FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 814

101ST GENERAL ASSEMBLY

1678H.03P DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 37.850, 67.2800, 67.2810, 67.2815, 361.097, 361.110, 361.727, 362.023, 362.044, 362.165, 362.247, 362.250, 362.340, 362.550, 362.570, 365.100, 365.140, 367.150, 369.049, 400.3-309, 408.035, 408.100, 408.140, 408.178, 408.233, 408.234, 408.250, 408.553, and 408.554, RSMo, and to enact in lieu thereof forty-eight new sections relating to financial institutions.

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

Section A. Sections 37.850, 67.2800, 67.2810, 67.2815, 361.097, 361.110, 361.727, 362.023, 362.044, 362.165, 362.247, 362.250, 362.340, 362.550, 362.570, 365.100, 365.140, 367.150, 369.049, 400.3-309, 408.035, 408.100, 408.140, 408.178, 408.233, 408.234, 408.250, 408.553, and 408.554, RSMo, are repealed and forty-eight new sections enacted in lieu thereof, to be known as sections 29.420, 37.850, 67.2800, 67.2810, 67.2815, 67.2816, 67.2817, 67.2818, 67.2819, 67.2840, 285.1000, 285.1005, 285.1010, 285.1015, 285.1020, 285.1025, 285.1030, 285.1035, 285.1040, 285.1045, 285.1050, 285.1055, 361.097, 361.110, 361.727, 362.023, 362.044, 362.165, 362.247, 362.250, 362.340, 362.550, 362.570, 362.765, 365.100, 365.140, 369.049, 369.705, 400.3-309, 408.035, 408.100, 408.140, 408.178, 408.233, 408.234, 408.250, 408.553, and 408.554, to read as follows:

29.420. 1. This section shall be known as the "Government Lending Transparency Act".

2. As used in this section, the following terms shall mean:

(1) "Administering agency", a department, office, board, commission, bureau, institution, or any other agency of the state charged by statute, regulation, or order with administering a credit support or lending program;

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.

(2) "Credit support program", any state program that guarantees or provides credit enhancements, such as state support for interest or principal payments, to the debt of parties or to other branches of government or municipalities, under which the state would be required to provide moneys if the borrower failed to pay;

(3) "Lending program", any state program that offers moneys to private parties or municipalities that come with the expectation of repayment.

3. Each administering agency shall report annually to the state auditor before August thirty-first the following information:

(1) The name and statutory authority for each lending program and credit support program administered by the agency;

(2) For the immediately preceding fiscal year, the total dollar amount of all lending for each lending program administered by the agency and the total amount of debt supported by each credit support program administered by the agency; and

(3) For the immediately preceding fiscal year, the reasonable estimates of the costs of likely defaults for each lending program and credit support program administered by the agency, using private sector accounting standards to evaluate the likelihood and costs of defaults.

4. The state auditor shall make an annual report compiling the data received from the administering agencies under this section and shall submit the report to the general assembly annually before December sixteenth.

5. Intentional or knowing failure to comply with any reporting requirement contained in this section shall be punishable by a fine of up to two thousand dollars.

37.850. 1. The commissioner of administration shall maintain the Missouri accountability portal established in executive order 07-24 as a free, internet-based tool allowing citizens to demand fiscal discipline and responsibility.

2. The Missouri accountability portal shall consist of an easy-to-search database of financial transactions related to the purchase of goods and services and the distribution of funds for state programs; all bonds issued by any public institution of higher education or political subdivision of this state or its designated authority after August 28, 2013; all obligations issued or incurred pursuant to section 99.820 by any political subdivision of this state or its designated authority; and the revenue stream pledged to repay such bonds or obligations; and all debt incurred by any public charter school.

3. The Missouri accountability portal shall be updated each state business day and maintained as the primary source of information about the activity of Missouri's government.

4. Upon the conducting of a withholding or a release of funds, the governor shall submit a report stating all amounts withheld from the state's operating budget for the current fiscal year, as authorized by Article IV, Section 27 of the Missouri Constitution which shall be:

(1) Conspicuously posted on the accountability portal website;

(2) Searchable by the amounts withheld or released from each individual fund; and

(3) Searchable by the total amount withheld or released from the operating budget.

5. Every political subdivision of the state, including public institutions of higher education but excluding school districts, shall supply all information described in subsection 2 of this section to the office of administration within seven days of issuing or incurring such corresponding bond or obligation. For all such bonds or obligations issued or incurred prior to August 28, 2013, every such political subdivision and public institution of higher education shall have ninety days to supply such information to the office of administration.

6. Every school district and public charter school shall supply all information described in subsection 2 of this section to the department of elementary and secondary education within seven days of issuing such bond, or incurring such debt. The department of elementary and secondary education shall have forty-eight hours to deliver such information to the office of administration. For all such bonds issued or debt incurred prior to August 28, 2013, every school district and public charter school shall have ninety days to supply such information to the department of elementary and secondary education. The department of elementary and secondary education shall have forty-eight hours to deliver such information to the office of administration.

7. The following entities shall report the name, salary data, and incentive pay for all employees of the entity in the same manner as all state departments and agencies under this section:

(1) The county employees' retirement system established in sections 50.1000 to 50.1300;

(2) The sheriffs' retirement system established in sections 57.949 to 57.997;

(3) The Missouri local government employees' retirement system established in sections 70.600 to 70.755;

(4) The Missouri state employees' retirement system established in section 104.320;

(5) The Missouri department of transportation and highway patrol employees' retirement system established in section 104.020;

(6) The prosecuting attorneys' and circuit attorneys' retirement system established in sections 56.800 to 56.840;

(7) The college and university retirement plan established in sections 104.1200 to 104.1215;

(8) The Kansas City public school retirement system established in sections 169.270 to 169.400;

(9) The Kansas City civilian police retirement system established in sections 86.1310 to 86.1640;

(10) The Kansas City police retirement system established in sections 86.900 to 86.1280;

(11) The public education employees' retirement system established in sections 169.600 to 169.710;

(12) The public school retirement system established in sections 169.010 to 169.130;

(13) The St. Louis public school retirement system established in sections 169.410 to 169.540;

(14) The St. Louis firemen's retirement system established in sections 87.125 to 87.370;

(15) The St. Louis police retirement system established in sections 86.200 to 86.366; and

(16) The judicial retirement system established in sections 476.450 to 476.690.

The entities identified in this subsection shall not report the retirement annuity, retirement allowance, or retirement benefit amount of any employee or member to the Missouri accountability portal. The commissioner of administration shall prohibit the display of the retirement annuity, retirement allowance, or retirement benefit of any employee or member on the Missouri accountability portal.

67.2800. 1. Sections 67.2800 to **[**~~67.2835~~**] 67.2840** shall be known and may be cited as the "Property Assessment Clean Energy Act".

2. As used in sections 67.2800 to **[**~~67.2835~~**] 67.2840**, the following words and terms shall mean:

(1) "Assessment contract", a contract entered into between a clean energy development board and a property owner under which the property owner agrees to pay an annual assessment for a period of up to twenty years **not to exceed the weighted average useful life of the qualified improvements** in exchange for financing of an energy efficiency improvement or a renewable energy improvement;

(2) "Authority", the state environmental improvement and energy resources authority established under section 260.010;

(3) "Bond", any bond, note, or similar instrument issued by or on behalf of a clean energy development board;

(4) "Clean energy conduit financing", the financing of energy efficiency improvements or renewable energy improvements for a single parcel of property or a unified development consisting of multiple adjoining parcels of property under section 67.2825;

(5) "Clean energy development board", a board formed by one or more municipalities under section 67.2810;

(6) **"Director", the director of the division of finance within the department of commerce and insurance;**

(7) "Division", the division of finance within the department of commerce and insurance;

(8) "Energy efficiency improvement", any acquisition, installation, or modification on or of publicly or privately owned property designed to reduce the energy consumption of such property, including but not limited to:

(a) Insulation in walls, roofs, attics, floors, foundations, and heating and cooling distribution systems;

(b) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective windows and doors, and other window and door improvements designed to reduce energy consumption;

(c) Automatic energy control systems;

(d) Heating, ventilating, or air conditioning distribution system modifications and replacements;

(e) Caulking and weatherstripping;

(f) Replacement or modification of lighting fixtures to increase energy efficiency of the lighting system without increasing the overall illumination of the building unless the increase in illumination is necessary to conform to applicable state or local building codes;

(g) Energy recovery systems; and

(h) Daylighting systems;

[~~(7)~~**] (9)** "Municipality", any county, city, or incorporated town or village of this state;

[~~(8)~~**] (10) "Program administrator", an individual or entity selected by the clean energy development board to administer the PACE program, but this term does not include an employee of a county or municipal government assigned to a clean energy development board or a public employee employed by a clean energy development board who is paid from appropriated general tax revenues;**

(11) "Project", any energy efficiency improvement or renewable energy improvement;

[~~(9)~~**] (12)** "Property assessed clean energy local finance fund", a fund that may be established by the authority for the purpose of making loans to clean energy development boards to establish and maintain property assessed clean energy programs;

[~~(10)~~**] (13)** "Property assessed clean energy program" **or "PACE program"**, a program established by a clean energy development board to finance energy efficiency improvements or renewable energy improvements under section 67.2820;

[~~(11)~~**] (14)** "Renewable energy improvement", any acquisition and installation of a fixture, product, system, device, or combination thereof on publicly or privately owned property that produces energy from renewable resources, including, but not limited to photovoltaic systems, solar thermal systems, wind systems, biomass systems, or geothermal systems.

3. All projects undertaken under sections 67.2800 to **[**~~67.2835~~**] 67.2840** are subject to the applicable municipality's ordinances and regulations, including but not limited to those ordinances and regulations concerning zoning, subdivision, building, fire safety, and historic or architectural review.

67.2810. 1. One or more municipalities may form clean energy development boards for the purpose of exercising the powers described in sections 67.2800 to **[**~~67.2835~~**] 67.2840**. Each clean energy development board shall consist of not less than three members, as set forth in the ordinance or order establishing the clean energy development board. Members shall serve terms as set forth in the ordinance or order establishing the clean energy development board and shall be appointed:

(1) If only one municipality is participating in the clean energy development board, by the chief elected officer of the municipality with the consent of the governing body of the municipality; or

(2) If more than one municipality is participating, in a manner agreed to by all participating municipalities.

2. A clean energy development board shall be a political subdivision of the state and shall have all powers necessary and convenient to carry out and effectuate the provisions of sections 67.2800 to **[**~~67.2835~~**] 67.2840**, including but not limited to the following:

(1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections 67.2800 to **[**~~67.2835~~**] 67.2840**;

(2) To adopt an official seal;

(3) To sue and be sued;

(4) To make and enter into contracts and other instruments with public and private entities;

(5) To accept grants, guarantees, and donations of property, labor, services, and other things of value from any public or private source;

(6) To employ or contract for such managerial, legal, technical, clerical, accounting, or other assistance it deems advisable;

(7) To levy and collect special assessments under an assessment contract with a property owner and to record such special assessments as a lien on the property;

(8) To borrow money from any public or private source and issue bonds and provide security for the repayment of the same;

(9) To finance a project under an assessment contract;

(10) To collect reasonable fees and charges in connection with making and servicing assessment contracts and in connection with any technical, consultative, or project assistance services offered;

(11) To invest any funds not required for immediate disbursement in obligations of the state of Missouri or of the United States or any agency or instrumentality thereof, or in bank certificates of deposit; provided, however, the limitations on investments provided in this subdivision shall not apply to proceeds acquired from the sale of bonds which are held by a corporate trustee; and

(12) To take whatever actions necessary to participate in and administer a clean energy conduit financing or a property assessed clean energy program.

3. No later than July first of each year, the clean energy development board shall file with each municipality that participated in the formation of the clean energy development board and with the director of the department of natural resources an annual report for the preceding calendar year that includes:

(1) A brief description of each project financed by the clean energy development board during the preceding calendar year, which shall include the physical address of the property, the name or names of the property owner, an itemized list of the costs of the project, and the name of any contractors used to complete the project;

(2) The amount of assessments due and the amount collected during the preceding calendar year;

(3) The amount of clean energy development board administrative costs incurred during the preceding calendar year;

(4) The estimated cumulative energy savings resulting from all energy efficiency improvements financed during the preceding calendar year; and

(5) The estimated cumulative energy produced by all renewable energy improvements financed during the preceding calendar year.

4. No lawsuit to set aside the formation of a clean energy development board or to otherwise question the proceedings related thereto shall be brought after the expiration of sixty days from the effective date of the ordinance or order creating the clean energy development board. No lawsuit to set aside the approval of a project, an assessment contract, or a special assessment levied by a clean energy development board, or to otherwise question the proceedings

related thereto shall be brought after the expiration of sixty days from the date that the assessment contract is executed.

67.2815. 1. A clean energy development board shall not enter into an assessment contract or levy or collect a special assessment for a project without making a finding that there are sufficient resources to complete the project and that the estimated economic benefit expected from the project during the financing period is equal to or greater than the cost of the project.

2. An assessment contract shall be executed by the clean energy development board and the benefitted property owner or property owners and shall provide:

(1) A description of the project, including the estimated cost of the project and details on how the project will either reduce energy consumption or create energy from renewable sources;

(2) A mechanism for:

(a) Verifying the final costs of the project upon its completion; and

(b) Ensuring that any amounts advanced or otherwise paid by the clean energy development board toward costs of the project will not exceed the final cost of the project;

(3) An acknowledgment by the property owner that the property owner has received or will receive a special benefit by financing a project through the clean energy development board that equals or exceeds the total assessments due under the assessment contract;

(4) An agreement by the property owner to pay annual special assessments for a period not to exceed twenty years, as specified in the assessment contract;

(5) A statement that the obligations set forth in the assessment contract, including the obligation to pay annual special assessments, are a covenant that shall run with the land and be obligations upon future owners of such property; and

(6) An acknowledgment that no subdivision of property subject to the assessment contract shall be valid unless the assessment contract or an amendment thereof divides the total annual special assessment due between the newly subdivided parcels pro rata to the special benefit realized by each subdivided parcel.

3. The total special assessments levied against a property under an assessment contract shall not exceed the sum of the cost of the project, including any required energy audits and inspections, or portion thereof financed through the participation in a property assessed clean energy program or clean energy conduit financing, including the costs of any audits or inspections required by the clean energy development board, plus such administration fees, interest, and other financing costs reasonably required by the clean energy development board.

4. The clean energy development board shall provide a copy of each signed assessment contract to the local **[**~~county~~**]** assessor and **[**~~county~~**]** collector **for the county, or city not within**

a county, and shall cause a copy of such assessment contract to be recorded in the real estate records of the **[**~~county~~**]** recorder of deeds **for the county, or city not within a county**.

5. Special assessments agreed to under an assessment contract shall be a lien on the property against which it is assessed on behalf of the applicable clean energy development board from the date that each annual assessment under the assessment contract becomes due. Such special assessments shall be collected by the **[**~~county~~**]** collector **for the county, or city not within a county,** in the same manner and with the same priority as ad valorem real property taxes**, subject to the provisions of subsection 8 of this section**. Once collected, the **[**~~county~~**]** collector **for the county, or city not within a county,** shall pay over such special assessment revenues to the clean energy development board in the same manner in which revenues from ad valorem real property taxes are paid to other taxing districts. Such special assessments shall be collected as provided in this subsection from all subsequent property owners, including the state and all political subdivisions thereof, for the term of the assessment contract.

6. Any clean energy development board that contracts for outside administrative services to provide financing origination for a project shall offer the right of first refusal to enter into such a contract to a federally insured depository institution with a physical presence in Missouri upon the same terms and conditions as would otherwise be approved by the clean energy development board. Such right of first refusal shall not be applicable to the origination of any transaction that involves the issuance of bonds by the clean energy development board.

7. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall apply only to PACE programs for projects to improve residential properties of four or fewer units. Notwithstanding any provision of law to the contrary, any clean energy development board formed to improve commercial properties, properties owned by non-profit or not-for-profit entities, governmental properties, or non-residential properties in excess of four residential units shall be exempt from the provisions of sections 67.2816, 67.2817, 67.2818, and 67.2819, nor shall such sections apply to the commercial PACE programs and commercial PACE assessment contracts of any clean energy development board engaged in both commercial and residential property programs. Notwithstanding any provision of law to the contrary, any clean energy development board that ceases to finance new projects to improve residential properties of four or fewer units before January 1, 2022, shall be exempt from the provisions of sections 67.2816, 67.2817, 67.2818, and 67.2819.

8. After January 1, 2022, a residential property assessment contract shall not be approved by the clean energy development board, or otherwise presented for recordation, unless the clean energy development board verifies that written consent to the residential property assessment contract has been obtained from every existing lien holder on the property if the amount of the contract is more than ten percent of the market value of the

property. No lien holder shall be required or compelled to compromise their security interest by providing consent and may refuse to consent to the residential property assessment contract becoming effective. Such consent shall be attached to the assessment contract that is filed with the recorder of deeds office. A residential property assessment contract that is only for heating, ventilating, or air conditioning distribution system modifications and replacements shall not require consent.

67.2816. 1. Municipalities that have created or joined a residential PACE program or district shall inform the director by submitting a copy of the enabling ordinance to the division. Any municipality that withdraws from a residential PACE program or district shall inform the director by submitting a copy of the enabling ordinance for the withdrawal to the division.

2. Clean energy development boards offering residential property programs in the state of Missouri and their program administrator shall be subject to examination by the division for compliance with the provisions of sections 67.2800 to 67.2840 related to the administration of programs for residential properties.

3. The division shall conduct an examination of each clean energy development board at least once every twenty-four months. The functions, powers, and duties of the director shall include the authority to adopt, promulgate, amend, and repeal rules necessary and proper for the administration of the director's duties under sections 67.2800 to 67.2840, subject to the requirements of sections 361.105 and 536.024.

4. The division shall provide each completed examination of a clean energy development board to the municipality that has joined a residential PACE program operated by such board or district in which such board operates.

5. The clean energy development board and its program administrator or other agents shall be jointly and severally responsible for paying the actual costs of examinations, not to exceed five thousand dollars, which the director shall assess upon the completion of an examination and be credited to the division of finance fund established under section 361.170 and subject to the provisions thereof.

67.2817. 1. Notwithstanding any other contractual agreement to the contrary, each assessment contract shall be reviewed, approved, and executed by the clean energy development board and these duties shall not be delegated. Any attempted delegations of these duties shall be void.

2. An assessment contract shall not be approved, executed, submitted, or otherwise presented for recordation unless a clean energy development board verifies that the following criteria are satisfied:

(1) The PACE assessments are assessed in equal annual installments;

(2) The PACE assessment may be paid in full at any time without prepayment penalty. The pay-off letter shall specify the amount of any fee or charge by a lender or loan service agent to obtain the total balance due. The release of the assessment shall be recorded within thirty days of the receipt of the amounts identified in the pay-off letter;

(3) The assessment contract shall disclose applicable penalties, interest penalties, or late fees under the contract and describe generally the interest and penalties imposed under chapter 140 relating to the collection of delinquent property taxes;

(4) The clean energy development board shall provide a separate statement to the owner of the residential property of the penalties or late fees authorized under the assessment contract and of the penalties and interest penalties under chapter 140 for the applicable tax collector as of the date of the assessment contract;

(5) The clean energy development board has confirmed that the property owner is current on property taxes for the project property;

(6) The property that shall be subject to the assessment contract has no recorded and outstanding involuntary liens in excess of one thousand dollars;

(7) The property owner shall not currently be a party to any bankruptcy proceeding where any existing lien holder of the property is named as a creditor;

(8) The term of the assessment contract shall not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed twenty years. The clean energy development board shall determine useful life for purposes of this subdivision based upon credible third-party standards or certification criteria that have been established by appropriate government agencies or nationally recognized standards and testing organizations;

(9) The property owner is current on all mortgage debt on the subject property and has no more than one late payment during the twelve months immediately preceding the application date on any mortgage debt; and

(10) The clean energy development board shall not enter into an assessment contract or levy or collect a special assessment for a project without making a finding that there are sufficient resources to complete the project and that the estimated economic benefit expected from the project during the financing period is equal to or greater than the cost of the project.

3. Any assessment contract for a project that costs between eighty percent and ninety-seven percent of the fair market value of the benefitted property prior to the project shall include provision of an insurance policy providing coverage for any remaining cost of fulfilling the assessment contract, including any accumulated interest, in the event the

property is foreclosed upon. Such insurance policy shall run with the land in the same manner as the other obligations set forth in the assessment contract.

4. The property owner executing the PACE assessment contract shall have a three-day right to cancel the qualifying improvements proposed for financing under the PACE assessment contract. The three-day right to cancel shall expire at midnight of the third business day after a property owner signs the assessment contract. The clean energy development board shall be required to provide a printed form that is presented to the property owner no later than the time of signing of the assessment contract detailing the property owner's right to cancel. An electronic form may be provided if the owner consents electronically to receiving an electronic form.

5. Prior to the execution of an assessment contract, the clean energy development board shall advise the property owner in writing that any delinquent assessment shall be a lien on the property subject to the assessment contract and that the obligations under the PACE assessment contract continue as an obligation against the improved property if the property owner sells or refinances the property and that a purchaser or lender may require that before the owner may sell or refinance the property that the owner may be required to pay the assessment contract in full.

6. Prior to the execution of an assessment contract, the clean energy development board shall advise the property owner in writing that if the property owner pays his or her property taxes and special assessments via a lender or loan servicer's escrow program, the special assessment will cause the owner's monthly escrow requirements to increase and increase the owner's total monthly payment to the lender or the loan servicer. The clean energy development board shall further advise the property owner that if the special assessment results in an escrow shortage that the owner will be required to pay the shortage in a lump-sum payment or catch-up the shortage over twelve months.

7. The clean energy development board, within three days of entering an assessment contract, shall provide any holder of a first mortgage loan a copy of the assessment contract and a statement that includes a brief description of the project, the cost of the project, the annual assessment that will be levied, and the number of annual assessments. Transmittal shall be by United States mail to the holder of the first mortgage loan of record.

8. The clean energy development board shall maintain a public website with current information about the PACE program as the board deems appropriate to inform consumers regarding the PACE program. The website shall list approved contractors for the PACE program. The website shall disclose the process for property owners or their successors to request information about the assessment contract, the status of the

assessment contract, and for all questions including contract information to obtain a payoff amount for the release of an assessment contract.

9. The clean energy development board, its agents, contractor, or other third party shall not make any representation as to the income tax deductibility of an assessment.

10. The primary existing lien holder for a property shall have three business days to deny an assessment contract.

67.2818. 1. Any requirements and consumer protections established by federal law and regulations, and any amendments thereto, applicable to property assessed clean energy financing, shall apply to residential assessment contracts made pursuant to sections 67.2800 to 67.2840. Additionally, the clean energy development board shall consider the financial ability of the property owner to repay the assessment contract.

2. The clean energy development board shall not enter into an assessment contract or levy or collect a special assessment for a project if the cash price of the residential project is more than twenty percent of the market value in money of the property as determined by reference to the county assessment records for tax purposes for the most recent completed assessment by the county assessor.

3. The clean energy development board shall not enter into an assessment contract or levy or collect a special assessment for a project if the PACE assessment contract combined with any existing and outstanding indebtedness secured by the property exceeds ninety-seven percent of the current market value of the property as determined by reference to the county assessment records for tax purposes for the most recent completed assessment by the county assessor.

4. The clean energy development board shall provide a disclosure form to homeowners that shows the financing terms of the assessment contract including, but not limited to:

(1) The total amount funded and borrowed, including the cost of the installed improvements, the program fees, and capitalized interest, if any;

(2) The annual tax assessment, billing process, and payment due date;

(3) The annual payment amounts;

(4) The term of the assessment;

(5) The fixed rate of interest charged;

(6) The annual percentage rate;

(7) A payment schedule that fully amortizes the amount financed;

(8) The improvements to be installed;

(9) A statement that if the property owner sells or refinances the property that the owner may be required by a mortgage lender or a purchaser to pay off the assessment as a condition of refinancing or sale;

(10) A statement that no penalty shall be assessed or collected for prepayment of the assessment and the specific amount of any fee or charge by a lender or loan servicing agent to obtain the total balance due in a pay-off letter and the recording of a release of the assessment which shall be recorded within thirty days of the receipt of the amount identified in the pay-off letter;

(11) That the PACE annual assessment shall be collected along with property taxes and that any taxes and annual assessment not paid on or before December thirty-first shall result in a lien on the improved property for the unpaid taxes, unpaid annual assessment, interest, and penalties as provided by law;

(12) That if the owner pays property taxes and insurance through his or her mortgage payment and an escrow account, that the special assessment will cause the owner's monthly escrow requirements to increase and increase the owner's monthly payment to the lender or the loan servicer and that if the special assessment results in an escrow shortage that the owner shall be required to pay the shortage in a lump-sum payment or catch-up the shortage over twelve months;

(13) That failure to timely pay the annual assessment and taxes will result in a tax lien and penalties and fees being assessed and added to the annual assessment and taxes, and that if the delinquency is not paid, the property could be sold at a tax sale resulting in issuance of a tax certificate or collector's deed to a purchaser that could result in the property owner losing his or her home; and

(14) That the property owner should seek professional tax advice if he or she has questions regarding tax credits related to a PACE project or the tax matters presented by the assessment contract or financing agreement and payments thereunder.

5. The clean energy development board shall be required to present the disclosure form to a property owner for acknowledgment prior to the execution of an assessment contract.

6. Before a property owner executes an assessment contract, the clean energy development board shall do the following:

(1) Make a verbal confirmation that at least one owner of the property has a copy of the assessment contract documents with all the key terms completed, the financing estimate and disclosure form, and the right-to-cancel form with a written copy available upon request; and

(2) Make a verbal confirmation of the key terms of the assessment contract, in plain language, with the property owner, or to the verified authorized representative of the owner, and shall obtain acknowledgment from the property owner or representative to whom the verbal confirmation is given.

7. The verbal confirmation shall include, but is not limited to, all the following information:

(1) The property owner has the right to have other persons present, and an inquiry as to whether the property owner would like to exercise the right to include other individuals. This inquiry shall occur immediately after the determination of the preferred language of communication;

(2) The property owner is informed that he or she should review the assessment contract and financing estimate and disclosure form with all other owners of the property;

(3) The qualified improvement being installed is being financed by an assessment contract;

(4) The total estimated annual costs the property owner will have to pay under the assessment contract, including applicable fees;

(5) The total estimated average monthly amount of funds the property owner would have to save in order to pay the annual costs under the assessment contract, including applicable fees;

(6) The term of the assessment contract;

(7) That payments on the assessment contract shall be made through an additional annual assessment on the property and paid either directly to the county tax collector's office as part of the total annual secured property tax bill or through the property owner's mortgage escrow account, and that if the property owner pays his or her taxes through an escrow account, he or she should notify his or her mortgage lender to discuss adjusting his or her monthly mortgage payment or otherwise providing additional funds to avoid a shortage in the owner's mortgage escrow account;

(8) That the property shall be subject to a lien during the term of the assessment contract for any delinquent assessments;

(9) That before the owner may sell or refinance the property, a purchaser or lender may require the obligation under the assessment contract to be paid in full;

(10) That the clean energy development board, its agents contractor, or other third party does not provide tax advice, and that the property owner should seek professional tax advice if he or she has questions regarding tax credits related to the project or the tax matters presented by the PACE assessment or assessment contract; and

(11) The date the first payment shall be due.

67.2819. 1. The clean energy development board or its agents shall not permit contractors or other third parties to advertise the availability of residential assessment contracts that are administered by the board, or to solicit property owners on behalf of the board, unless both of the following requirements are met:

(1) The contractor maintains any permits, licenses, or registrations required for engaging in its business in the jurisdiction where it operates and maintains bond and insurance coverage in minimum amounts determined by the clean energy development board or higher amounts as required in the jurisdiction where the contractor is licensed or registered; and

(2) The clean energy development board or its agents obtain the contractor's written agreement that the contractor or third party shall act in accordance with chapter 407 and other applicable advertising and marketing laws and regulations.

2. The clean energy development board or its agents shall not provide any direct or indirect cash payment or other thing of material value to a contractor or third party in excess of the actual price charged by that contractor or third party to the property owner for one or more qualified improvements financed by an assessment contract.

3. The clean energy development board or its agents shall not provide to a contractor engaged in soliciting financing agreements on behalf of the clean energy development board or its agents any information that discloses the maximum amount of funds for which a property owner may be eligible for qualifying improvements or the amount of equity in a property.

4. The clean energy development board or its agents shall not reimburse a contractor or third party for expenses for advertising and marketing campaigns that solely benefit the contractor.

5. The clean energy development board or its agents may reimburse a contractor's bona fide and reasonable training expenses related to PACE financing, provided that:

(1) The training expenses are actually incurred by the contractor; and

(2) The reimbursement is paid directly to the contractor, and is not paid to its salespersons or agents.

6. The clean energy development board or its agents shall not provide any direct cash payment or other thing of value to a property owner explicitly conditioned upon the property owner entering into an assessment contract. Notwithstanding the provisions of this subsection to the contrary, programs or promotions that offer reduced fees or interest rates to property owners are not a direct cash payment or other thing of value, provided that the reduced fee or interest rate is reflected in the assessment contract and in no circumstance provided to the property owner as cash consideration. A contractor shall not

provide a different price for a project financed under this section than the contractor would provide if paid in cash by the property owner.

67.2840. 1. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply to the residential PACE programs of clean energy development boards and participating municipalities after January 1, 2022.

2. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply to residential PACE assessment contracts entered into after January 1, 2022.

285.1000. For purposes of sections 285.1000 to 285.1055, the following terms shall mean:

(1) "Administrative fund" or "Missouri workplace retirement savings administrative fund", the Missouri workplace retirement savings administrative fund described in section 285.1045;

(2) "Board", the Missouri workplace retirement savings board established under section 285.1005;

(3) "Eligible employee", an individual who is employed by a participating employer, who has wages or other compensation that is allocable to the state, and who is eighteen years of age or older. "Eligible employee" shall not include any of the following:

(a) Any employee covered under the federal Railway Labor Act, 45 U.S.C. Section 151;

(b) Any employee on whose behalf an employer makes contributions to a multiemployer pension trust fund under 29 U.S.C. Section 186; or

(c) Any individual who is an employee of:

a. The federal government;

b. Any state government in the United States; or

c. Any county, municipal corporation, or political subdivision of any state in the United States;

(4) "Eligible employer", a person or entity engaged in a business, industry, profession, trade, or other enterprise in the state of Missouri, whether for profit or not for profit; provided that, such a person or entity employs no more than fifty employees. A person or entity who qualifies as an eligible employer but who later employs more than fifty employees shall be permitted to remain an eligible employer for a period of five years beginning on the date on which the person or entity first employs more than fifty employees. After such five-year period has ended, the person or entity shall immediately cease to qualify as an eligible employer and shall be prohibited from further participation in the plan. For purposes of this subdivision, an eligible employer shall not include:

(a) The federal government;

(b) The state of Missouri;

(c) Any county, municipal corporation, or political subdivision of the state of Missouri; or

(d) An employer that maintains a specified tax-favored retirement plan for its employees or that has effectively done so in form and operation at any time within the current or two preceding calendar years. If an employer does not maintain a specified tax-favored retirement plan for a portion of a calendar year ending on or after the effective date of sections 285.1000 to 285.1055 and adopts such a plan effective for the remainder of that calendar year, the employer shall not be treated as an eligible employer for that remainder of the year;

(5) "ERISA", the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Section 1001 et seq.;

(6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

(7) "Participant", an eligible employee or other individual who has a balance credited to his or her account under the plan;

(8) "Participating employer", an eligible employer that is participating in the plan provided for by sections 285.1000 to 285.1055;

(9) "Plan" or "Missouri workplace retirement savings plan", the multiple-employer retirement savings plan established by sections 285.1000 to 285.1055, which shall be treated as a single plan under Title I of ERISA and is described in sections 401(a), 401(k), and 413(c) of the Internal Revenue Code, in which multiple employers may choose to participate regardless of whether any relationship exists between and among the employers other than their participation in the plan. Based on the context, the term "plan" may also refer to multiple plans if multiple plans are established under sections 285.1000 to 285.1055;

(10) "Self-employed individual", an individual who is eighteen years of age or older and who is self-employed and who has self-employment income or other compensation from self-employment that is allocable to the state of Missouri;

(11) "Specified tax-favored retirement plan", a retirement plan that is tax-qualified under, or is described in and satisfies the requirements of, section 401(a), 401(k), 403(a), 403(b), 408(k)(Simplified Employee Pension), or 408(p)(SIMPLE-IRA) of the Internal Revenue Code;

(12) "Total fees and expenses", all fees, costs, and expenses including, but not limited to, administrative expenses, investment expenses, investment advice expenses, accounting costs, actuarial costs, legal costs, marketing expenses, education expenses, trading costs, insurance annuitization costs, and other miscellaneous costs;

(13) "Trust", the trust in which the assets of the plan are held.

285.1005. 1. The "Missouri Workplace Retirement Savings Board" is hereby established in the office of the state treasurer.

2. The board shall consist of the following members, with the state treasurer, or his or her designee, serving as chair:

(1) The state treasurer, or his or her designee;

(2) An individual who has a favorable reputation for skill, knowledge, and experience in the field of retirement savings and investments, to be appointed by the governor with the advice and consent of the senate;

(3) An individual who has a favorable reputation for skill, knowledge, and experience relating to small business, to be appointed by the governor with the advice and consent of the senate;

(4) An individual who is a representative of an association representing employees or who has a favorable reputation for skill, knowledge, and experience in the interests of employees in retirement savings, to be appointed by the speaker of the house of representatives;

(5) An individual who has a favorable reputation for skill, knowledge, and experience in the interests of employers in retirement savings, to be appointed by the president pro tempore of the senate;

(6) A retired individual to be a representative of the interests of retirees, to be appointed by the speaker of the house of representatives;

(7) An individual who has a favorable reputation for skill, knowledge, and experience in retirement investment products or retirement plan designs, to be appointed by the president pro tempore of the senate;

(8) A member of the house of representatives appointed by the speaker of the house of representatives; and

(9) A member of the senate appointed by the president pro tempore of the senate.

3. The governor, the president pro tempore of the senate, and the speaker of the house of representatives shall make the respective initial appointments to the board for terms of office beginning on January 1, 2022.

4. Members of the board appointed by the governor, the president pro tempore of the senate, and the speaker of the house of representatives shall serve at the pleasure of the appointing authority.

5. The term of office of each member of the board shall be four years. Any member is eligible to be reappointed. If there is a vacancy for any reason, the appropriate

appointing authority shall make an appointment, to become immediately effective, for the unexpired term.

6. All members of the board shall serve without compensation and shall be reimbursed from the administrative fund for necessary travel expenses incurred in carrying out the duties of the board.

7. A majority of the voting members of the board shall constitute a quorum for the transaction of business.

285.1010. 1. The board, subject to the authority granted under sections 285.1000 to 285.1055, shall design, develop, and implement the plan, and, to that end, may conduct market, legal, and feasibility analyses.

2. The members of the board shall be fiduciaries of the plan under ERISA, and the board shall have the following powers, authorities, and duties:

(1) To establish, implement, and maintain the plan, in each case acting on behalf of the state of Missouri, including, in its discretion, more than one plan;

(2) To cause the plan, trust, and arrangements and accounts established under the plan to be designed, established, and operated:

(a) In accordance with best practices for retirement savings vehicles;

(b) To encourage participation, saving, sound investment practices, and appropriate selection of default investments;

(c) To maximize simplicity and ease of administration for eligible employers;

(d) To minimize costs, including by collective investment and economies of scale; and

(e) To promote portability of benefits;

(3) To arrange for collective, common, and pooled investment of assets of the plan and trust, including investments in conjunction with other funds with which assets are permitted to be collectively invested, with a view to saving costs through efficiencies and economies of scale;

(4) To develop and disseminate educational information designed to educate participants and citizens about the benefits of planning and saving for retirement and to help participants and citizens decide the level of participation and savings strategies that may be appropriate, including information in furtherance of financial capability and financial literacy;

(5) To adopt rules and regulations necessary or advisable for the implementation of sections 285.1000 to 285.1055 and the administration and operation of the plan consistent with the Internal Revenue Code and regulations thereunder, including to ensure that the plan satisfies all criteria for favorable federal tax-qualified treatment and

complies, to the extent necessary, with ERISA and any other applicable federal or Missouri law. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void;

(6) To arrange for and facilitate compliance by the plan or arrangements established thereunder with all applicable requirements for the plan under the Internal Revenue Code, ERISA, and any other applicable federal or Missouri law and accounting requirements, and to provide or arrange for assistance to eligible employers, eligible employees, and self-employed individuals in complying with applicable law and tax-related requirements in a cost-effective manner. The board may establish any processes deemed reasonably necessary or advisable to verify whether a person or entity is an eligible employer, including reference to online data and possible use of questions in employer tax filings;

(7) To employ or retain a plan administrator, executive director, staff, trustee, record-keeper, investment managers, investment advisors, and other administrative, professional, and expert advisors and service providers, none of whom shall be members of the board and all of whom shall serve at the pleasure of the board, which shall determine their duties and compensation. The board may authorize the executive director and other officials to oversee requests for proposals or other public competitions and enter into contracts on behalf of the board or conduct any business necessary for the efficient operation of the plan or the board;

(8) To establish procedures for the timely and fair resolution of participant and other disputes related to accounts or program operation and, if necessary, determine the eligibility of an employer, employee, or other individual to participate in the plan;

(9) To develop and implement an investment policy that defines the plan's investment objectives, consistent with the objectives of the plan, and that provides for policies and procedures consistent with those investment objectives;

(10) (a) To designate appropriate default investments that include a mix of asset classes, such as target date and balanced funds;

(b) To seek to minimize participant fees and expenses of investment and administration;

(c) To strive to design and implement investment options available to holders of accounts established as part of the plan and other plan features that are intended to achieve maximum possible income replacement balanced with an appropriate level of risk consistent with the investment objectives under the investment policy. The investment options may encompass a range of risk and return opportunities and allow for a rate of return commensurate with an appropriate level of risk in view of the investment objectives under the policy. The menu of investment options shall be determined taking into account the nature and objectives of the plan, the desirability of limiting investment choices under the plan to a reasonable number, based on behavioral research findings, and the extensive investment choices available to participants in the event that funds roll over to an individual retirement account (IRA) outside the program; and

(d) In accordance with subdivision (7) of this subsection, the board, to the extent it deems it necessary or advisable, in carrying out its responsibilities and exercising its powers under sections 285.1000 to 285.1055, shall employ or retain appropriate entities or personnel to assist or advise it or to whom to delegate the carrying out of such responsibilities and exercising of such powers;

(11) To discharge its duties and see to it that the members of the board discharge their duties with respect to the plan solely in the interest of the participants as follows:

(a) For the exclusive purpose of providing benefits to participants and defraying reasonable expenses of administering the plan; and

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims;

(12) To cause expenses incurred to initiate, implement, maintain, and administer the plan to be paid from contributions to, or investment returns or assets of, the plan or other moneys collected by or for the plan or pursuant to arrangements established under the plan to the extent permitted under federal and Missouri law;

(13) To collect application, account, or administrative fees and to accept any grants, gifts, legislative appropriations, loans, and other moneys from the state of Missouri, any unit of federal, state, or local government, or any other person, firm, or entity to defray the costs of administering and operating the plan;

(14) To make and enter into competitively procured contracts, agreements, or arrangements with; to collaborate and cooperate with; and to retain, employ, and contract with or for any of the following to the extent necessary or desirable for the effective and efficient design, implementation, and administration of the plan consistent with the

purposes set forth in sections 285.1000 to 285.1055 and to maximize outreach to eligible employers and eligible employees:

(a) Services of private and public financial institutions, depositories, consultants, actuaries, counsel, auditors, investment advisors, investment administrators, investment management firms, other investment firms, third-party administrators, other professionals and service providers, and state public retirement systems;

(b) Research, technical, financial, administrative, and other services; and

(c) Services of other state agencies to assist the board in the exercise of its powers and duties;

(15) To develop and implement an outreach plan to gain input and disseminate information regarding the plan and retirement savings in general;

(16) To cause moneys to be held and invested and reinvested under the plan;

(17) To ensure that all contributions under the plan may be used only to:

(a) Pay benefits to participants under the plan;

(b) Pay the costs of administering the plan; and

(c) Make investments for the benefit of the plan, and ensure that no assets of the plan or trust are transferred to the general revenue fund or to any other fund of the state or are otherwise encumbered or used for any purpose other than those specified in this paragraph or section 285.1045;

(18) To make provisions for the payment of costs of administration and operation of the program and trust;

(19) To evaluate the need for, and procure as needed, insurance against any and all loss in connection with the property, assets, or activities of the program, including fiduciary liability coverage;

(20) To evaluate the need for, and procure as needed, pooled private insurance;

(21) To indemnify, including procurement of insurance as needed for this purpose, each member of the board from personal loss or liability resulting from a member's action or inaction as a member of the board and as a fiduciary;

(22) To collaborate with, and evaluate the role of, financial advisors or other financial professionals, including in assisting and providing guidance for covered employees; and

(23) To carry out the powers and duties of the program under sections 285.1000 to 285.1055 and exercise any and all other powers as are appropriate to effect the purposes, objectives, and provisions of such sections pertaining to the program.

3. A board member, program administrator, or other staff of the board shall not:

(1) Directly or indirectly, have any interest in the making of any investment under the program or in any gains or profits accruing from any such investment;

(2) Borrow any program-related funds or deposits, or use any such funds or deposits in any manner, for himself or herself or as an agent or partner of others; or

(3) Become an endorser, surety, or obligor on investments made under the program.

4. Each board member shall be subject to the provisions of sections 105.452 and 105.454.

285.1015. 1. The board shall, consistent with federal law and regulation, adopt and implement the plan, which shall remain in compliance with federal law and regulations once implemented and shall be called the "Missouri Workplace Retirement Savings Plan".

2. In accordance with terms and conditions specified and regulations promulgated by the board, the plan shall:

(1) Be set forth in documents prescribing the terms and conditions of the plan;

(2) Be available on a voluntary basis to eligible employers and self-employed individuals;

(3) After appropriate written notice, all eligible employees who choose to participate in the plan shall be allowed to opt in;

(4) Enroll self-employed individuals who wish to participate;

(5) Provide participants the option to terminate their participation at any time;

(6) Allow voluntary pre-tax or designated Roth 401(k) contributions;

(7) Allow voluntary employer contributions;

(8) Be overseen by the board and its designees;

(9) Be administered and managed by one or more trustees, other fiduciaries, custodians, third-party administrators, investment managers, record-keepers, or other service providers;

(10) Provide that, unless he or she otherwise specifies, an eligible employee shall automatically contribute five percent of his or her salary or wages to the plan or may elect to opt out of the plan or may contribute at a higher or lower rate, expressed as a percentage of salary or wages; except that, the board, in its discretion, may change the five percent initial automatic default contribution rate;

(11) Provide on a uniform basis, if and when the board so determines, in its discretion, for an increase of each participant's contribution rate, by a minimum increment of one-half of one percent of salary or wages per year, for each additional year the participant is employed or is participating in the plan up to the maximum percentage of such participant's salary or wages that may be contributed to the plan under federal law.

Any such increases shall apply to participants, as determined by the board, by default or only if initiated by affirmative participant election;

(12) Provide for direct deposit of contributions into investments under the plan. To the extent consistent with ERISA, the investment alternatives under the plan shall be limited to an automatic investment for participants who do not actively and affirmatively elect a particular investment option, which, unless the board provides otherwise, shall be a diversified target date fund, including a series of such diversified funds to apply to different participants depending on their choice or their target retirement dates, a principal-protected option, and up to four additional investment alternatives as may be selected by the board in its discretion. To the extent consistent with ERISA, the investment options may, at the discretion of the board, include a principal-protection fund as a temporary "security corridor" option that applies as the sole initial investment before participants may choose other investments or as the initial default investment for a specified period of time or up to a specified dollar amount of contributions or account balance;

(13) Be professionally managed;

(14) Provide for reports on the status of each participant's account to be provided to each participant at least annually and make best efforts to provide participants frequent or continual online access to information on the status of their accounts;

(15) When possible and practicable, use existing employer and public infrastructure to facilitate contributions, record keeping, and outreach and use pooled or collective investment arrangements;

(16) Provide that each account holder owns the contributions to or earnings on amounts contributed to his or her account under the plan and that the state and employers have no proprietary interest in those contributions or earnings;

(17) Be designed and implemented in a manner consistent with federal law to the extent that it applies;

(18) Make provisions for the participation in the plan of individuals who are not employees, if allowed under federal law;

(19) Establish rules and procedures governing the distribution of funds from the plan, including such distributions as may be permitted or required by the plan and any applicable provisions of ERISA, the tax-qualification rules, and the other tax laws, with the objectives of maximizing financial security in retirement, protecting spousal rights, and assisting participants to effectively manage the decumulation of their savings and to receive payment of their benefits under the plan. The board shall have the authority, in its discretion, to provide for one or more reasonably priced distribution options to provide a

source of fixed regular retirement income, including income for life or for the participant's life expectancy, or for joint lives and life expectancies, as applicable;

(20) Establish rules and procedures promoting portability of benefits, including the ability to make tax-free rollovers or transfers to and from the plan, provided that any rollover is initiated by participants; and

(21) Encourage choices by employers in the state to adopt a specified tax-favored retirement plan, including the plan.

285.1020. The board shall adopt rules to implement the plan that:

(1) Establish the processes for enrollment and contributions under the plan, including withholding by participating employers of employee payroll deduction contributions from wages and remittance for deposit to the plan, voluntary contributions by others, including self-employed individuals and independent contractors, through payroll deduction or otherwise, the making of default contributions using default investments, and participant selection of alternative contribution rates or amounts and alternative investments from among the options offered under the plan;

(2) Conduct outreach to individuals, employers, other stakeholders, and the public regarding the plan. The rules shall specify the contents, frequency, timing, and means of required disclosures from the plan to eligible employees, participants, and self-employed individuals, eligible employers, participating employers, and other interested parties. These disclosures shall include, but need not be limited to:

(a) The benefits associated with tax-favored retirement saving;

(b) The potential advantages and disadvantages associated with participating in the plan;

(c) Instructions for enrolling, making contributions, and opting out of participation;

(d) The potential availability of a saver's tax credit, including the eligibility conditions for the credit and instructions on how to claim it;

(e) A disclaimer that employees seeking tax, investment, or other financial advice should contact appropriate professional advisors, and that participating employers are not in a position to provide such advice and are not liable for decisions individuals make in relation to the plan;

(f) The potential implications of account balances under the plan for the application of asset limits under certain public assistance programs;

(g) A disclaimer that the account owner is solely responsible for investment performance, including market gains and losses, and that plan accounts and rates of return

are not guaranteed by any employer, the state, the board, any board member or state official, or the plan;

(h) Any additional information about retirement and saving and other information designed to promote financial literacy and capability, which may take the form of links to, or explanations of how to obtain, such information; and

(i) Instructions on how to obtain additional information about the plan; and

(3) Ensure that the assets of the trust and plan shall at all times be preserved, invested, and expended only for the purposes set forth in sections 285.1000 to 285.1055, and that no property rights therein shall exist in favor of the state, except as provided under section 285.1045.

285.1025. An eligible employer, a participating employer, or other employer is not and shall not be liable for or bear responsibility for:

(1) An employee's decision to participate in or opt out of the plan;

(2) An employee's decision as to which investments to choose;

(3) Participants' or the board's investment decisions;

(4) The administration, investment, investment returns, or investment performance of the plan, including without limitation any interest rate or other rate of return on any contribution or account balance, provided that the eligible employer, participating employer, or other employer is not involved in the administration or investment of the plan;

(5) The plan design or the benefits paid to participants; or

(6) Any loss, failure to realize any gain, or any other adverse consequences, including without limitation any adverse tax consequences or loss of favorable tax treatment, public assistance, or other benefits, incurred by any person as a result of participating in the plan.

285.1030. 1. The state of Missouri; the board; each member of the board; any other state official, state board, commission, and agency; any member, officer, and employee thereof; and the plan:

(1) Shall not guarantee any interest rate or other rate of return on or investment performance of any contribution or account balance; and

(2) Shall not be liable or responsible for any loss, deficiency, failure to realize any gain, or any other adverse consequences, including without limitation any adverse tax consequences or loss of favorable tax treatment, public assistance, or other benefits, incurred by any person as a result of participating in the plan.

2. The debts, contracts, and obligations of the plan or the board are not the debts, contracts, and obligations of the state, and neither the faith and credit nor the taxing power

of the state is pledged directly or indirectly to the payment of the debts, contracts, and obligations of the plan or the board.

3. Nothing in sections 285.1000 to 285.1055 shall be construed to guarantee any interest rate or other rate of return on or investment performance of any contribution or account balance.

285.1035. 1. Individual account information relating to accounts under the plan and relating to individual participants including, but not limited to, names, addresses, telephone numbers, email addresses, personal identification information, investments, contributions, and earnings shall be confidential and shall be maintained as confidential, provided that such information may be disclosed:

(1) To the extent necessary to administer the plan in a manner consistent with sections 285.1000 to 285.1055, ERISA, the Internal Revenue Code, or any other federal or Missouri law; or

(2) If the individual who provides the information or who is the subject of the information expressly agrees in writing to the disclosure of the information.

2. Information required to be confidential under subsection 1 of this section shall be considered a "closed record" as that term is defined in section 610.010.

285.1040. The board may enter into an intergovernmental agreement or memorandum of understanding with the state of Missouri and any agency thereof to receive outreach, technical assistance, enforcement and compliance services, collection or dissemination of information pertinent to the plan, subject to such obligations of confidentiality as may be agreed or required by law, or other services or assistance. The state of Missouri and any agency thereof that enters into such agreements or memoranda of understanding shall collaborate to provide the outreach, assistance, information, and compliance or other services or assistance to the board. The memoranda of understanding may cover the sharing of costs incurred in gathering and disseminating information and the reimbursement of costs for any enforcement activities or assistance.

285.1045. 1. There is hereby created in the state treasury the "Missouri Workplace Retirement Savings Administrative Fund", which shall consist of moneys collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Subject to appropriation, moneys in the fund shall be distributed by the state treasurer solely for the administration of sections 285.1000 to 285.1055.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The Missouri workplace retirement savings administrative fund shall consist of:

(1) Moneys appropriated to the administrative fund by the general assembly;

(2) Moneys transferred to the administrative fund from the federal government, other state agencies, or local governments;

(3) Moneys from the payment of application, account, administrative, or other fees and the payment of other moneys due to the board;

(4) Any gifts, donations, or grants made to the state of Missouri for deposit in the administrative fund;

(5) Moneys collected for the administrative fund from contributions to, or investment returns or assets of, the plan or other moneys collected by or for the plan or pursuant to arrangements established under the plan to the extent permitted under federal and Missouri law; and

(6) Earnings on moneys in the administrative fund.

5. To the extent consistent with ERISA, the tax qualification rules, and other federal law, the board shall accept any grants, gifts, appropriations, or other moneys from the state, any unit of federal, state, or local government, or any other person, firm, partnership, corporation, or other entity solely for deposit into the administrative fund, whether for investment or administrative expenses.

6. To enable or facilitate the start-up and continuing operation, maintenance, administration, and management of the program until the plan accumulates sufficient balances and can generate sufficient funding through fees assessed on program accounts for the plan to become financially self-sustaining:

(1) The board may borrow from the state of Missouri; any unit of federal, state, or local government; or any other person, firm, partnership, corporation, or other entity working capital funds and other funds as may be necessary for this purpose, provided that such funds are borrowed in the name of the plan and board only and that any such borrowings shall be payable solely from the revenues of the plan; and

(2) The board may enter into long-term procurement contracts with one or more financial providers that provide a fee structure that would assist the plan in avoiding or minimizing the need to borrow or to rely upon general assets of the state.

7. Subject to appropriation, the state of Missouri may pay administrative costs associated with the creation, maintenance, operation, and management of the plan and trust until sufficient assets are available in the administrative fund for that purpose.

Thereafter, all administrative costs of the administrative fund, including any repayment of start-up funds provided by the state of Missouri, shall be repaid only out of moneys on deposit therein. However, private funds or federal funding received in order to implement the program until the administrative fund is self-sustaining shall not be repaid unless those funds were offered contingent upon the promise of such repayment.

8. The board may use the moneys in the administrative fund solely to pay the administrative costs and expenses of the plan and the administrative costs and expenses the board incurs in the performance of its duties under sections 285.1000 to 285.1055.

285.1050. 1. The board shall keep an accurate account of all the activities, operations, receipts, and expenditures of the plan, the trust, and the board. Each year, a full audit of the books and accounts of the board pertaining to those activities, operations, receipts and expenditures, personnel, services, or facilities shall be conducted by a certified public accountant and shall include, but not be limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees for the administration of the plan. For the purposes of the audit, the auditors shall have access to the properties and records of the plan and board and may prescribe methods of accounting and the rendering of periodic reports in relation to projects undertaken by the plan.

2. By August first of each year, the board shall submit to the governor, the state treasurer, the president pro tempore of the senate, and the speaker of the house of representatives a public report on the operation of the plan and trust and activities of the board, including an audited financial report, prepared in accordance with generally accepted accounting principles, detailing the activities, operations, receipts, and expenditures of the plan and board during the preceding calendar year. The report shall also include a summary of the benefits provided by the plan, the number of participants, the names of the participating employers, the contribution formulas and amounts of contributions made by participants and by each participating employer, the withdrawals, the account balances, investments, investment returns, and fees and expenses associated with the investments and with the administration of the plan, projected activities of the plan for the current calendar year, and any other information regarding the plan and its operations that the board may determine to provide.

285.1055. 1. The board shall establish the plan so that individuals are able to begin contributing under the plan no later than September 1, 2023.

2. The board may, in its discretion, phase in the plan so that the ability to contribute first applies on different dates for different classes of individuals, including employees of employers of different sizes or types and individuals who are not employees;

provided that, any such staged or phased-in implementation schedule shall be substantially completed no later than September 1, 2023.

361.097. 1. The state banking and savings and loan board shall consist of five members who shall be appointed by the governor, the senate concurring. No person shall be eligible for appointment unless he or she is a resident of this state. One member shall be an attorney at law and a member of the Missouri Bar in good standing. **[**~~Two~~**]** **Three** members shall each have had at least five years of active bank **or association** management experience **at an institution chartered under chapter 362 or 369** in this state. **[**~~One member shall have had at least five years of active management experience in this state of one or more associations as defined in chapter 369.~~**]** One member shall be an individual who is not involved in the administration of a financial institution. Not more than three members of the board shall be members of the same political party.

2. The term of office of each member of the state banking and savings and loan board shall be six years. The board shall select its own chairman and secretary. The members of the state banking and savings and loan board shall hold office for the respective terms for which they are appointed and until their successors shall qualify. Vacancies on such board shall be filled by appointment for the unexpired term in the same manner as in the case of an original appointment.

361.110. 1. **On Monday of each week or, if Monday is a holiday, the next day that is not a holiday,** the director **of finance** shall **[**~~keep in his office, in a place~~**]** **post by five o'clock p.m. on a publicly** accessible **[**~~to the general public, a bulletin board upon which he shall cause to be posted at noon on Friday, of each week,~~**]** **website of the division of finance** a detailed statement signed by **[**~~him~~**]** **the director** or, in case of **[**~~his~~**]** **the director's** absence from the City of Jefferson or inability to act, by the deputy director in charge, giving the following items of general information with regard to the work of the division since the preceding statement:

(1) The name of every corporation whose articles of agreement have been filed for examination in the office of the director, its location and the date of filing of such articles of agreement;

(2) The name and location of every corporation authorized by the director to commence or continue business, its capital, surplus and the date of authorization;

(3) The name of every proposed corporation which a certificate of incorporation has been refused by the director and the date of notice of refusal;

(4) The name and location of every foreign corporation, whose authorization certificate or license has been revoked by the director and the date of such revocation;

(5) The name of every corporation that has applied to the director for permission to open a branch office, the date of such application and the location of the proposed branch;

(6) The name of every corporation that has been authorized by the director to open a branch office, the date of approval and the location of such branch office;

(7) The name and location of every corporation authorized by the director to increase or reduce its capital stock or permanent capital, the date of such authorization and the amount of the increase or reduction;

(8) The names and locations of all corporations that have merged pursuant to the provisions of this chapter and the dates of such mergers;

(9) The name and residence of every person appointed by the director as a deputy, examiner or employee in the banking department, the title of the office to which appointed, the compensation paid and the date of appointment;

(10) The date on which a call for a quarterly report by banks or trust companies was issued by the director and the day designated as the day with reference to which such report should be made;

(11) The name and location of every corporation of whose property and business the director shall have taken possession and the date of taking possession, and the name and residence of every person appointed by the director as a special deputy director;

(12) The name and location of every corporation which shall have been authorized by the director to resume business and the date of resumption;

(13) The name and location of every corporation whose creditors or depositors have been paid in full by the director and a meeting of whose stockholders shall have been called together with the date of notice of meeting and date of meeting; **and**

(14) The name and location of every corporation subject to the provisions of this chapter whose affairs and business shall have been finally liquidated and the corporation dissolved.

2. **[**~~Every such statement, after having been so posted for one week, shall be placed on file and kept in the office of the director.~~**]** All such statements shall be **retained by the division of finance as** public documents and at all reasonable times shall be open to public inspection **and available on a publicly accessible website of the division of finance**.

361.727. The director shall issue regulations necessary to carry out the intent and purposes of sections 361.700 to 361.727, pursuant to the provisions of section **[**~~361.103~~**] 361.105** and chapter 536.

362.023. 1. Other provisions of the law to the contrary notwithstanding, the articles of agreement of any trust company may preclude the acceptance of demand deposits, in which case the procedure for granting or denying a charter for the proposed trust company shall be as provided in sections 362.025 to 362.040, except that the determination of need and convenience as provided in section 362.030 shall be limited to the need for fiduciary services as authorized under subsection **[**~~2~~**] 3** of section 362.105.

2. No trust company the articles of which preclude or do not affirmatively provide for the acceptance of demand deposits, and no trust company which does not regularly accept demand deposits on September 28, 1977, shall accept demand deposits without a certificate issued by the director of finance authorizing the acceptance of demand deposits. The application for such certificate shall be treated as an application for a new charter and shall be granted or denied as provided in sections 362.030 to 362.040.

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

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

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

4. **[**~~Notice of annual or special stockholders' meetings shall state the place, day and hour of the meeting, and shall be published at least ten days prior to the meeting and once a week after the first publication with the last publication being not more than seven days before the day fixed for such meeting, in some daily or weekly newspaper printed and published in the city or town in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in the county in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in an adjoining county.~~**]** A written or printed copy of the notice **of an annual or special stockholders' meeting** shall be delivered personally **[**~~or mailed~~**], by mail, or electronically** to each stockholder at least ten but not more than fifty days prior to the day fixed for the meeting, and shall state, in addition to the place, day and hour, the purpose of any special meeting or an annual meeting at which the stockholders will consider a change in the par value of the corporation stock, the issuance of preferred shares, a change in the number of directors, an increase or reduction of the capital stock of the bank or trust company, a change in the length of the corporate life, an extension or change of its business, a change in its articles to avail itself of the privileges and provisions of this chapter, or any other change in its articles in any way not inconsistent with the provisions of this chapter. Any stockholder may waive notice by causing to be delivered to the secretary during, prior to or after the meeting a written, signed waiver of notice, or by attending such meeting except where a stockholder attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Unless otherwise provided in the articles of incorporation, a majority of the outstanding shares entitled to vote at any meeting represented in person or by proxy shall

constitute a quorum at a meeting of stockholders; provided, that in no event shall a quorum consist of less than a majority of the outstanding shares entitled to vote, but less than a quorum shall have the right successively to adjourn the meeting to a specified date no longer than ninety days after the adjournment, and no notice need be given of the adjournment to shareholders not present at the meeting. Every decision of a majority of the quorum shall be valid as a corporate act of the bank or trust company unless a larger vote is required by this chapter. **For the purposes of this section, a stockholder is considered to have appeared in person at an annual or special stockholders' meeting even if the stockholder appears remotely via telephone or videoconference.**

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

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

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

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

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

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

7. The voting shareholder or shareholders of the bank or trust company may transact all business required at an annual or special stockholders' meeting by unanimous written consent.

362.165. 1. All real estate, including any subsurface rights or interests therein, purchased by any bank or trust company or taken by it in its own right in settlement of debts due it shall be conveyed to it directly by name and the conveyance immediately recorded in the office of the proper recording officer of the county or city in which the real estate is located.

2. Such real estate, rights, or interests so purchased or acquired by any bank or trust company shall be sold by it within ten years of the date on which it shall have been acquired unless it shall be held or occupied in whole or in part by the bank or trust company under the authority of **paragraph (c) of subdivision (10) of subsection 1 of** section 362.105**[**~~, subsection 1, subdivision (9), paragraph (a)~~ **]**; provided, that if at any time a bank or trust company changes its location it may have ten years from the date of the change to sell the former location. The

aggregate amount of earnings from such real estate, rights or interests shall be separately disclosed in reports of the bank or trust company.

362.247. 1. A majority of the full board of directors shall constitute a quorum for the transaction of business unless another number is required by the articles of agreement, the bylaws or by law. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors unless the act of a greater number is required by the articles of agreement, the bylaws or by law.

2. **[**~~When the board of~~**] Unless otherwise prohibited by statute or regulation,** directors **[**~~meets~~**] may attend board meetings** by telephonic conference call or video conferencing, **and** the bank or trust company may include in a quorum directors who are not physically present but are allowed to vote, provided the **[**~~bank and directors meet the applicable requirements of this section as follows:~~

~~(1) The~~**]** bank or trust company has a composite rating of 1 or 2 under the **[**~~CAMELS (Capital, Assets, Management, Earnings, Liquidity, and Sensitivity)~~**] Uniform Financial Institutions** Rating System of the Federal Financial Institution Examination Counsel (FFIEC)**[**~~;~~

~~and~~

~~(2) The bank or trust company's board meeting will not be attended by representatives of the bank or trust company's state or federal bank regulator~~**]**.

3. Any director **[**~~who is not physically present within the common area for the meeting and wishes to~~**] remotely attending a board meeting via telephone or video conferencing may** be counted toward a quorum for such meeting **[**~~shall sign an affidavit under penalty of perjury that such~~**] and, if the director is not otherwise prohibited, may vote on matters before the bank or trust company's board so long as the meeting minutes identify the director appearing remotely and reflect that the remote** director:

(1) Received formal notice of the board meeting for which he or she is attending or waived such notice as otherwise provided by law;

(2) Received the board meeting information required for each board of director's meeting as provided by section 362.275; **[**~~and~~**]**

(3) Was alone when participating in such board meeting or was in the physical presence of no one not a director of such bank or trust company**[**~~,~~**];** and

(4) Was able to clearly hear such board meeting discussion from its beginning to end.

4. **[**~~Notwithstanding the provisions of subsections 2 and 3 of this section to the contrary,~~**]** The director of the division of finance may promulgate **[**~~alternative or~~**]** additional regulations, reasonable in scope, to provide for the integrity of the board of directors' operations when directors **[**~~who are not physically present and counted toward such board's quorum, provided the regulations balance the integrity of such board's~~**] attend board meetings remotely, the safety**

and soundness of the bank or trust company's operation **[**~~with~~**], and** the bank or trust company's interest in minimizing the cost of compliance with such regulation.

[~~5. The sole remedy when the bank, trust company or director fails to follow the procedures for directors who are not physically present and counted toward the board's quorum as provided in this section shall be limited to such action as the division of finance may bring under its enforcement authority as provided in chapter 361.~~**]**

362.250. 1. Every person elected director of a bank or trust company shall, within thirty days after election, qualify himself **or herself** as director by filing with the officers of the bank or trust company an oath that he **or she** will, so far as the duty devolves on him **or her**, diligently and honestly administer the affairs of the bank or trust company, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to the bank or trust company.

2. The oath shall be subscribed by the director making it, and certified by an officer authorized by law to administer oaths, and the fact of the oath having been made and filed with the officers of the bank or trust company shall be noted on the records of the acts of the directors.

3. The oath, subscribed by the director making it**[**~~,~~**]** and certified by the officer before whom it is taken, shall be **[**~~immediately transmitted to the director of finance and shall be filed and preserved in his office~~**] retained with the official records of the board of directors**.

4. Failure to comply with this provision within the time specified shall work a forfeiture of the position; provided, however, that the director of finance may, for cause deemed sufficient by him **or her**, extend the time; and when any vacancy occurs by this failure the board of directors shall, at the next regular meeting thereafter, enter the fact of the vacancy upon their records and promptly proceed to elect some competent person to fill the vacancy for the unexpired term.

362.340. 1. The directors of a bank or trust company shall direct and require good and sufficient fidelity bonds on all active officers and employees, whether or not they draw salary or compensation, which bonds shall provide for indemnity to the bank on account of any losses sustained by it as the result of any dishonest, fraudulent or criminal act or omission committed or omitted by them acting independently or in collusion or combination with any person or persons. The bonds may be in individual, schedule or blanket form, and the premiums therefor may be paid by the bank or trust company.

2. The directors may also direct and require suitable insurance protection to the bank against burglary, robbery, theft and other similar insurable hazards to which the bank or trust company may be exposed in the operations of its business on the premises or elsewhere.

3. The directors shall be responsible for approving at least once in each year the amount or penal sum of the bonds or policies and the sureties or underwriters thereon, after giving due

and careful consideration to all known elements and factors constituting the risk or hazard. The action shall be recorded in the minutes of the board of directors and **[**~~thereafter be reported to the director and be subject to his approval~~**] the relevant information documented on a form provided by the division of finance. Thereafter, the completed form shall be retained and preserved by the bank or trust company. The director of finance shall publish yearly a tiered schedule of minimum levels of coverages**.

362.550. 1. When any trust company organized pursuant to the laws of this state shall have been nominated as personal representative of the last will of any deceased person, the court or officer authorized pursuant to the law of this state to grant letters testamentary thereon shall, upon proper application, grant letters testamentary thereon to the trust company or to its successor by merger.

2. When application is made for the appointment of a personal representative on the estate of any deceased person, and there is no person entitled to the letters, or if there is one so entitled then, on the application of the person, the court or officer making the appointment may grant letters of administration with will annexed to any trust company.

3. Any trust company may be appointed conservator, trustee, personal representative, receiver, assignee or in any other fiduciary capacity, in the manner now provided by law for appointment of individuals to any such office. On the application of any natural person acting in any such office, or on the application of any natural persons acting jointly in any such office, any trust company may be appointed by the court or officer having jurisdiction in the place and stead of the person or persons; or on the application of the person or persons any trust company may be appointed to the office to act jointly with the person or persons theretofore appointed, or appointed at the same time; provided, the appointment shall not increase the compensation to be paid the joint fiduciaries over the amount pursuant to the law payable to a fiduciary acting alone.

4. Any natural person or persons heretofore or hereafter appointed as guardian, trustee, personal representative, receiver, assignee, or in any other fiduciary capacity, desiring to have their bond under the office reduced, or desiring to be appointed under a reduced bond, the person or persons may apply to the court to have their appointment put or made under such limitation of powers and upon such terms and conditions as to the deposits of assets by the person or persons with any trust company, under such reduced bond to be given by the person or persons as the court or judge shall prescribe, and the court or judge may make any proper order in the premises.

5. Any investments made by any trust company of money received by it in any fiduciary capacity shall be at its sole risk, and for all losses of such money the capital stock and property of the company shall be absolutely liable, unless the investments are such as are proper when

made by an individual acting in such fiduciary capacity, or such as are permitted under and by the instrument or order creating or defining the trust. Any trust company in the exercise of its fiduciary powers as personal representative, guardian, trustee or other fiduciary capacity, may retain and continue to hold, as an investment of an estate, trust or other account administered by it as fiduciary, any shares of the capital stock, and other securities or obligations, of the trust company so acting, and of any parent company or affiliated company of such trust company, which stock, securities and obligations have been transferred to or deposited with such fiduciary by the creator or creators of such fiduciary account or other donors or grantors, or received by it in exchange for, or as dividends upon, or purchased by the exercise of subscription rights, including rights to purchase fractional shares, in respect of, any other stock, securities or obligations so transferred to or deposited with it, or which have been purchased by such fiduciary pursuant to a requirement of the instrument or order governing such account or pursuant to the direction of such person or persons other than the trust company having power to direct such fiduciary with respect to such purchases; but except as herein provided, including the exercise of subscription rights, no such trust company shall purchase as an investment for any fiduciary account, in the exercise of its own discretion, any stock or other securities or obligations, other than deposit accounts, savings certificates or certificates of deposits, issued by such trust company, or its parent or affiliated companies. This subsection shall not be construed to prohibit a trust company, in the exercise of its own discretion, from purchasing as an investment, for any fiduciary account, securities or obligations of any state or political subdivision thereof which meet investment standards which shall be established by the director of the division of finance, even though such obligations are underwritten by such trust company or its parent or affiliated companies.

6. The court or officer may make orders respecting the trusts and require any trust company to render all accounts which the court or officer might lawfully require if the personal representative, guardian, trustee, receiver, depositary or the trust company acting in any other fiduciary capacity, were a natural person.

7. Upon the appointment of a trust company to any fiduciary office, no official oath shall be required.

8. Property or securities received or held by a trust company in any fiduciary capacity shall be a special deposit in the trust company, and the accounts thereof shall be kept separate from each other and separate from the company's individual business. The property or securities held in trust shall not be mingled with the investments of the capital stock or other property belonging to the trust company or be liable for the debts or obligations thereof. For the purpose of this section, the corporation shall have a trust department, in which all business authorized by subsection **[**~~2~~**] 3** of section 362.105 is kept separate and distinct from its general business.

9. The accounts, securities and all records of any trust company relating to a trust committed to it shall be open for the inspection of all persons interested in the trust.

10. When any trust company organized pursuant to the laws of this state shall have been appointed personal representative of the estate of any deceased person, or guardian, trustee, receiver, assignee, or in any other fiduciary capacity, in the manner provided by law for appointment to any such office, and if the trust company has heretofore merged or consolidated with or shall hereafter merge or consolidate with any other trust company organized pursuant to the laws of this state, then, at the option of the first mentioned company, and upon the filing by it, with the court having jurisdiction of the estate being administered, of a certificate of the merger or consolidation, together with a statement that the other trust company is to thereafter administer the estate held by it and an acceptance by the latter trust company of the trust to be administered, the certificate, statement and acceptance to be executed by the president or vice president of the respective companies and to have affixed thereto the corporate seals of the respective companies, attested by the secretary thereof, and further upon the approval of the court and the giving of such bond as may be required, all the rights, privileges, title and interest in and to all property of whatsoever kind, whether real, personal or mixed, and things in action belonging to the trust estate, and every right, privilege or asset of conceivable value or benefit then existing which would inure to the estate under an unmerged or consolidated existence of the first mentioned company, shall be fully and finally and without right of reversion transferred to and vested in the corporation into which it is merged or with which it is consolidated, without further act or deed, and the last mentioned corporation shall have and hold the same in its own right as fully as the same was possessed and held by the corporation from which it was, by operation of the provisions of this section, transferred, and the corporation shall succeed to all the relations, obligations and liabilities, and shall execute and perform all the trusts and obligations devolving upon it, in the same manner as though it had itself assumed the relation or trust.

11. Notwithstanding any other provisions of law to the contrary, a bank, trust company or affiliate thereof, when acting as a trustee, investment advisor, custodian, or otherwise in a fiduciary capacity with respect to the investment and reinvestment of assets may invest and reinvest the assets, subject to the standards contained in section 456.8-816 and sections 469.900 to 469.913, in the securities of any open-end or closed-end management investment company or investment trust registered pursuant to the federal Investment Company Act of 1940 as amended (15 U.S.C. Sections 80a-1, et seq.) (collectively, "mutual funds"), or in shares or interests in a partnership or limited liability company or other entity that operates as a privately offered investment fund. Such investment and reinvestment of assets may be made notwithstanding that such bank, trust company, or affiliate provides services to the investment

company or trust or privately offered investment fund as investment advisor, sponsor, distributor, custodian, transfer agent, registrar, or otherwise, and receives reasonable remuneration for such services. Such bank or trust company or affiliate thereof is entitled to receive fiduciary fees with respect to such assets. For such services the bank or trust company or affiliate thereof shall be entitled only to the normal fiduciary fee but neither a bank, trust company nor affiliate shall be required to reduce or waive its compensation for services provided in connection with the investment and management of assets because the fiduciary invests, reinvests or retains assets in a mutual fund or privately offered investment fund. The provisions of this subsection apply to any trust, advisory, custody or other fiduciary relationship established before or after August 28, 1999, unless the governing instrument refers to this section and provides otherwise.

12. As used in this section, the term "trust company" applies to any state or national bank or trust company qualified to act as fiduciary in this state.

362.570. 1. The trust guaranty fund shall be absolutely pledged for the faithful performance by the bank or trust company of its duties and undertakings under the provisions of subsection **[**~~2~~**] 3** of section 362.105**[**~~,~~**]** and shall be applied to make good any default in the performance**[**~~, and~~**].** The pledge and liability shall not in any way relieve the stock and general funds of the bank or trust company, but creditors under the subdivisions shall have an equal claim with other creditors upon the capital and other property of the bank or trust company in addition to the security hereby given, and in addition to the deposit made with the finance director under the provisions of section 362.590.

2. No portion of the trust guaranty fund shall be transferred to the general capital while the bank or trust company has undertakings of the kinds mentioned in subsection **[**~~2~~**] 3** of section 362.105, for whose performance bonds are required from individuals, outstanding and uncompleted, but income therefrom, if not required at any dividend time to make good such undertakings, may be added to and disposed of with the general income of the bank or trust company.

362.765. 1. As used in this section, the following terms mean:

(1) "Nonbank affiliate", any nonbank business entity of which a bank holding company holds control, as defined under section 362.910;

(2) "Nonbank business entity", an entity that is not a bank, trust company, savings and loan association, or savings bank;

(3) "Nonbank subsidiary", any nonbank business entity of which a bank or trust company holds control, as defined under section 362.910.

2. Upon approval by the director of finance, a bank or trust company chartered under this chapter may merge with one or more of its nonbank subsidiaries or nonbank

affiliates pursuant to an agreement of merger, provided that the bank or trust company is the surviving institution.

3. The agreement of merger shall be submitted to the director of finance, and the director shall act upon the agreement of merger within thirty days of the submission. In determining whether to approve or deny the merger, the director shall consider the purpose of the transaction, its impact on the safety and soundness of the bank or trust company, and any effect on the bank or trust company's customers. The director of finance may deny a merger if the merger would have a negative effect in any such respect.

4. The decision of the director of finance may be appealed in the same manner as decisions by the director under section 362.040 may be appealed. Should the state banking and savings and loan board decision result in the approval of the agreement of merger, the board may impose such conditions and terms upon the merger as the board deems appropriate.

5. Should an agreement of merger be approved, the director of finance shall provide a certification for the effective date of the merger to the bank or trust company that the bank or trust company may present to the secretary of state or other applicable state business office to demonstrate the completion of the merger.

6. A merger authorized under this section shall not enable a bank or trust company to exercise any right, power, privilege, or benefit that the bank or trust company could not lawfully exercise immediately prior to the merger.

365.100. 1. For contracts entered into on or after August 28, 2005, if the contract so provides, the holder thereof may charge, finance, and collect:

(1) A charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made, or when the installment is for twenty-five dollars or less, a charge for late payment for a period of not less than fifteen days shall not exceed five dollars, provided, however, that a minimum charge of one dollar may be made;

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs;

(3) **[**~~A dishonored or insufficient funds check fee equal to such fee as provided in section 408.653, in addition to fees charged by a bank for each check, draft, order or like instrument which is returned unpaid~~**] A reasonable service fee not to exceed the amount permitted under**

subdivision (2) of subsection 6 of section 570.120 for any check, draft, order, or like instrument that is returned unpaid by a financial institution, plus an amount equal to the actual fees charged by the financial institution for each check, draft, order, or like instrument returned unpaid; and

(4) All other reasonable expenses incurred in the origination, servicing, and collection of the amount due under the contract.

2. A holder of a contract may impose a convenience fee for payments using an alternative payment channel that accepts a debit or credit card not present transaction, nonface-to-face payment, provided that:

(1) The person making the payment is notified of the convenience fee; and

(2) The fee is fixed or flat, except that the fee may vary based upon method of payment used.

365.140. Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be cancelled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080. **If a retail installment contract is paid in full, the holder shall provide the buyer proof of payment in full which may be by a letter referencing the contract, which shall include information identifying the contract such as the original loan date, account number or other identifying number or code, or by returning the original contract or a copy thereof that is marked as paid in full by the holder.**

369.049. 1. The name of every association **[**~~shall~~**] may** include either the words "Savings Association", or "Savings and Loan Association", except for associations domiciled in Missouri at the time sections 369.010 to 369.369 become law that use in their name "Building and Loan Association" or "Loan and Building Association". No name shall be used which is likely to mislead the public as to the character or purpose of the association or which indicates it is authorized to perform an act or conduct any business which is forbidden to it by law. **[**~~The name of the association shall not include the words, "National", "Federal", "United States", "Insured", "Guaranteed", "Government", or "Official".~~**]** The name of the association shall not be the same as nor deceptively similar to that of any other corporation authorized to transact business in this state, except in the case of an association formed by the reincorporation, reorganization, or consolidation of other associations, or upon the sale of the property or business of an association.

2. Notwithstanding the provisions of sections 362.421 and 362.425, any association may amend its charter to change its name or in the case of a new charter, may adopt a name, which includes the words "Savings Bank", in lieu of the words "Savings and Loan Association" or "Savings Association". For purposes of this chapter, the term "association" shall include savings banks. The procedure for adopting the name "savings bank" shall be as provided in section 369.059.

3. No person, firm, or corporation, either domestic or foreign, unless authorized to do business in this state under the provisions of sections 369.010 to 369.369 shall do business under any name or title which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an association or which is likely to lead any person to believe that the business is that of an association. Upon application by the director of the division of finance or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this subsection.

369.705. 1. As used in this section, the following terms mean:

(1) "Nonbank affiliate", any nonbank business entity of which a bank holding company or bank savings and loan holding company holds control, as defined under section 362.910;

(2) "Nonbank business entity", an entity that is not a bank, trust company, savings and loan association, or savings bank;

(3) "Nonbank subsidiary", any nonbank business entity of which a savings and loan association or savings bank holds control, as defined in section 362.910.

2. Upon approval by the director of finance, a savings and loan institution or savings bank chartered under this chapter may merge with one or more of its nonbank subsidiaries or nonbank affiliates pursuant to an agreement of merger, provided that the savings and loan institution or savings bank is the surviving institution.

3. The agreement of merger shall be submitted to the director of finance, and the director shall act upon the agreement of merger within thirty days of the submission. In determining whether to approve or deny the merger, the director shall consider the purpose of the transaction, its impact on the safety and soundness of the savings and loan institution or savings bank, and any effect on the savings and loan institution or savings bank customers. The director of finance may deny the merger if the merger would have a negative effect in any such respect.

4. The decision of the director of finance may be appealed in the same manner as decisions by the director under section 362.040 may be appealed. Should the state banking and savings and loan board decision result in the approval of the agreement of merger, the

board may impose such conditions and terms upon the merger as the board deems appropriate.

5. Should the agreement of merger be approved, the director of finance shall provide a certification for the effective date of the merger to the savings and loan institution or savings bank that the savings and loan institution or savings bank may present to the secretary of state or other applicable state business office to demonstrate the completion of the merger.

6. A merger authorized under this section shall not enable a savings and loan institution or savings bank to exercise any right, power, privilege, or benefit that the savings and loan institution or savings bank could not lawfully exercise immediately prior to such merger.

400.3-309. (a) A person not in possession of an instrument is entitled to enforce the instrument if**:**

(i) The person **[**~~was in possession of the instrument and~~**]** **seeking to enforce the instrument:**

(A) Was entitled to enforce the instrument when loss of possession occurred; or

(B) Has directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce **[**~~it~~**] the instrument** when loss of possession occurred**[**~~,~~**];**

(ii) The loss of possession was not the result of a transfer by the person or a lawful seizure**[**~~,~~**];** and

(iii) The person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under subsection (a) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, Section 400.3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

408.035. Notwithstanding the provisions of any other law to the contrary, it is lawful for the parties to agree in writing to any rate of interest, fees, and other terms and conditions in connection with any:

(1) Loan to a corporation, general partnership, limited partnership or limited liability company;

(2) **[**~~Business loan of five thousand dollars or more~~**]** **Extension of credit primarily for agricultural, business, or commercial purposes**;

(3) Real estate loan, other than residential real estate loans and loans of less than five thousand dollars secured by real estate used for an agricultural activity; or

(4) Loan of five thousand dollars or more secured solely by certificates of stock, bonds, bills of exchange, certificates of deposit, warehouse receipts, or bills of lading pledged as collateral for the repayment of such loans.

408.100. This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate**[**~~, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations~~**]**. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties.

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

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

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, **and reasonable and bona fide third-party fees incurred for remote or electronic filing,** which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty dollars. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the

payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

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

(6) Reasonable towing costs and expenses of retaking, holding, preparing for sale, and selling any personal property in accordance with the uniform commercial code - secured transactions, sections 400.9-101 to 400.9-809;

(7) **[**~~Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than twenty-five dollars~~**]** **A reasonable service fee not to exceed the amount permitted under subdivision (2) of subsection 6 of section 570.120 for any check, draft, order, or like instrument that is returned unpaid by a financial institution, plus an amount equal to the actual fees charged by the financial institution for each check, draft, order, or like instrument returned unpaid**;

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

(9) **[**~~Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;~~

~~(10)~~**]** If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of up to the lesser of seventy-five dollars or ten percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit

outstanding along with any interest, and shall not be considered the unlawful compounding of interest as specified under section 408.120;

[~~(11)~~**] (10)** A deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met;

[~~(12)~~**] (11)** A convenience fee for payments using an alternative payment channel that accepts a debit or credit card not present transaction, nonface-to-face payment, provided that:

(a) The person making the payment is notified of the convenience fee; and

(b) The fee is fixed or flat, except that the fee may vary based upon method of payment used.

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

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

408.178. Notwithstanding any other law to the contrary, **[**~~on loans with an original amount of six hundred dollars or more,~~**]** and provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer monthly loan payments, so long as the fee on each deferred period is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, however, a minimum fee of twenty-five dollars is permitted, and no extensions are made until the first loan payment is collected on any one loan. This section applies to nonprecomputed loans only.

408.233. 1. No charge other than that permitted by section 408.232 shall be directly or indirectly charged, contracted for or received in connection with any second mortgage loan, except as provided in this section:

(1) Fees and charges prescribed by law actually and necessarily paid to public officials for perfecting, releasing, or satisfying a security interest related to the second mortgage loan **and reasonable and bona fide third-party fees incurred for remote or electronic filing**;

(2) Taxes;

(3) Bona fide closing costs paid to third parties, which shall include:

(a) Fees or premiums for title examination, title insurance, or similar purposes including survey;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Fees for notarizing deeds and other documents;

(d) Appraisal fees; and

(e) Fees for credit reports;

(4) Charges for insurance as described in subsection 2 of this section;

(5) A nonrefundable origination fee not to exceed five percent of the principal which may be used by the lender to reduce the rate on a second mortgage loan;

(6) Any amounts paid to the lender by any person, corporation or entity, other than the borrower, to reduce the rate on a second mortgage loan or to assist the borrower in qualifying for the loan;

(7) For revolving loans, an annual fee not to exceed fifty dollars may be assessed.

2. An additional charge may be made for insurance written in connection with the loan, including insurance protecting the lender against the borrower's default or other credit loss, and:

(1) For insurance against loss of or damage to property where no such coverage already exists; and

(2) For insurance providing life, accident, health or involuntary unemployment coverage.

3. The cost of any insurance shall not exceed the rates filed with the department of commerce and insurance, and the insurance shall be obtained from an insurance company duly authorized to conduct business in this state. Any person or entity making second mortgage loans, or any of its employees, may be licensed to sell insurance permitted in this section.

4. On any second mortgage loan, a default charge may be contracted for and received for any installment or minimum payment not paid in full within fifteen days of its scheduled due date equal to five percent of the amount or fifteen dollars, whichever is greater, not to exceed fifty dollars. A default charge may be collected only once on an installment or a payment due however long it remains in default. A default charge may be collected at the time it accrues or at any time thereafter and for purposes of subsection **[**~~3~~**]** **2** of section 408.234 a default charge shall be treated as a payment. No default charge may be collected on an installment or a payment due which is paid in full within fifteen days of its scheduled due date even though an earlier installment or payment or a default charge on earlier installment or payments may not have been paid in full.

5. The lender shall, in addition to the charge authorized by subsection 4 of this section, be allowed to assess the borrower or other maker of refused instrument the actual charge made by any institution for processing the negotiable instrument, plus a handling fee of not more than twenty-five dollars; and, if the contract or promissory note, signed by the borrower, provides for

attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and are not handled by a salaried employee of the holder of the contract or note.

6. No provision of this section shall be construed to prohibit the sale of a deficiency waiver addendum, guaranteed asset protection, or a similar product purchased as part of a loan transaction with collateral and at the borrower's consent, provided the cost of the product is disclosed in the loan contract, is reasonable, and the requirements of section 408.380 are met.

408.234. 1. **[**~~No lender shall make a second mortgage loan pursuant to sections 408.231 to 408.241 in an initial principal amount of less than two thousand five hundred dollars.~~

~~2.~~**]** A lender may take a security interest in any collateral in conjunction with residential real estate in connection with a second mortgage loan.

[~~3.~~**]** **2.** The borrower shall have an unconditional right to prepay any second mortgage loan. If any such loan providing for interest being added to the principal is prepaid in full one month or more before the final installment date, the lender shall recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding.

[~~4.~~**]** **3.** When fees charged need not be disclosed in the annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations thereunder because such fees are deminimus amounts or for other reasons, such fees need not be included in the annual percentage rate for state examination purposes.

408.250. Unless otherwise clearly indicated by the context, the following words when used in sections 408.250 to 408.370, for the purposes of sections 408.250 to 408.370, shall have the meanings respectively ascribed to them in this section:

(1) "Cash sale price" means the price stated in a retail time transaction for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of the retail time transaction, if such sale were for cash. The cash sale price may include the cost of taxes, official fees, if any, and charges for accessories and their installation and delivery, and for the servicing, repairing or improving of goods. If a retail time transaction involves the repair, modernization, alteration or rehabilitation of real property, the cash sale price may include reasonable fees and costs actually to be paid for construction permits and similar fees, the services of an attorney and any title search and title insurance relating to any mortgage, lien or other security interest taken, granted or reserved pursuant to contract;

(2) "Credit" means the right granted by a creditor to a debtor to defer payment of a debt or to incur debt and defer its payment. It includes the right to incur debt and defer its payment pursuant to the use of a card, plate, coupon book, or other credit confirmation or identification device or number or other identifying description;

(3) The term "creditor" refers only to creditors who regularly extend, or arrange for the extension of, credit whether in connection with loans, sales of property or services, or otherwise;

(4) "Goods" means all tangible chattels personal and merchandise certificates or coupons issued by a retail seller exchangeable for tangible chattels personal of such seller, but the term does not include motor vehicles, nonprocessed farm products, livestock, money, things in action, or intangible personal property. The term includes tangible chattels personal which, at the time of the sale or subsequently, are to be so affixed to realty as to become a part thereof whether or not severable therefrom;

(5) "Holder" of a retail time contract means the retail seller of the goods or services under the contract or, if the contract is purchased or otherwise acquired, the person purchasing or otherwise acquiring the contract;

(6) "Insurance company" means any form of lawfully authorized insurer in this state;

(7) "Motor vehicle" means any new or used automobile, motor home, manufactured home as defined in section 700.010, excluding a manufactured home with respect to which the requirements of subsections 1 to 3 of section 700.111, as applicable, have been satisfied, motorcycle, truck, trailer, semitrailer, truck tractor, or bus, primarily designed or used to transport persons or property on a public highway, road or street, or a mobile or modular home or farm machinery or implements;

(8) "Official fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail time transaction**, and reasonable and bona fide third party fees incurred for remote or electronic filing**;

(9) "Person" means an individual, partnership, corporation, association, and any other group however organized;

(10) "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail time transaction plus the amount, if any, included in a retail time contract, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits and official fees, minus the amount of the buyer's down payment in money or goods;

(11) "Retail buyer" or "buyer" means a person who buys goods or obtains services to be used primarily for personal, family, or household purposes and not primarily for business, commercial, or agricultural purposes from a retail seller in a retail time transaction;

(12) "Retail charge agreement" means an agreement entered into in this state between a retail seller and a retail buyer prescribing the terms of retail time transactions to be made from time to time pursuant to such agreement, and which provides for a time charge to be computed on the buyer's total unpaid balance from time to time;

(13) "Retail seller" or "seller" means a person who regularly sells or offers to sell goods or services to a buyer primarily for the latter's personal, family, or household use and not primarily for business, commercial, or agricultural use. The term also includes a person who regularly grants credit to retail buyers for the purpose of purchasing goods or services from any person, pursuant to a retail charge agreement, but shall not apply to any person licensed or chartered and regulated to engage regularly in the business of making loans from or in this state;

(14) "Retail time contract" means an agreement evidencing one or more retail time transactions entered into in this state pursuant to which a buyer engages to pay in one or more deferred payments the time sale price of goods or services. The term includes a chattel mortgage; conditional sales contract; and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of their cash sale price and by which it is agreed that the bailee or lessee is bound to become, or, for no further or a merely nominal consideration has the option of becoming, the owner of the goods upon full compliance with the provisions of the contract;

(15) "Retail time transaction" means a contract to sell or furnish or the sale of or furnishing of goods or services by a retail seller to a retail buyer for which payment is to be made in one or more deferred payments under and pursuant to a retail time contract or a retail charge agreement;

(16) "Services" means work, labor and services of any kind furnished or agreed to be furnished by a retail seller but does not include professional services including, but not limited to, services performed by an accountant, physician, lawyer or the like, unless the furnishing of such professional services is the subject of a signed retail time transaction;

(17) "Time charge" means the amount, however denominated or expressed, in excess of the cash sale price under a retail charge agreement or the principal balance under a retail time contract which a retail buyer contracts to pay or pays for goods or services. It includes the extension to the buyer of the privilege of paying therefor in one or more deferred payments;

(18) "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor, and the amounts of the official fees, and the time charge.

408.553. Upon default the lender shall be entitled to recover **[**~~no more than the amount which the borrower would have been required to pay upon prepayment of the obligation on~~**] the amount due and accrued under the agreement, including interest and penalties through**

the date of **payment in full or to the date of a** final judgment **[**~~together with interest thereafter at~~**]. Following a judgment, the lender may additionally recover** the simple interest equivalent of the rate provided in the contract **as applied to the amount of the judgment until the date the judgment is paid and satisfied**.

408.554. 1. After a borrower has been in default for ten days for failure to make a required payment and has not voluntarily surrendered possession of the collateral, a lender may give the borrower and all cosigners on the credit transaction the notice described in this section. A lender gives notice to the borrower and cosigners under this section when he delivers the notice to the borrower or cosigner or mails the notice to him at his last known address.

2. Except as provided in subsection 4 of this section, the notice shall be in writing and conspicuously state: The name, address and telephone number of the lender to whom payment is to be made, a brief identification of the credit transaction, the borrower's right to cure the default, and the amount of payment and date by which payment must be made to cure the default. A notice in substantially the following form complies with this subsection:

(name, address, and telephone number of lender)

(account number, if any)

(brief identification of credit transaction)

(amount) is the AMOUNT NOW DUE

(date) is the LAST DAY FOR PAYMENT

You are late in making your payment(s). If you pay the AMOUNT NOW DUE (above) by the LAST DAY FOR PAYMENT (above), you may continue with the contract as though you were not late. If you do not pay by that date, we may exercise our rights under the law.

3. If the loan transaction is an insurance premium loan, the notice shall conform to the requirements of subsection 2 of this section and a notice in substantially the form specified in that subsection complies with this subsection, except for the following:

(1) In lieu of a brief identification of the loan transaction, the notice shall identify the transaction as an insurance premium loan and each insurance policy or contract that may be cancelled;

(2) In lieu of the statement in the form of notice specified in subsection 2 of this section that the lender may exercise his rights under the law, the statement that each policy or contract identified in the notice may be cancelled; and

(3) The last paragraph of the form of notice specified in subsection 2 of this section shall be omitted.

4. If a credit transaction is secured, the notice described in this section shall further state the following:

"If you voluntarily surrender possession of the following specified collateral, you could still owe additional money after the money received from the sale of the collateral is deducted from the total amount you owe."

[~~5. In the case of a second default on the same loan made pursuant to section 408.100 or on the same retail time transaction as defined in section 408.250 or in the case of a third default on the same second mortgage loan as defined in section 408.231, the notice described in subsection 2 of this section shall indicate that in the case of further default, the borrower will have no right to cure.~~]

[~~367.150. Every lender shall, on or before April thirtieth of each year, and upon a form prescribed by the director, file with the director a written report under oath containing the following information pertaining to the supervised business conducted by the lender during the preceding calendar year:~~

~~(1) The name of the lender, and the address of each office in the state of Missouri, and the principal office if it is outside the state of Missouri;~~

~~(2) The names and addresses of all officers and directors of the lender, and where a partnership the names and addresses of all partners, giving their respective interests;~~

~~(3) A balance sheet showing the financial condition of the lender as of the end of the lender's previous fiscal year, including a statement of the total assets used and useful in conducting the business, both tangible and intangible. Where any item of assets or liabilities is involved both in the consumer loan business and in additional loan or other business of the lender, the latter shall indicate on the balance sheet the proportion of each item properly attributable to the consumer loan business in accordance with formulae and regulations prescribed by the director. In the event the lender is a corporation, in addition to the statement of assets and liabilities normally included in balance sheets, a detailed statement of the lender's capitalization shall be given, including:~~

~~(a) Total of each class of securities authorized and outstanding;~~

~~(b) Capital or paid-in surplus;~~

~~(c) Earned surplus at beginning of period;~~

~~(d) Dividends paid during period;~~

~~(e) Earned surplus at end of period;~~

~~(4) A profit and loss statement covering operations of the supervised business during the previous fiscal year, including a statement of gross earnings, a detailed statement of expenses and the amount paid or reserved for federal, state and other taxes. Where any item of income or expenses arises in connection with both the consumer loan business and some additional loan or other business of the lender the latter shall indicate on the profit and loss statement the proportion of each item properly attributable to the consumer loan business, in accordance with formulae and regulations prescribed by the director;~~

~~(5) The total aggregate number and principal amount of loans made by the lender in the following categories:~~

~~(6) The number of garnishments, attachments and other suits filed and judgments obtained;~~

~~(7) The number of security agreements foreclosed and the amount received from such sales and from the resale;~~

~~(8) Any other additional and relevant information relating to loans that the director may from time to time prescribe by regulation.~~**]**

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