copy of the petition when service of the copy is
158 required by law, [together with a remittance of one dollar (to be taxed as costs in the
159 action or proceeding),] to the director of finance or to any person in his or her office

160 authorized by him to receive the service. The director of finance shall immediately
161 forward the process, together with the copy of the petition, if any, to the [foreign
162 corporation] **out-of-state bank or trust company**, by registered mail, addressed to
163 it at the address on file with the director, or if there be none on file then at its last
164 known address. The director of finance shall keep a permanent record in his or her
165 office showing for all process served, the style of the action or proceeding, the court in
166 which it was brought, the name and title of the officer serving the process, the day and
167 hour of service, and the day of mailing by registered mail to the [foreign corporation]
168 **out-of-state bank or trust company** and the address to which mailed. In case the
169 process is issued by [an associate circuit judge] **a court**, the same may be directed to
170 and served by any officer authorized to serve process in the city or county where the
171 director of finance shall have his or her office, at least fifteen days before the return
172 thereof.

[362.210. 1. Every bank and trust company shall maintain total
2 reserves against its aggregate demand deposits as follows:

3 (1) Eighteen percent of the deposits, if the bank or trust company
4 is located in a city having a population of two hundred thousand or over;

5 (2) Fifteen percent of the deposits, if the bank or trust company is
6 located in a city having a population of twenty-five thousand or over and
7 less than two hundred thousand;

8 (3) Fifteen percent of the deposits, if the bank or trust company is
9 located elsewhere in the state.

10 2. If any bank or trust company shall have become a member of
11 any reserve bank, it may maintain as reserves on deposit with the federal
12 reserve bank such portion of its total reserves as shall be required or
13 permitted of members of the federal reserve bank.]

[362.213. Notwithstanding anything to the contrary contained in
2 section 362.210, or any other law of this state, no bank or trust company
3 will be required to maintain any percentage of reserves against its
4 aggregate demand deposits which is greater than the percentage required
5 by the Federal Reserve Act and any amendments thereto or of regulations
6 duly adopted and promulgated thereunder for banks or trust companies
7 of similar size and classification, and provided further that the percentage
8 of reserves required of banks or trust companies not members of the
9 Federal Reserve System shall at no time exceed the limits set by section
10 362.210.]

1 [362.215. In addition to reserves against demand deposits every
2 bank and trust company shall maintain reserves against its aggregate
3 time deposits of at least three percent of the time deposits, which shall be
4 maintained as reserves on hand as provided in section 362.210.]

1 [362.217. Any bank or trust company becoming a member of a
2 federal reserve bank and while it continues as such member, shall be
3 required to maintain only such reserves as are required by the Federal
4 Reserve Act and any amendments thereto.]

1 [362.300. To determine the amount of gross earnings of a bank or
2 trust company for any dividend period, the following items may be
3 included:

4 (1) All earnings actually received during the period, less interest
5 accrued and unpaid included in the last previous calculation of earnings;

6 (2) Interest accrued and unpaid upon debts owing to it secured by
7 collateral as authorized by this chapter upon which debts no default of
8 more than one year exists and upon corporate stocks, bonds or other
9 interest-bearing obligations owned by it upon which no default exists;

10 (3) The sums added to the cost of securities purchased for less than
11 par as a result of amortization, provided the market value of such
12 securities is at least equal to their present cost as determined by
13 amortization;

14 (4) Any profits actually received during the period from the sale of
15 securities, real estate or other property owned by it;

16 (5) Sums recovered on items previously charged off, and any
17 amounts allowed by the director on account of assets previously disallowed
18 and charged off; provided, the director shall have approved, and only to
19 the extent of his approval, any increase in the book value of an office
20 building owned by it, which building or a portion thereof is used by it as
21 a place of business.]

1 [362.305. 1. To determine the amount of net earnings for the
2 dividend period, the following items shall be deducted from gross earnings:

3 (1) All expenses paid or incurred, both ordinary and extraordinary,
4 in the transaction of its business, the collection of its debts and the
5 management of its affairs, properly belonging to the period under
6 consideration for the calculation of net earnings for dividend purposes, and
7 not previously deducted for these purposes;

8 (2) Interest paid, or accrued and unpaid, upon debts owing by it,
9 and properly belonging to the period under consideration for the
10 calculation of net earnings for dividend purposes, and not previously
11 deducted for these purposes;

12 (3) The amounts deducted through amortization from the cost of
13 corporate stocks, bonds or other interest-bearing obligations purchased
14 above par in order to bring them to par at maturity;

15 (4) All losses sustained by it. In the computation of the losses all
16 debts owing it shall be included upon which no interest shall have been
17 paid for more than two years or on which a judgment has been recovered
18 which shall have remained unsatisfied for two years; provided, that the
19 director, in either case, may extend the time beyond the period of two
20 years; and such other assets as shall have been disallowed by the director
21 or by its board of directors.

22 2. The balance thus obtained shall constitute the net earnings of
23 such bank or trust company for such period.]

✓