

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 892
93RD GENERAL ASSEMBLY

Reported from the Committee on Financial Institutions April 19, 2006 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 892 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4317L.05C

AN ACT

To repeal sections 143.471, 301.215, 306.435, 361.711, 361.715, 362.275, 362.445, 408.555, 700.045, 700.111, 700.115, 700.355, 700.360, 700.385, and 700.500, RSMo, and to enact in lieu thereof eighteen new sections relating to financial institutions, with a penalty provision.

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

Section A. Sections 143.471, 301.215, 306.435, 361.711, 361.715, 362.275, 362.445, 2 408.555, 700.045, 700.111, 700.115, 700.355, 700.360, 700.385, and 700.500, RSMo, are 3 repealed and eighteen new sections enacted in lieu thereof, to be known as sections 143.471, 4 148.655, 148.657, 301.215, 306.435, 361.711, 361.715, 362.078, 362.275, 362.445, 408.555, 5 700.045, 700.111, 700.115, 700.355, 700.360, 700.385, and 700.500, to read as follows:

143.471. 1. An S corporation, as defined by Section 1361 (a)(1) of the Internal Revenue 2 Code, shall not be subject to the taxes imposed by section 143.071, or other sections imposing 3 income tax on corporations.

4 2. A shareholder of an S corporation shall determine such shareholder's S corporation 5 modification and pro rata share, including its character, by applying the following:

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

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

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

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

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

38 5. If an S corporation pays or credits amounts to any of its nonresident individual
39 shareholders as dividends or as their share of the S corporation's undistributed taxable income
40 for the taxable year, the S corporation shall either timely file with the department of revenue an
41 agreement as provided in subsection 6 of this section or withhold Missouri income tax as

42 provided in subsection 7 of this section. An S corporation that timely files an agreement as
43 provided in subsection 6 of this section with respect to a nonresident shareholder for a taxable
44 year shall be considered to have timely filed such an agreement for each subsequent taxable year.
45 An S corporation that does not timely file such an agreement for a taxable year shall not be
46 precluded from timely filing such an agreement for subsequent taxable years. An S corporation
47 is not required to deduct and withhold Missouri income tax for a nonresident shareholder if:

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

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

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

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

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

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

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

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

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

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

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

75 9. With respect to S corporations that are banks or bank holding companies, a pro rata
76 share of the tax credit for the tax payable pursuant to chapter 148, RSMo, shall be allowed

77 against each S corporation shareholders' state income tax as follows, provided the bank otherwise
78 complies with section 148.112:

79 (1) The credit allowed by this subsection shall be equal to the bank tax calculated
80 pursuant to chapter 148, RSMo, based on bank income in 1999 and after, on a bank that makes
81 an election pursuant to 26 U.S.C. Section 1362, and such credit shall be allocated to the
82 qualifying shareholder according to stock ownership, determined by multiplying a fraction,
83 where the numerator is the shareholder's stock, and the denominator is the total stock issued by
84 such bank or bank holding company;

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

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

97 **10. With respect to S corporations that are associations, a pro rata share of the tax**
98 **credit for the tax payable under chapter 148, RSMo, shall be allowed against each S**
99 **corporation shareholders' state income tax as follows, provided the association otherwise**
100 **complies with section 148.655, RSMo:**

101 (1) The credit allowed by this subsection shall be equal to the savings and loan
102 association tax calculated under chapter 148, RSMo, based on the computations provided
103 in section 148.630, RSMo, on an association that makes an election under 26 U.S.C. Section
104 1362, and such credit shall be allocated to the qualifying shareholder according to stock
105 ownership, determined by multiplying a fraction, where the numerator is the shareholder's
106 stock, and the denominator is the total stock issued by the association;

107 (2) The tax credit authorized in this subsection shall be permitted only to the
108 shareholders that qualify as S corporation shareholders, provided the stock at all times
109 during the taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section
110 1361, and such stock is held by the shareholder during the taxable period. The credit
111 created by this section on a yearly basis is available to each qualifying shareholder,
112 including shareholders filing joint returns. A savings and loan association holding

company is not allowed this credit, except that, such credit shall flow through to such savings and loan association holding company's qualified shareholders, and be allocated to such shareholders under the same conditions; and

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

11. With respect to S corporations that are credit institutions, a pro rata share of the tax credit for the tax payable under chapter 148, RSMo, shall be allowed against each S corporation shareholders' state income tax as follows, provided the credit institution otherwise complies with section 148.657, RSMo:

(1) The credit allowed by this subsection shall be equal to the credit institution tax calculated under chapter 148, RSMo, based on the computations provided in section 148.150, RSMo, on a credit institution that makes an election under 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying shareholder according to stock ownership, determined by multiplying a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock issued by such credit institution;

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

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

148.655. Subchapter S corporation shareholders of an association required to pay franchise taxes under section 148.620, may take a tax credit against such shareholder's state income tax return, as provided in section 143.471, RSMo. Such tax credit shall be the taxpayer's pro rata share of the franchise tax paid by the association as provided in this chapter.

148.657. Subchapter S corporation shareholders of a credit institution required to
2 pay franchise taxes under section 148.140, may take a tax credit against such shareholder's
3 state income tax return, as provided in section 143.471, RSMo. Such tax credit shall be the
4 taxpayer's pro rata share of the franchise tax paid by the credit institution as provided in
5 this chapter.

301.215. 1. When the holder of any indebtedness secured by a security agreement or
2 other contract for security covering a motor vehicle or trailer, **who has a notice of lien on file**
3 **with the director of revenue**, repossesses the motor vehicle or trailer either by legal process or
4 in accordance with the terms of a contract authorizing the repossession of the vehicle without
5 legal process, the holder may obtain a certificate of ownership from the director of revenue upon
6 presentation of:

7 (1) An application [which shall be upon a blank] form furnished by the director of
8 revenue [and] **that** shall contain a full description of the motor vehicle or trailer and the
9 manufacturer's or other identifying number;

10 (2) **A notice of lien receipt or the original certificate of ownership reflecting the**
11 **holder's lien;** and

12 (3) An affidavit of the holder, certified under penalties of perjury for making a false
13 statement to a public official, that the debtor defaulted in payment of the debt, and that the holder
14 repossessed the motor vehicle or trailer either by legal process or in accordance with the terms
15 of the contract, and the specific address where the vehicle or trailer is held. Such affidavit shall
16 also state that the lienholder has the written consent from all owners or lienholders of record to
17 repossess the vehicle or has provided all the owners or lienholders with written notice of the
18 repossession.

19 **2. On a motor vehicle or trailer**, the lienholder shall first give:

20 (1) Ten days' written notice by first class United States mail postage prepaid to each of
21 the owners and other lienholders, if any, of the motor vehicle or trailer at each of their last
22 mailing addresses as shown by the last prior certificate of ownership, if any issued [on the motor
23 vehicle or trailer], **or the most recent address on the lienholder's records**, that an application
24 for a repossessed title will be made; or

25 (2) **The lienholder may, ten days prior to applying for a repossession title, include**
26 **the information in the above notice in the appropriate uniform commercial code notice**
27 **under sections 400.9-613 or 400.9-614, RSMo. Such alternative notice to all owners and**
28 **lienholders shall be valid and enforceable under both the uniform commercial code and**
29 **this section, provided it otherwise complies with the provisions of the uniform commercial**
30 **code.**

31 [2.] **3.** Upon the holder's presentation of the papers **required by subsection 1 of this**
32 **section** and **the** payment of a fee of ten dollars, the director of revenue, if he is satisfied with the
33 genuineness of the papers, shall issue and deliver to the holder a certificate of ownership which
34 shall be in its usual form except it shall be clearly captioned "Reposessed Title". Each
35 reposessed title so issued shall, for all purposes, be treated as an original certificate of
36 ownership and shall supersede the outstanding certificate of ownership, if any, and duplicates
37 thereof, if any, on the motor vehicle or trailer, all of which shall become null and void.

38 [3.] **4.** In any case where there is no certificate of ownership or duplicate thereof
39 outstanding in the name of the debtor on the reposessed motor vehicle or trailer, the director of
40 revenue shall issue a reposessed title to the holder and shall proceed to collect all unpaid fees,
41 taxes, charges and penalties from the debtor as provided in section 301.190.

42 [4.] **5.** The director of revenue may prescribe rules and regulations for the effective
43 administration of this section. Any rule or portion of a rule, as that term is defined in section
44 536.010, RSMo, that is created under the authority delegated in this section shall become
45 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
46 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
47 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
48 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently
49 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
50 after August 28, 2005, shall be invalid and void.

306.435. 1. When the holder of any indebtedness secured by a security agreement or
2 other contract for security covering an outboard motor, motorboat, vessel, or watercraft **who has**
3 **a notice of lien on file with the director of revenue** repossesses the outboard motor, motorboat,
4 vessel, or watercraft either by legal process or in accordance with the terms of a contract
5 authorizing the repossession of the outboard motor, motorboat, vessel, or watercraft without legal
6 process, the holder may obtain a certificate of [title] **ownership** from the director of revenue
7 upon presentation of:

8 (1) An application[, which shall be upon a blank] form furnished by the director of
9 revenue [and] **which** shall contain [the] **a** full description of the outboard motor, motorboat,
10 vessel, or watercraft and the manufacturer's or other identifying number;

11 (2) **A notice of lien receipt or the original certificate of ownership reflecting the**
12 **holder's lien; and**

13 (3) An affidavit of the holder, **certified under penalties of perjury for making a false**
14 **statement to a public official**, that the debtor defaulted in payment of the debt, and that the
15 holder reposessed the outboard motor, motorboat, vessel, or watercraft either by legal process

16 or in accordance with the terms of the contract, and the specific address where the outboard
17 motor, motorboat, vessel, or watercraft is held[; and

18 (3) The original, or a conformed or photostatic copy of the original, of the security
19 agreement or other contract for security and the instrument evidencing the indebtedness secured
20 by the security agreement or other contract for security. The director may, by regulation,
21 prescribe for the inclusion in either or both the application or affidavit required by this subsection
22 any other information that he, from time to time, deems necessary or advisable, and may
23 prescribe that the affidavit required by this subsection be part of the application]. **Such affidavit**
24 **shall also state that the lienholder has the written consent from all owners or lienholders**
25 **of record to repossess the outboard motor, motorboat, vessel, or watercraft or has provided**
26 **all the owners or lienholders with written notice of the repossession.**

27 2. **On an outboard motor, motorboat, vessel, or watercraft, the lienholder shall first**
28 **give:**

29 (1) **Ten days' written notice by first class United States mail, postage prepaid, to**
30 **each of the owners and other lienholders, if any, of the outboard motor, motorboat, vessel,**
31 **or watercraft at each of their last mailing addresses as shown by the last prior certificate**
32 **of ownership, if any issued, or the most recent address on the lienholder's records, that an**
33 **application for a repossessed title will be made; or**

34 (2) **The lienholder may, ten days prior to applying for a repossession title, include**
35 **the information in the above notice in the appropriate uniform commercial code notice**
36 **under sections 400.9-613 or 400.9-614, RSMo. Such alternative notice to all owners and**
37 **lienholders shall be valid and enforceable under both the uniform commercial code and**
38 **this section, provided it otherwise complies with the provisions of the uniform commercial**
39 **code.**

40 3. Upon the holder's presentation of the papers required by subsection 1 of this section
41 and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the
42 genuineness of the papers, shall issue and deliver to the holder a certificate of title which shall
43 be in its usual form except it shall be clearly captioned "Repossessed Title"[; except that, unless
44 the application is accompanied by the written consent, acknowledged before an officer
45 authorized to take acknowledgments, of the owners and other lienholders, if any, of the outboard
46 motor, motorboat, vessel, or watercraft as shown by the last prior certificate of title or ownership,
47 if any, issued on the outboard motor, motorboat, vessel, or watercraft, for the issuance of a
48 repossessed title to the applicant, no such repossessed title may be issued by the director of
49 revenue unless the director shall first give ten days' written notice by first class United States
50 mail postage prepared to each of the owners and other lienholders, if any, of the outboard motor,
51 motorboat, vessel, or watercraft at each of their last mailing addresses as shown by the last prior

52 certificate of title or ownership, if any, issued on the outboard motor, motorboat, vessel, or
53 watercraft, that an application for a repossessed title has been made and the date the repossessed
54 title will be issued, which notice shall be accompanied by a copy, photostatic or otherwise, of
55 the application and affidavit. The application for repossessed title may be withdrawn by the
56 applicant at any time before the granting thereof]. Each repossessed title so issued shall, for all
57 purposes, be treated as an original certificate of [title] **ownership** and shall supersede the
58 outstanding certificate of [title or] ownership, if any, and duplicates thereof, if any, on the
59 outboard motor, motorboat, vessel, or watercraft, all of which shall become null and void.

60 [3.] **4.** In any case where there is no certificate of [title or] ownership, or duplicate
61 thereof, outstanding in the name of the debtor on the repossessed outboard motor, motorboat,
62 vessel, or watercraft, the director of revenue shall issue a repossessed title to the holder [upon
63 the payment of] **and shall proceed to collect** all unpaid fees, taxes, charges and penalties from
64 the debtor as provided in sections 306.015, 306.030, 306.530 and 306.535, in addition to the fee
65 specified in subsection 2 of this section.

66 **5. The director of revenue may prescribe rules and regulations for the effective**
67 **administration of this section. Any rule or portion of a rule, as that term is defined in**
68 **section 536.010, RSMo, that is created under the authority delegated in this section shall**
69 **become effective only if it complies with and is subject to all of the provisions of chapter**
70 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
71 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
72 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
73 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
74 **authority and any rule proposed or adopted after August 28, 2006, shall be invalid and**
75 **void.**

361.711. Each application for a license shall be accompanied by a corporate surety bond
2 in the principal sum of [twenty-five] **one hundred** thousand dollars. The bond shall be in form
3 satisfactory to the director and shall be issued by a bonding company or insurance company
4 authorized to do business in this state, to secure the faithful performance of the obligations of
5 the applicant and the agents and subagents of the applicant with respect to the receipt,
6 transmission, and payment of money in connection with the sale or issuance of checks **and also**
7 **to pay the costs incurred by the division to remedy any breach of the obligations of the**
8 **applicant subject to the bond or to pay examination costs of the division owed and not paid**
9 **by the applicant. Upon license renewal, the required amount of bond shall be as follows:**
10 **(1) For all licensees selling payment instruments or stored value cards, five times**
11 **the high outstanding balance from the previous year with a minimum of one hundred**
12 **thousand dollars and a maximum of one million dollars;**

13 (2) For all licensees receiving money for transmission, five times the greatest
14 amount transmitted in a single day during the previous year with a minimum of one
15 hundred thousand dollars and a maximum of one million dollars.

16

17 If in the opinion of the director the bond shall at any time appear to be inadequate, insecure,
18 exhausted, or otherwise doubtful, additional bond in form and with surety satisfactory to the
19 director shall be filed within fifteen days after notice of the requirement is given to the licensee
20 by the director. An applicant or licensee may, in lieu of filing any bond required under this
21 section, provide the director with an irrevocable letter of credit, as defined in section 400.5-103,
22 RSMo, issued by any state or federal financial institution. **Whenever in the director's**
23 **judgment it is necessary or expedient, the director may perform a special examination of**
24 **any person licensed under sections 361.700 to 361.727 with all authority under section**
25 **361.160 as though the licensee were a bank. The cost of such examination shall be paid by**
26 **the licensee.**

 361.715. 1. Upon the filing of the application, the filing of a certified audit, the
2 [payments] **payment** of the investigation fee and the approval by the director of the necessary
3 bond, the director **shall cause, investigate, and determine whether the character,**
4 **responsibility, and general fitness of the principals of the applicant or any affiliates are**
5 **such as to command confidence and warrant belief that the business of the applicant will**
6 **be conducted honestly and efficiently and that the applicant is in compliance with all other**
7 **applicable state and federal laws. If satisfied, the director shall issue to the applicant a**
8 license pursuant to the provisions of sections 361.700 to 361.727. **In processing a renewal**
9 **license, the director shall require the same information and follow the same procedures**
10 **described in this subsection.**

11 2. Each licensee shall pay to the director [within five days after] **before** the issuance of
12 the license, and annually thereafter on or before April fifteenth of each year, a license fee of one
13 hundred dollars.

14 3. **The director may assess a reasonable charge, not to exceed one hundred dollars,**
15 **for any application to amend and reissue an existing license.**

362.078. Notwithstanding any other provision of law to the contrary, an industrial
2 **loan company or industrial bank is prohibited from establishing or maintaining any**
3 **deposit production office, loan production office, or one or more bank branches, for the**
4 **purpose of conducting any banking business within this state, whether by de novo charter,**
5 **branching, or merger with another institution. As used in this section, the terms**
6 **"industrial loan company" and "industrial bank" include any company chartered under**
7 **the laws of any state that:**

- 8 **(1) Is insured or regulated by the Federal Deposit Insurance Corporation;**
9 **(2) Engages in one or more banking activities; and**
10 **(3) Is owned, directly or indirectly, by a commercial entity that is not a bank**
11 **holding company or a financial holding company subject to regulation under the Federal**
12 **Bank Holding Company Act of 1956.**

362.275. 1. The board of directors of every bank and trust company organized or doing
2 business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon
3 application to and acceptance by the director of finance, at such other times, not less frequently
4 than once each calendar quarter as the director of finance shall approve, which approval may be
5 rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of
6 loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership,
7 corporation or person whose liability to the bank or trust company has been created, extended,
8 renewed or increased since the cut-off date prior to the regular meeting by more than an amount
9 to be determined by the board of directors, which minimum amount shall not exceed five percent
10 of the bank's legal loan limit, except the minimum amount shall in no case be less than ten
11 thousand dollars[, and] ; a second list of the aggregate indebtedness of each borrower whose
12 aggregate indebtedness exceeds five times such minimum amount, except the aggregate
13 indebtedness shall in no case be less than fifty thousand dollars; [and] a third list showing all
14 paper past due thirty days or more **or alternatively, the third list shall report the total past**
15 **due ratio for loans thirty days or more past due, nonaccrual loans divided by total loans,**
16 **and a listing of past due loans in excess of the minimum amount to be determined by the**
17 **board of directors, which minimum amount shall not exceed five percent of the bank's legal**
18 **loan limit, except the minimum amount shall in no case be less than ten thousand dollars;**
19 and a fourth list showing the aggregate of the then existing indebtedness and liability to the bank
20 or trust company of each of the directors, officers, and employees thereof. The information
21 called for in the second, third, and fourth lists shall be submitted as of the date of the regular
22 meeting or as of a reasonable date prior thereto. [If there is collateral to the indebtedness, it shall
23 be described as of the date of the lists.] No bills payable shall be made, and no bills shall be
24 rediscounted by the bank or trust company except with the consent or ratification of the board
25 of directors; provided, however, that if the bank or trust company is a member of the federal
26 reserve system, rediscounts may be made to it by the officers in accordance with its rules, a list
27 of all rediscounts to be submitted to the next regular meeting of the board. The director of
28 finance may require, by order, that the board of directors of a bank or trust company approve or
29 disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or
30 other advance including every overdraft over an amount to be specified in the director's order and
31 may also require that the board of directors review, at each monthly meeting, a list of the

32 aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an amount to
33 be specified in the director's order. The minutes of the meeting shall indicate the compliance
34 with the requirements of this section. Furthermore, the debtor's identity on the information
35 required in this subsection may be masked by code to conceal the actual debtor's identity only
36 for information mailed to or otherwise provided directors who are not physically present at the
37 board meeting. The code used shall be revealed to all directors at the beginning of each board
38 meeting for which this procedure is used.

39 2. For any issue in need of immediate action, the board of directors or the executive
40 committee of the board as defined in section 362.253 may enter into a unanimous consent
41 agreement as permitted by subsection 2 of section 351.340, RSMo. Such consent may be
42 communicated by facsimile transmission or by other authenticated record, separately by each
43 director, provided each consent is signed by the director and the bank has no indication such
44 signature is not the director's valid consent. When the bank or trust company has received
45 unanimous consent from the board or executive committee, the action voted on shall be
46 considered approved.

362.445. 1. **The term "process", when used in this section, shall include any writ,
2 summons, petition, or order whereby any suit, action, or proceeding shall be commenced.**

3 **2. Any state or federally chartered bank, trust company, or thrift institution may**
4 **be served with process according to the Missouri Rules of Civil Procedure describing**
5 **service of process for corporations.**

6 **3. Any state or federally chartered bank, trust company, or thrift institution may**
7 **appoint a Missouri service agent and register the appointment with the director of finance**
8 **who will maintain a record of all such appointments for public reference.**

9 **4.** Whenever pursuant to [any provision] **express provisions** of this chapter, the director
10 shall have been duly appointed attorney to receive service of process for any foreign corporation
11 **or out-of-state bank or trust company**, he **or she** shall forthwith forward by mail, postage
12 prepaid, a copy of every process served upon him **or her** directed to the president or secretary
13 of such corporation, at its last known post-office address.

14 **[2.] 5.** For each copy of process the director of revenue shall collect the sum of [two] **ten**
15 dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be
16 recovered by [him] **the plaintiff** as part of [his] **the plaintiff's** taxable disbursement if he **or she**
17 succeeds in his **or her** suit or proceeding.

18 **[3.** The term "process", when used in this section, shall include any writ, summons,
19 petition or order whereby any suit, action or proceeding shall be commenced.]

408.555. 1. Except as provided in subsection 2 of this section, after a default consisting
2 only of the borrower's failure to make a required payment, a lender, because of that default, may

3 neither accelerate maturity of the unpaid balance nor take possession of or otherwise enforce a
4 security interest until twenty days after a notice of the borrower's right to cure is given both to
5 the borrower and to all cosigners on the credit transaction nor, with respect to an insurance
6 premium loan, give notice of cancellation until thirteen days after a notice of the borrower's right
7 to cure is given; notice shall not be given prior to default. Until expiration of the minimum
8 applicable period after the notice is given, the borrower or cosigner may cure all defaults
9 consisting of a failure to make the required payment by tendering the amount of all unpaid sums
10 due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral
11 charges. Cure restores the borrower to his rights as though the default had not occurred.

12 2. This section does not prohibit a borrower from voluntarily surrendering possession
13 of property which is collateral and the lender from thereafter accelerating maturity of the loan
14 and enforcing the note or loan and his security interest in the property at any time after default.
15 If the lender has not already given the notice described in subsection 2 or 3 of section 408.554,
16 he shall upon voluntary surrender of the collateral notify the borrower either personally or by
17 mail at the borrower's last known address that he may owe additional money after the money
18 received from the sale of the collateral is deducted from the total amount owed.

19 3. No lender is bound by the provisions of subsection 1 of this section if default by the
20 same borrower in connection with the same credit transaction with the same lender has occurred
21 twice notwithstanding the cure of such defaults **or three times in the case of a second mortgage**
22 **loan** except as provided in subsection 4 of this section.

23 4. Default by a borrower on a second mortgage loan may be cured by tendering the
24 current obligation of the borrower at any time prior to the completion of the judicial or
25 extrajudicial proceedings for foreclosure upon such real estate. For the purposes of this section,
26 "current obligation of the debtor" means the aggregate of all installments scheduled to be due at
27 the time of the tender, **late charges otherwise permitted by law, and expenses of foreclosures**
28 **actually incurred by the lender for initiating a bona fide foreclosure**, notwithstanding any
29 contractual provision for the acceleration of installment payments. A lender may take no steps
30 to enforce a security interest in real property pursuant to a second mortgage loan until thirty days
31 after notice of the borrower's right to cure is given; notice shall not be given prior to default.
32 Cure restores the borrower's rights under the agreement as though the default had not occurred,
33 [and any foreclosure in violation of this section is a class B misdemeanor] **except that only**
34 **three defaults are permitted**. This section shall not affect the debtor's right otherwise to
35 redeem such real property under any other provision of law.

700.045. It shall be a misdemeanor:

2 (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any
3 manufactured home or modular unit after January 1, 1977, unless there is in effect a registration
4 with the commission;

5 (2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit
6 or used modular unit used for educational purposes manufactured after January 1, 1974, which
7 does not bear a seal as required by sections 700.010 to 700.115;

8 (3) To affix a seal or cause a seal to be affixed to any manufactured home or modular
9 unit which does not comply with the code;

10 (4) To alter a manufactured home or modular unit in a manner prohibited by the
11 provisions of sections 700.010 to 700.115;

12 (5) To fail to correct within a reasonable time not to exceed ninety days after being
13 ordered to do so in writing by an authorized representative of the commission a code violation
14 in a new manufactured home or new modular unit or used modular unit used for educational
15 purposes owned, manufactured or sold if the same is manufactured after January 1, 1974; [or]

16 (6) To interfere with, obstruct, or hinder any authorized representative of the commission
17 in the performance of his or her duties;

18 **(7) In addition to any other applicable criminal or civil penalties provided for in**
19 **state law or common law, for any individual owner of a manufactured home, or any dealer**
20 **performing setup of a manufactured home sold by such dealer in such a manner as to**
21 **convert the manufactured home to real property under section 700.111, to fail to comply**
22 **with the requirements of section 700.111, including but not limited to the requirements**
23 **regarding surrendering the certificate of title or manufacturer's certificate of origin, if the**
24 **manufactured home is new and has never previously been titled, to the director of revenue,**
25 **and to register the manufactured home with the county recorder of deeds office and county**
26 **tax assessors office for the county in which the manufactured home is being converted to**
27 **real estate when the failure of the owner of the manufactured home or dealer performing**
28 **the setup of a manufactured home sold by such dealer in such a manner as to convert the**
29 **manufactured home to real property to comply with the requirements of section 700.111:**

30 **(a) Is the result of such owner's or dealer's intent to:**

31 **a. Defraud any existing lender or lienholder in any way, including but not limited**
32 **to loss of the lender or lienholder's existing security interest in the manufactured home;**

33 **b. Defraud any future or prospective lender or lienholder in any way, including but**
34 **not limited to loss of the prospective lender or prospective lienholder's future security**
35 **interest in the manufactured home;**

36 **c. Use any certificate of title or manufacturer's certificate of origin to obtain**
37 **duplicate financing secured by the manufactured home without disclosing the existence,**

38 **identity, and lien claims of all other lenders and lienholders claiming any lien or security**
39 **interest in the manufactured home;**

40 **d. Defraud any taxing authority of the state of Missouri or any political subdivision**
41 **of this state out of any tax revenue which would have resulted if the requirements of section**
42 **700.111 had been complied with; or**

43 **(b) a. Results in any lender's or lienholder's loss of lien or security interest as a**
44 **result of such owner's or dealer's negligence in failing to comply with the requirements of**
45 **section 700.111 where the resulting financial loss to any lender or lienholder exceeds five**
46 **hundred dollars; or**

47 **b. Results in the loss of any tax revenue to any taxing authority of the state of**
48 **Missouri or any political subdivision of this state as a result of such owner's or dealer's**
49 **negligence in failing to comply with the requirements of section 700.111 which would have**
50 **resulted if the requirements of section 700.111 had been complied with.**

700.111. 1. The owner of a manufactured home may convert the manufactured home
2 to real property by:

3 (1) Attaching the manufactured home to a permanent foundation situated on real estate
4 owned by the manufactured home owner; and

5 (2) (a) **Surrendering the certificate of title for the manufactured home or the**
6 **manufacturer's certificate of origin if the manufactured home has not been previously**
7 **titled to the director of the department of revenue and notify the county assessor for**
8 **cancellation and deletion of the manufactured home from the personal property tax rolls;**
9 **or**

10 **(b) If no certificate of title exists for the manufactured home, filing the certificate**
11 **of affixation to real estate in a format to be prescribed by the director of the department**
12 **of revenue and notify the county assessor which shall serve the same purpose as**
13 **surrendering the original certificate of title; and**

14 **(3) Registering the manufactured home on the real property tax rolls of the county**
15 **assessor for the county in which the real estate is located to which the manufactured home**
16 **is affixed on a permanent foundation; and**

17 **(4) Providing notification by certified mail, return receipt requested, to all personal**
18 **property lienholders and all known lien claimants in the manufactured home; and**

19 **(5) (a) Filing a notice of conversion of manufactured home to real property, which**
20 **notice shall include the identity of the owners of such manufactured home, the serial**
21 **number of such manufactured home, the make and model of such manufactured home, and**
22 **the certificate of title identification number or manufacturer's certificate of origin**
23 **identification number of the certificate of title or manufacturer's certificate of origin being**

24 surrendered to the director of revenue, with the county recorder of deeds for the county
25 in which the manufactured home is being affixed to real estate in such a manner to convert
26 the manufactured home to real property as provided herein; or

27 (b) If no such certificate of title exists, filing a notice of affixation identifying the
28 manufactured home by serial number; and

29 (6) The removal or modification of the transporting apparatus including but not limited
30 to wheels, axles and hitches rendering it impractical to reconvert the real property thus created
31 to a manufactured home.

32 2. The conversion of a manufactured home to real property by the method provided in
33 subsection 1 of this section shall prohibit any political subdivision of this state from declaring
34 or treating that manufactured home as other than real property.

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this section, a
2 violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the
3 provisions of section 407.020, RSMo. In addition to the authority vested in the attorney general
4 to enforce the provisions of that section, he may petition the court and the court may enter an
5 order revoking the registration certificate of the defendant or defendants issued pursuant to the
6 provisions of section 700.090.

7 2. Notwithstanding any provisions of subsection 1 of this section, **state law, or common**
8 **law** to the contrary, whoever violates any provision of this chapter shall be liable to the state of
9 Missouri for a civil penalty in an amount which shall not exceed one thousand dollars for each
10 such violation. Each violation of this chapter shall constitute a separate violation with respect
11 to each manufactured home or with respect to each failure or refusal to allow or perform an act
12 required by this chapter; except that, the maximum civil penalty may not exceed one million
13 dollars for any related series of violations occurring within one year from the date of the first
14 violation.

15 3. Any individual or director, officer, or agent of a corporation who knowingly and
16 willfully violates any provision of sections 700.010 to 700.115, in a manner which threatens the
17 health or safety of any purchaser, shall, upon conviction therefor, be fined not more than one
18 thousand dollars or imprisoned for not more than one year, or both.

19 **4. Any individual or director, officer, or agent of a corporation who knowingly and**
20 **willfully violates any provision of sections 700.010 to 700.111 in any manner designed to**
21 **intentionally perpetrate a fraud upon any purchaser, lender, lienholder, or taxing**
22 **authority, in addition to all other civil and criminal remedies provided at law, is guilty of**
23 **a class A misdemeanor and shall be ordered to pay restitution to all aggrieved parties in**
24 **such amounts as the court finds just and equitable.**

700.355. 1. A certificate of title to the manufactured home when issued by the director of revenue shall be mailed or confirmation of such title shall be electronically transmitted or mailed to the owner shown on the face of the title of such manufactured home. Provided the lienholder submits complete and legible documents, the director of revenue shall mail confirmation or electronically confirm receipt of each notice of lien to the lienholder as soon as possible, but no later than fifteen business days after the filing of the notice of lien. **If a lienholder complies with all the requirements for notifying the director of revenue of its lien or security interest in a manufactured home, the director of revenue shall mail notice or electronically notify such lienholder of the surrender of any certificate of title under section 700.111 as soon as possible, but no later than fifteen business days after receiving a certificate of title for cancellation under section 700.111.**

2. A lienholder may elect that the director of revenue retain possession of an electronic certificate of title, and the director shall issue regulations to cover the procedure by which such election is made. Each such certificate of ownership or title shall require a separate election, unless the director provides otherwise by regulation. A subordinate lienholder shall be bound by the election of the superior lienholder with respect to the certificate involved.

3. As used in this section, "electronic certificate of ownership" means any electronic record of ownership or title, including a lien or liens that may be recorded.

700.360. If an owner creates a lien or encumbrance on a manufactured home:

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

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

(3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the

19 owner's application for title, certificate, notice of lien, authorization from the first lienholder and
20 title fee to the department of revenue. The delivery of the certificate and executing a notice of
21 authorization to add a subordinate lien does not affect the rights of the first lienholder under the
22 security agreement;

23 (4) Upon receipt of the documents and fee required in subdivision (3) of this section, the
24 director of revenue shall issue a new certificate of ownership containing the name and address
25 of the new lienholder, and shall mail the certificate as prescribed in section 700.355, or if a
26 lienholder who has elected for the director of revenue to retain possession of an electronic
27 certificate of ownership, the lienholder shall either mail or deliver to the director a notice of
28 authorization for the director to add a subordinate lienholder to the existing certificate. Upon
29 receipt of such authorization, a notice of lien and required documents and title fee, if applicable,
30 from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate
31 of ownership being electronically retained by the director and provide confirmation of the
32 addition to both lienholders;

33 (5) **If a manufactured home subject to any lien of a lienholder which has complied**
34 **with the requirements of this section is converted to real estate by the owner of the**
35 **manufactured home under section 700.111, the director of revenue shall mail notice or**
36 **electronically notify such lienholder of the surrender of any certificate of title under section**
37 **700.111 as soon as possible, but no later than fifteen business days after receiving a**
38 **certificate of title for cancellation under section 700.111. If such lienholder files a notice**
39 **of lien with the recorder of deeds for the county in which the manufactured home is being**
40 **affixed in such a manner as to convert the manufactured home to real estate, such**
41 **lienholder shall, within fifteen business days of receiving notice from the director of**
42 **revenue, retain its lien in the manufactured home as real estate continuously without**
43 **interruption and shall have priority over subsequently filed liens in the real estate. The**
44 **director of revenue shall include in all such mailed notices or electronic notification to any**
45 **lienholder information sufficiently identifying the county of this state in which the**
46 **manufactured home has been converted to real estate under section 700.111 so that such**
47 **lienholder may sufficiently identify the proper county recorder of deeds office in which the**
48 **lienholder shall file its notice of lien. The lien of such lienholder properly filing a notice**
49 **of lien shall be subordinate to a prior filed lienholder in the real estate whose lien was**
50 **perfected prior to the date of affixation of the manufactured home in such a manner as to**
51 **convert the manufactured home to real estate to the extent of the value of the real estate**
52 **with the manufactured home affixed thereto which is in excess of the value of the**
53 **manufactured home as of the date the manufactured home was converted to real estate**

54 **through affixation thereto, but shall have priority over any subsequently filed lienholder**
55 **in the real estate to which the manufactured home was affixed.**

700.385. 1. When the holder of any indebtedness secured by a security agreement or
2 other contract for security covering a manufactured home **which has not been converted to real**
3 **property under section 700.111** repossesses the manufactured home either by legal process or
4 in accordance with the terms of a contract authorizing the repossession of the manufactured
5 home without legal process, the holder may obtain a certificate of title from the director of
6 revenue upon presentation of:

7 (1) An application, which shall be upon a blank form furnished by the director of
8 revenue and shall contain the full description of the manufactured home and the manufacturer's
9 or other identifying number;

10 (2) An affidavit of the holder that the debtor defaulted in payment of the debt, and that
11 the holder repossessed the manufactured home either by legal process or in accordance with the
12 terms of the contract, and the specific address where the manufactured home is held; and

13 (3) The original, or a conformed or photostatic copy of the original, of the security
14 agreement or other contract for security and the instrument or instruments evidencing the
15 indebtedness secured by the security agreement or other contract for security.

16
17 The director may, by regulation, prescribe for the inclusion in either or both the application or
18 affidavit required by this subsection any other information that he, from time to time, deems
19 necessary or advisable, and may prescribe that the affidavit required by this subsection be part
20 of the application.

21 **2. When the holder of any indebtedness secured by a security agreement or other**
22 **contract for security covering a manufactured home which was previously converted to**
23 **real property under section 700.111** repossesses the manufactured home either by legal
24 **process or in accordance with the terms of a contract authorizing the repossession of the**
25 **manufactured home without legal process, the home shall be conclusively deemed to be real**
26 **estate and title to the real estate upon which the home has been affixed under section**
27 **700.111 shall conclusively convey title to the manufactured home. Where the**
28 **manufactured home has not been properly converted under section 700.111, the holder**
29 **may obtain a certificate of title from the director of revenue upon presentation of:**

30 (1) An application, upon a blank form furnished by the director, containing a full
31 description of the manufactured home and the manufacturer's or other identifying
32 number;

33 (2) An affidavit of the holder that the debtor defaulted in payment of the debt and
34 the holder repossessed the manufactured home either by legal process or in accordance

35 with the terms of the contract, and the specific address where the manufactured home is
36 held; and

37 (3) The original, or a conformed or photostatic copy of the original, of the deed of
38 trust agreement or other contract for security and the instrument or instruments
39 evidencing the indebtedness secured by the security agreement or other contract for
40 security. The director may, by rule, prescribe for the inclusion in either or both the
41 application or affidavit required by this subsection any other information the director from
42 time to time deems necessary or advisable, and may prescribe that the affidavit required
43 by this subsection be part of the application.

44 3. Upon the holder's presentation of the papers required by subsection 1 or 2 of this
45 section and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the
46 genuineness of the papers, shall issue and deliver to the holder a certificate of title which shall
47 be in its usual form except it shall be clearly captioned "Reposessed Title"; except that, unless
48 the application is accompanied by the written consent, acknowledged before an officer
49 authorized to take acknowledgments, of the owners and other lienholders, if any, of the
50 manufactured home as shown by the last prior certificate of title or ownership, if any, issued on
51 the manufactured home for the issuance of a reposessed title to the applicant, no such
52 reposessed title may be issued by the director of revenue unless the director shall first give ten
53 days' written notice by first class United States mail postage prepaid to each of the owners and
54 other lienholders, if any, of the manufactured home at each of their last mailing addresses as
55 shown by the last prior certificate of title or ownership, if any, issued on the manufactured home
56 that an application for a reposessed title has been made and the date the reposessed title will
57 be issued, which notice shall be accompanied by a copy, photostatic or otherwise, of the
58 application and affidavit. The application for reposessed title may be withdrawn by the
59 applicant at any time before the granting thereof. Each reposessed title so issued shall, for all
60 purposes, be treated as an original certificate of title and shall supersede the outstanding
61 certificate of title or ownership, if any, and duplicates thereof, if any, on the manufactured home
62 all of which shall become null and void.

63 [3.] 4. In any case where there is no certificate of title or ownership, or duplicate thereof,
64 outstanding in the name of the debtor on the reposessed manufactured home, **including but not**
65 **limited to cases in which the lienholder has reposessed a manufactured home previously**
66 **converted to real property under section 700.111 through foreclosure or otherwise with or**
67 **without legal process**, the director of revenue shall issue a reposessed title to the holder upon
68 the payment of all unpaid fees, taxes, charges and penalties owed by the debtor, in addition to
69 the fee specified in subsection [2] 3 of this section.

700.500. 1. The director of revenue shall notify the assessor of the county in which the
2 manufactured home is located when the following occur:

3 (1) Sales tax is paid on the manufactured home and a certificate of title therefor is issued;

4 [or]

5 (2) Title to any manufactured home is transferred; **or**

6 **(3) Title to any manufactured home is surrendered to the director of revenue under**
7 **section 700.111 in connection with the conversion of the manufactured home to real**
8 **property.**

9 2. As used in this section, the term "manufactured home" shall have the same meaning
10 given it in section 700.010.

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