

SS SCS HCS HB 292 -- BANK POWERS

This bill modifies provisions relating to banks, trust companies, and other financial institutions.

LEASING REAL PROPERTY

This bill modifies the powers of banks and trust companies by allowing a bank or trust company to acquire or convey real property for the purpose of leasing the property to a public entity, including government buildings, municipal buildings, schools, and public hospitals. The bank or trust company must lease the property only to a public entity that has sufficient resources to satisfy all rental payments as they become due. The lease agreement must provide that the public entity will become the owner of the real property and any building or facility upon the expiration of the lease. The purchase of the real estate for this purpose cannot exceed the bank's or trust company's lending limit under Section 362.170, RSMo (Section 365.105.1(10)).

SERVICES CONTRACTED FOR BY A BANK OR TRUST COMPANY

The bill authorizes a bank or trust company to contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive any banking or trust services authorized under Chapter 362. Any person or entity that provides, by contract or otherwise, services to a bank or trust company will be subject to examination by the Division of Finance, within the Department of Insurance, Financial Institutions and Professional Registration, to the same extent as if the service was being performed by the bank or trust company on its own premises. The bill also requires each bank or trust company under the jurisdiction of the division to provide a list of all persons or entities providing services to the bank or trust company (Section 365.105.1(12)).

CONVENIENCE FEES

The bill further permits banks, holders of retail time contracts, lenders of certain small loans, and holders of retail installment contracts to charge a convenience fee for accepting a payment using an alternative payment channel that accepts a debit or credit card not present, non-face-to-face payment, provided that the person making the payment is notified that they are being charged the fee and the convenience fee is fixed or flat (Sections 362.111, 365.100, 408.140, and 408.330).

FAMILY TRUST COMPANIES

This bill establishes the "Missouri Family Trust Company Act." A family trust company is a corporation or limited liability company owned and exclusively controlled by, directly or indirectly, one or more family members. The company must operate exclusively for the benefit of a family member, as defined in the bill.

This bill prohibits a family trust company from conducting business in Missouri without first registering with the Secretary of State, maintaining a capital account of not less than \$250,000, and paying an origination fee of \$5,000. Furthermore, the company shall also maintain a physical office in Missouri, a registered agent who maintains an office in Missouri, and a deposit account with a state-chartered or national financial institution that has a principal or branch office in Missouri. A family trust company is also thereafter required to file annual registration reports with the Secretary reaffirming the company's compliance with this bill. These reports must be signed under penalty of perjury. Failure to file such report may be subject to a fine of up to \$100 for each day the report is overdue. Failure to file the report within 60 days will result in termination of the company's registration as a family trust company.

The bill establishes the "Family Trust Company Fund" for the purpose of enabling the Secretary to perform its required functions under this bill.

A family trust company may not engage in commercial banking or advertise its services to the public.

The Secretary, or a designee of the Secretary, is permitted to examine or investigate a family trust company at any time deemed necessary to determine if the company violated certain provisions of this bill. The Secretary may additionally examine the books and records of the company as necessary to determine if the company is complying with this bill. The company is responsible for paying the costs of such examinations.

The Secretary may issue and serve upon the family trust company or a family trust company affiliated party a notice of charges when the Secretary has reason to believe that the company, party, or any individual named in the charge is engaging or has engaged in certain actions which are contrary to the provisions of this bill. Such notices issued by the Secretary shall contain a statement of the facts as well as an opportunity for a hearing. If the Secretary finds that the conduct engaged in is likely to cause substantial prejudice to the trust accounts of the company, the secretary may issue a cease and desist order.

The CEO of a family trust company is required to notify the Secretary if he or she has actual knowledge that an affiliated party of the company is charged with a felony in a state or federal court. Additionally, if such a party is charged with a felony in a state or federal court, or certain crimes in foreign countries with which the United State maintains diplomatic relations, then the Secretary may enter an emergency order suspending the party.

The books and records of each family trust company are confidential and available for inspection and examination only by certain entities, including the Secretary. The willful unlawful disclosure of confidential information in violation of this provision is a class E felony.

Additionally, the bill outlines certain types of information held by the Secretary of which shall remain confidential and not subject to the Sunshine Law. This information may be disclosed by the Secretary under certain circumstances, but generally the willful disclosure of such information is a class E felony.

Any person aggrieved by any order made by the Secretary under this bill is entitled to a hearing before the Secretary (Sections 362.1010, 362.1015, 362.1020, 362.1030, 362.1035, 362.1037, 362.1040, 362.1045, 362.1050, 362.1055, 362.1060, 362.1065, 362.1070, 362.1075, 362.1080, 362.1085, 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, 362.1117, and 362.1118).

MARKET CONDUCT OF INSURANCE COMPANIES

The bill stipulates that if the Director of the Department of Insurance, Financial Institutions and Professional Registration determines that an insurance company should pay interest upon any claims, refunds, or payments due to an examination, investigation, settlement agreement, or other action that the interest charged shall be determined as provided under current law, but not to exceed 9% (Section 374.191).

RESIDENTIAL MORTGAGE LOAN BROKERS

This bill states that any residential mortgage loan broker licensed in this state, who exclusively makes loans on manufactured or modular homes, is not required to maintain a full-service office in this state. Such brokers are required to file an irrevocable consent which provides that for suits and actions commenced against the broker, the venue shall lie in Cole County.

Reasonable costs may be assessed for any investigation incurred by the Division of Finance, outside the scope of annual or special

investigations as a result of the broker not maintaining a full-service office in Missouri. Any such costs collected shall be paid to the department to the credit of the division (Section 443.812).

PURCHASING OF STOCK

The bill repeals a requirement that the purchase and holding of stock in a corporation by a bank or trust company receive written approval from the director of such bank or trust company (Section 362.280).

ANNUAL EXAMINATIONS

This bill repeals provisions requiring an annual examination of certain bank and trust companies (Section 362.285).