

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 835
102ND GENERAL ASSEMBLY

3810H.10C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 67.2800, 67.2810, 67.2815, 67.2817, 67.2830, 67.2840, 95.280, 95.285, 95.355, 130.011, 130.021, 130.031, 130.036, 130.041, 143.121, 214.330, 361.700, 361.705, 361.707, 361.711, 361.715, 361.718, 361.720, 361.723, 361.725, 361.727, 362.245, 362.1010, 362.1015, 362.1030, 362.1035, 362.1040, 362.1055, 362.1060, 362.1085, 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, 362.1117, 376.1345, 379.1640, 381.410, 408.035, 408.140, 415.415, 442.210, 456.950, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465, and 469.467, RSMo, and to enact in lieu thereof one hundred thirty-three new sections relating to financial transactions, with penalty provisions.

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

Section A. Sections 67.2800, 67.2810, 67.2815, 67.2817, 67.2830, 67.2840, 95.280,
2 95.285, 95.355, 130.011, 130.021, 130.031, 130.036, 130.041, 143.121, 214.330, 361.700,
3 361.705, 361.707, 361.711, 361.715, 361.718, 361.720, 361.723, 361.725, 361.727, 362.245,
4 362.1010, 362.1015, 362.1030, 362.1035, 362.1040, 362.1055, 362.1060, 362.1085,
5 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, 362.1117,
6 376.1345, 379.1640, 381.410, 408.035, 408.140, 415.415, 442.210, 456.950, 469.401,
7 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421,
8 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439,

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.

9 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459,
10 469.461, 469.463, 469.465, and 469.467, RSMo, are repealed and one hundred thirty-three
11 new sections enacted in lieu thereof, to be known as sections 30.267, 67.2800, 67.2810,
12 67.2815, 67.2817, 67.2830, 67.2840, 110.075, 130.011, 130.021, 130.031, 130.036, 130.041,
13 143.121, 214.330, 361.900, 361.903, 361.906, 361.909, 361.912, 361.915, 361.918, 361.921,
14 361.924, 361.927, 361.930, 361.933, 361.936, 361.939, 361.942, 361.945, 361.948, 361.951,
15 361.954, 361.957, 361.960, 361.963, 361.966, 361.969, 361.972, 361.975, 361.978, 361.981,
16 361.984, 361.987, 361.990, 361.996, 361.999, 361.1002, 361.1005, 361.1008, 361.1011,
17 361.1014, 361.1017, 361.1020, 361.1023, 361.1026, 361.1029, 361.1032, 361.1035, 362.245,
18 362.1010, 362.1015, 362.1030, 362.1035, 362.1040, 362.1055, 362.1060, 362.1085,
19 362.1090, 362.1095, 362.1100, 362.1105, 362.1110, 362.1115, 362.1116, 362.1117,
20 376.1345, 379.1640, 381.410, 408.035, 408.140, 415.415, 427.300, 442.210, 456.950,
21 469.399, 469.401, 469.402, 469.403, 469.404, 469.405, 469.413, 469.415, 469.417, 469.419,
22 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437,
23 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.450, 469.451, 469.453, 469.455,
24 469.456, 469.457, 469.459, 469.462, 469.463, 469.464, 469.465, 469.467, 469.471, 469.473,
25 469.475, 469.477, 469.479, 469.481, 469.483, 469.485, and 469.487, to read as follows:

**30.267. 1. Beginning July 1, 2025, there is hereby established the "Task Force on
2 Gold and Silver", which shall be composed of the following members:**

**3 (1) Two members of the senate from the majority party and one member of the
4 senate from the minority party, appointed by the president pro tempore of the senate;**

**5 (2) Two members of the house from the majority party and one member of the
6 house from the minority party, appointed by the speaker of the house of representatives;**

**7 (3) The state treasurer, or his or her designee, who shall serve as chair of the task
8 force;**

**9 (4) The commissioner of the division of finance, or his or her designee, who shall
10 serve as the vice chair; and**

11 (5) The director of revenue, or his or her designee.

**12 2. The task force shall examine the practicality of issuing gold and silver coinage
13 as specie in a manner consistent with Article I, Section 10 of the Constitution of the
14 United States and examine the possibility of the state accepting gold and silver in
15 payment of obligations to the state.**

**16 3. The task force shall provide a preliminary report of its findings to the general
17 assembly by December 31, 2025, and provide a final report to the general assembly no
18 later than June 30, 2026. The task force may, in its discretion, provide additional
19 information to the general assembly; however, no such information shall be provided
20 after June 30, 2026.**

21 **4. This section shall expire on July 1, 2027.**

2 67.2800. 1. Sections 67.2800 to 67.2840 shall be known and may be cited as the
3 "Property Assessment Clean Energy Act".

4 2. As used in sections 67.2800 to 67.2840, the following words and terms shall mean:

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

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

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

14 (4) "Clean energy conduit financing", the financing of energy efficiency
15 improvements or renewable energy improvements for a single parcel of property or a
16 unified development consisting of multiple adjoining parcels of property under section
17 67.2825;

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

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

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

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

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

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

32 (c) Automatic energy control systems;

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

 (e) Caulking and weatherstripping;

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

38 (g) Energy recovery systems; and

39 (h) Daylighting systems;

40 (9) "Municipality", any county, city, or incorporated town or village of this state;

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

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

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

51 (13) "Property assessed clean energy program" or "PACE program", a program
52 established by a clean energy development board to finance energy efficiency improvements
53 or renewable energy improvements under section 67.2820;

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

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

62 **4. Sections 67.2800 to 67.2840 shall not apply to any assessment contract,**
63 **project, or PACE program entered into, undertaken, or established for any residential**
64 **property.**

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

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

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

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

15 (1) To adopt, amend, and repeal bylaws, which are not inconsistent with sections
16 67.2800 to 67.2840;

17 (2) To adopt an official seal;

18 (3) To sue and be sued;

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

21 (5) To accept grants, guarantees, and donations of property, labor, services, and other
22 things of value from any public or private source, **including the acquisition of loans or**
23 **assessment contracts from other states or their municipalities and political subdivisions**
24 **to serve a common purpose of providing financing support or credit enhancement for**
25 **any project;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (2) A mechanism for:

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

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

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

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

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

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

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

34 4. The clean energy development board shall provide a copy of each signed
35 assessment contract to the local assessor and collector for the county, or city not within a
36 county, and shall cause a copy of such assessment contract to be recorded in the real estate
37 records of the recorder of deeds for the county, or city not within a county.

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

49 6. Any clean energy development board that contracts for outside administrative
50 services to provide financing origination for a project shall offer the right of first refusal to
51 enter into such a contract to a federally insured depository institution with a physical presence

52 in Missouri upon the same terms and conditions as would otherwise be approved by the clean
53 energy development board. Such right of first refusal shall not be applicable to the
54 origination of any transaction that involves the issuance of bonds by the clean energy
55 development board.

56 7. **Except as otherwise provided in section 67.2840**, sections 67.2816, 67.2817,
57 67.2818, and 67.2819 shall apply only to PACE programs for projects to improve residential
58 properties of four or fewer units. Notwithstanding any provision of law to the contrary, any
59 clean energy development board formed to improve commercial properties, properties owned
60 by nonprofit or not-for-profit entities, governmental properties, or nonresidential properties in
61 excess of four residential units shall be exempt from the provisions of sections 67.2816,
62 67.2817, 67.2818, and 67.2819, nor shall such sections apply to the commercial PACE
63 programs and commercial PACE assessment contracts of any clean energy development
64 board engaged in both commercial and residential property programs. Notwithstanding any
65 provision of law to the contrary, any clean energy development board that ceases to finance
66 new projects to improve residential properties of four or fewer units before January 1, 2022,
67 shall be exempt from the provisions of sections 67.2816, 67.2817, 67.2818, and 67.2819.

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

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

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

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

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

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

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

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

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

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

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

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

40 3. Any assessment contract for a project that, combined with any existing and
41 outstanding indebtedness secured by the benefitted property, results in a loan-to-value ratio
42 between eighty percent and ninety-seven percent of the true value in money, as determined by
43 the assessor pursuant to chapter 137, plus ten percent of such amount, of the benefitted
44 property prior to the project as determined by reference to the assessment records for tax
45 purposes for the most recent completed assessment by the county, or city not within a county,
46 shall include provision of an insurance policy providing coverage for any remaining cost of
47 fulfilling the assessment contract, including any accumulated interest, in the event the
48 property is foreclosed upon, if such product exists. Such insurance policy shall run with the
49 land in the same manner as the other obligations set forth in the assessment contract.

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

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

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

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

78 8. The clean energy development board shall maintain a public website with current
79 information about the PACE program as the board deems appropriate to inform consumers
80 regarding the PACE program. The website shall list approved contractors for the PACE
81 program. The website shall disclose the process for property owners or their successors to
82 request information about the assessment contract, the status of the assessment contract, and
83 for all questions including contract information to obtain a payoff amount for the release of an
84 assessment contract.

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

67.2830. 1. A clean energy development board may issue bonds payable from special
2 assessment revenues generated by assessment contracts and any other revenues pledged
3 thereto. The bonds shall be authorized by resolution of the clean energy development board,
4 shall bear such date or dates, and shall mature at such time or times as the resolution shall
5 specify, provided that the term of any bonds issued for a clean energy conduit financing shall
6 not exceed ~~[twenty]~~ **thirty** years. The bonds shall be in such denomination, bear interest at
7 such rate, be in such form, be issued in such manner, be payable in such place or places, and
8 be subject to redemption as such resolution may provide. Notwithstanding any provision to

9 the contrary under this section, issuance of the bonds shall conform to the requirements of
10 subsection 1 of section 108.170.

11 2. Any bonds issued under this section shall not constitute an indebtedness of the state
12 or any municipality. Neither the state nor any municipality shall be liable on such bonds, and
13 the form of such bonds shall contain a statement to such effect.

67.2840. 1. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and
2 apply **only** to the residential PACE programs of clean energy development boards and
3 participating municipalities ~~[after]~~ **from January 1, 2022, to August 28, 2024. Beginning**
4 **August 28, 2024, all residential properties shall be exempt from the provisions of**
5 **sections 67.2816 to 67.2819 and no assessment contract, project, or PACE program shall**
6 **be entered into, undertaken, or established for any residential property.**

7 2. Sections 67.2816, 67.2817, 67.2818, and 67.2819 shall be effective and apply **only**
8 to residential PACE assessment contracts entered into after January 1, 2022, **but before**
9 **August 28, 2024.**

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

2 (1) "Depository", a banking institution headquartered in or maintaining a full-
3 service branch in this state which is selected by a municipality to hold and manage
4 public funds;

5 (2) "Governing body", any city council, board of aldermen, or board of trustees;

6 (3) "Municipal depositories", any state-chartered or federally chartered
7 banking institution as defined in Article IV, Section 15 of the Constitution of Missouri;

8 (4) "Municipality", any city or village in this state;

9 (5) "Public funds", funds owned or controlled by a municipality, including tax
10 revenues, fees, grants, and other sources of income.

11 2. All municipalities shall select depositories through a competitive process in
12 accordance with the provisions in this section. The governing body of each municipality
13 shall develop and publish a request for proposals which shall outline the requirements
14 for selecting one or more municipal depositories. Such requirements shall address or
15 include the following matters:

16 (1) The municipality shall use due diligence for determining the financial
17 stability and soundness of the depository based on publicly available financial reports
18 and other public sources;

19 (2) Safe custody and liquidity of public funds, including deposit insurance
20 coverage and pledge of collateral or investment in appropriate government securities as
21 authorized for public funds;

22 (3) Interest rates and fees offered;

23 **(4) Services offered, including online banking, cash management, deposit sweep**
24 **and repurchase accounts, investment in a common trust fund in eligible securities for**
25 **municipalities and political subdivisions, and other banking service options;**

26 **(5) Compliance with all applicable state and federal banking regulations;**

27 **(6) Convenient and efficient treasury functions, including if the location of the**
28 **depository institution shall be required to be located within the municipality or in the**
29 **same county as the municipality.**

30 **3. Banking institutions interested in becoming the municipal depository shall**
31 **respond to the municipality's request for proposals within the time frame specified by**
32 **the municipality in the request.**

33 **4. The governing body shall evaluate the proposals based on the criteria outlined**
34 **in the request for proposals and select a banking institution that best meets the**
35 **municipality's needs and objectives.**

36 **5. The selected banking institution shall enter into a contract with the**
37 **municipality outlining the terms and conditions of the depository relationship,**
38 **including, but not limited to, the interest rates, fees, and services to be provided.**

39 **6. Municipalities shall maintain records of the selection process, including all**
40 **proposals received by the municipality for a period of two years.**

130.011. As used in this chapter, unless the context clearly indicates otherwise, the
2 following terms mean:

3 (1) "Appropriate officer" or "appropriate officers", the person or persons designated
4 in section 130.026 to receive certain required statements and reports;

5 (2) "Ballot measure" or "measure", any proposal submitted or intended to be
6 submitted to qualified voters for their approval or rejection, including any proposal submitted
7 by initiative petition, referendum petition, or by the general assembly or any local
8 governmental body having authority to refer proposals to the voter;

9 (3) "Candidate", an individual who seeks nomination or election to public office. The
10 term "candidate" includes an elected officeholder who is the subject of a recall election, an
11 individual who seeks nomination by the individual's political party for election to public
12 office, an individual standing for retention in an election to an office to which the individual
13 was previously appointed, an individual who seeks nomination or election whether or not the
14 specific elective public office to be sought has been finally determined by such individual at
15 the time the individual meets the conditions described in paragraph (a) or (b) of this
16 subdivision, and an individual who is a write-in candidate as defined in subdivision (28) of
17 this section. A candidate shall be deemed to seek nomination or election when the person
18 first:

19 (a) Receives contributions or makes expenditures or reserves space or facilities with
20 intent to promote the person's candidacy for office; or

21 (b) Knows or has reason to know that contributions are being received or
22 expenditures are being made or space or facilities are being reserved with the intent to
23 promote the person's candidacy for office; except that, such individual shall not be deemed a
24 candidate if the person files a statement with the appropriate officer within five days after
25 learning of the receipt of contributions, the making of expenditures, or the reservation of
26 space or facilities disavowing the candidacy and stating that the person will not accept
27 nomination or take office if elected; provided that, if the election at which such individual is
28 supported as a candidate is to take place within five days after the person's learning of the
29 above-specified activities, the individual shall file the statement disavowing the candidacy
30 within one day; or

31 (c) Announces or files a declaration of candidacy for office;

32 (4) "Cash", currency, coin, United States postage stamps, or any negotiable
33 instrument which can be transferred from one person to another person without the signature
34 or endorsement of the transferor;

35 (5) "Check", a check drawn on a state or federal bank, or a draft on a negotiable order
36 of withdrawal account in a savings and loan association or a share draft account in a credit
37 union;

38 (6) "Closing date", the date through which a statement or report is required to be
39 complete;

40 (7) "Committee", a person or any combination of persons, who accepts contributions
41 or makes expenditures for the primary or incidental purpose of influencing or attempting to
42 influence the action of voters for or against the nomination or election to public office of one
43 or more candidates or the qualification, passage or defeat of any ballot measure or for the
44 purpose of paying a previously incurred campaign debt or obligation of a candidate or the
45 debts or obligations of a committee or for the purpose of contributing funds to another
46 committee:

47 (a) "Committee", does not include:

48 a. A person or combination of persons, if neither the aggregate of expenditures made
49 nor the aggregate of contributions received during a calendar year exceeds five hundred
50 dollars and if no single contributor has contributed more than two hundred fifty dollars of
51 such aggregate contributions;

52 b. An individual, other than a candidate, who accepts no contributions and who deals
53 only with the individual's own funds or property;

54 c. A corporation, cooperative association, partnership, proprietorship, or joint venture
55 organized or operated for a primary or principal purpose other than that of influencing or

56 attempting to influence the action of voters for or against the nomination or election to public
57 office of one or more candidates or the qualification, passage or defeat of any ballot measure,
58 and it accepts no contributions, and all expenditures it makes are from its own funds or
59 property obtained in the usual course of business or in any commercial or other transaction
60 and which are not contributions as defined by subdivision (12) of this section;

61 d. A labor organization organized or operated for a primary or principal purpose other
62 than that of influencing or attempting to influence the action of voters for or against the
63 nomination or election to public office of one or more candidates, or the qualification,
64 passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures
65 made by the organization are from its own funds or property received from membership dues
66 or membership fees which were given or solicited for the purpose of supporting the normal
67 and usual activities and functions of the organization and which are not contributions as
68 defined by subdivision (12) of this section;

69 e. A person who acts as an authorized agent for a committee in soliciting or receiving
70 contributions or in making expenditures or incurring indebtedness on behalf of the committee
71 if such person renders to the committee treasurer or deputy treasurer or candidate, if
72 applicable, an accurate account of each receipt or other transaction in the detail required by
73 the treasurer to comply with all record-keeping and reporting requirements of this chapter;

74 f. Any department, agency, board, institution or other entity of the state or any of its
75 subdivisions or any officer or employee thereof, acting in the person's official capacity;

76 (b) The term "committee" includes, but is not limited to, each of the following
77 committees: campaign committee, candidate committee, continuing committee and political
78 party committee;

79 (8) "Campaign committee", a committee, other than a candidate committee, which
80 shall be formed by an individual or group of individuals to receive contributions or make
81 expenditures and whose sole purpose is to support or oppose the qualification and passage of
82 one or more particular ballot measures in an election or the retention of judges under the
83 nonpartisan court plan, such committee shall be formed no later than thirty days prior to the
84 election for which the committee receives contributions or makes expenditures, and which
85 shall terminate the later of either thirty days after the general election or upon the satisfaction
86 of all committee debt after the general election, except that no committee retiring debt shall
87 engage in any other activities in support of a measure for which the committee was formed;

88 (9) "Candidate committee", a committee which shall be formed by a candidate to
89 receive contributions or make expenditures in behalf of the person's candidacy and which
90 shall continue in existence for use by an elected candidate or which shall terminate the later of
91 either thirty days after the general election for a candidate who was not elected or upon the
92 satisfaction of all committee debt after the election, except that no committee retiring debt

93 shall engage in any other activities in support of the candidate for which the committee was
94 formed. Any candidate for elective office shall have only one candidate committee for the
95 elective office sought, which is controlled directly by the candidate for the purpose of making
96 expenditures. A candidate committee is presumed to be under the control and direction of the
97 candidate unless the candidate files an affidavit with the appropriate officer stating that the
98 committee is acting without control or direction on the candidate's part;

99 (10) "Continuing committee", a committee of continuing existence which is not
100 formed, controlled or directed by a candidate, and is a committee other than a candidate
101 committee or campaign committee, whose primary or incidental purpose is to receive
102 contributions or make expenditures to influence or attempt to influence the action of voters
103 whether or not a particular candidate or candidates or a particular ballot measure or measures
104 to be supported or opposed has been determined at the time the committee is required to file
105 any statement or report pursuant to the provisions of this chapter. "Continuing committee"
106 includes, but is not limited to, any committee organized or sponsored by a business entity, a
107 labor organization, a professional association, a trade or business association, a club or other
108 organization and whose primary purpose is to solicit, accept and use contributions from the
109 members, employees or stockholders of such entity and any individual or group of individuals
110 who accept and use contributions to influence or attempt to influence the action of voters.
111 Such committee shall be formed no later than sixty days prior to the election for which the
112 committee receives contributions or makes expenditures;

113 (11) "Connected organization", any organization such as a corporation, a labor
114 organization, a membership organization, a cooperative, or trade or professional association
115 which expends funds or provides services or facilities to establish, administer or maintain a
116 committee or to solicit contributions to a committee from its members, officers, directors,
117 employees or security holders. An organization shall be deemed to be the connected
118 organization if more than fifty percent of the persons making contributions to the committee
119 during the current calendar year are members, officers, directors, employees or security
120 holders of such organization or their spouses;

121 (12) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or
122 anything of value for the purpose of supporting or opposing the nomination or election of any
123 candidate for public office or the qualification, passage or defeat of any ballot measure, or for
124 the support of any committee supporting or opposing candidates or ballot measures or for
125 paying debts or obligations of any candidate or committee previously incurred for the above
126 purposes. A contribution of anything of value shall be deemed to have a money value
127 equivalent to the fair market value. "Contribution" includes, but is not limited to:

- 128 (a) A candidate's own money or property used in support of the person's candidacy
129 other than expense of the candidate's food, lodging, travel, and payment of any fee necessary
130 to the filing for public office;
- 131 (b) Payment by any person, other than a candidate or committee, to compensate
132 another person for services rendered to that candidate or committee;
- 133 (c) Receipts from the sale of goods and services, including the sale of advertising
134 space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of
135 tickets or political merchandise;
- 136 (d) Receipts from fund-raising events including testimonial affairs;
- 137 (e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or
138 other obligation by a third party, or payment of a loan or debt or other obligation by a third
139 party if the loan or debt or other obligation was contracted, used, or intended, in whole or in
140 part, for use in an election campaign or used or intended for the payment of such debts or
141 obligations of a candidate or committee previously incurred, or which was made or received
142 by a committee;
- 143 (f) Funds received by a committee which are transferred to such committee from
144 another committee or other source, except funds received by a candidate committee as a
145 transfer of funds from another candidate committee controlled by the same candidate but such
146 transfer shall be included in the disclosure reports;
- 147 (g) Facilities, office space or equipment supplied by any person to a candidate or
148 committee without charge or at reduced charges, except gratuitous space for meeting
149 purposes which is made available regularly to the public, including other candidates or
150 committees, on an equal basis for similar purposes on the same conditions;
- 151 (h) The direct or indirect payment by any person, other than a connected organization,
152 of the costs of establishing, administering, or maintaining a committee, including legal,
153 accounting and computer services, fund raising and solicitation of contributions for a
154 committee;
- 155 (i) "Contribution" does not include:
- 156 a. Ordinary home hospitality or services provided without compensation by
157 individuals volunteering their time in support of or in opposition to a candidate, committee or
158 ballot measure, nor the necessary and ordinary personal expenses of such volunteers
159 incidental to the performance of voluntary activities, so long as no compensation is directly or
160 indirectly asked or given;
- 161 b. An offer or tender of a contribution which is expressly and unconditionally rejected
162 and returned to the donor within ten business days after receipt or transmitted to the state
163 treasurer;
- 164 c. Interest earned on deposit of committee funds;

165 d. The costs incurred by any connected organization listed pursuant to subdivision (4)
166 of subsection 5 of section 130.021 for establishing, administering or maintaining a committee,
167 or for the solicitation of contributions to a committee which solicitation is solely directed or
168 related to the members, officers, directors, employees or security holders of the connected
169 organization;

170 (13) "County", any one of the several counties of this state or the city of St. Louis;

171 (14) "Disclosure report", an itemized report of receipts, expenditures and incurred
172 indebtedness which is prepared on forms approved by the Missouri ethics commission and
173 filed at the times and places prescribed;

174 (15) "Election", any primary, general or special election held to nominate or elect an
175 individual to public office, to retain or recall an elected officeholder or to submit a ballot
176 measure to the voters, and any caucus or other meeting of a political party or a political party
177 committee at which that party's candidate or candidates for public office are officially
178 selected. A primary election and the succeeding general election shall be considered separate
179 elections;

180 (16) **"Electronic means", any instrument, device, or service that facilitates an**
181 **electronic withdrawal of funds from a bank account including, but not limited to, credit**
182 **cards, debit cards, and the presentation of a credit or debit card account number;**

183 (17) "Expenditure", a payment, advance, conveyance, deposit, donation or
184 contribution of money or anything of value for the purpose of supporting or opposing the
185 nomination or election of any candidate for public office or the qualification or passage of any
186 ballot measure or for the support of any committee which in turn supports or opposes any
187 candidate or ballot measure or for the purpose of paying a previously incurred campaign debt
188 or obligation of a candidate or the debts or obligations of a committee; a payment, or an
189 agreement or promise to pay, money or anything of value, including a candidate's own money
190 or property, for the purchase of goods, services, property, facilities or anything of value for
191 the purpose of supporting or opposing the nomination or election of any candidate for public
192 office or the qualification or passage of any ballot measure or for the support of any
193 committee which in turn supports or opposes any candidate or ballot measure or for the
194 purpose of paying a previously incurred campaign debt or obligation of a candidate or the
195 debts or obligations of a committee. An expenditure of anything of value shall be deemed to
196 have a money value equivalent to the fair market value. "Expenditure" includes, but is not
197 limited to:

198 (a) Payment by anyone other than a committee for services of another person
199 rendered to such committee;

200 (b) The purchase of tickets, goods, services or political merchandise in connection
201 with any testimonial affair or fund-raising event of or for candidates or committees, or the

202 purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or
203 committee;

204 (c) The transfer of funds by one committee to another committee;

205 (d) The direct or indirect payment by any person, other than a connected organization
206 for a committee, of the costs of establishing, administering or maintaining a committee,
207 including legal, accounting and computer services, fund raising and solicitation of
208 contributions for a committee; but

209 (e) "Expenditure" does not include:

210 a. Any news story, commentary or editorial which is broadcast or published by any
211 broadcasting station, newspaper, magazine or other periodical without charge to the candidate
212 or to any person supporting or opposing a candidate or ballot measure;

213 b. The internal dissemination by any membership organization, proprietorship, labor
214 organization, corporation, association or other entity of information advocating the election or
215 defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to
216 its directors, officers, members, employees or security holders, provided that the cost incurred
217 is reported pursuant to subsection 2 of section 130.051;

218 c. Repayment of a loan, but such repayment shall be indicated in required reports;

219 d. The rendering of voluntary personal services by an individual of the sort
220 commonly performed by volunteer campaign workers and the payment by such individual of
221 the individual's necessary and ordinary personal expenses incidental to such volunteer
222 activity, provided no compensation is, directly or indirectly, asked or given;

223 e. The costs incurred by any connected organization listed pursuant to subdivision (4)
224 of subsection 5 of section 130.021 for establishing, administering or maintaining a committee,
225 or for the solicitation of contributions to a committee which solicitation is solely directed or
226 related to the members, officers, directors, employees or security holders of the connected
227 organization;

228 f. The use of a candidate's own money or property for expense of the candidate's
229 personal food, lodging, travel, and payment of any fee necessary to the filing for public office,
230 if such expense is not reimbursed to the candidate from any source;

231 ~~[(17)]~~ **(18)** "Exploratory committees", a committee which shall be formed by an
232 individual to receive contributions and make expenditures on behalf of this individual in
233 determining whether or not the individual seeks elective office. Such committee shall
234 terminate no later than December thirty-first of the year prior to the general election for the
235 possible office;

236 ~~[(18)]~~ **(19)** "Fund-raising event", an event such as a dinner, luncheon, reception,
237 coffee, testimonial, rally, auction or similar affair through which contributions are solicited or

238 received by such means as the purchase of tickets, payment of attendance fees, donations for
239 prizes or through the purchase of goods, services or political merchandise;

240 ~~[(19)]~~ **(20)** "In-kind contribution" or "in-kind expenditure", a contribution or
241 expenditure in a form other than money;

242 ~~[(20)]~~ **(21)** "Labor organization", any organization of any kind, or any agency or
243 employee representation committee or plan, in which employees participate and which exists
244 for the purpose, in whole or in part, of dealing with employers concerning grievances, labor
245 disputes, wages, rates of pay, hours of employment, or conditions of work;

246 ~~[(21)]~~ **(22)** "Loan", a transfer of money, property or anything of ascertainable
247 monetary value in exchange for an obligation, conditional or not, to repay in whole or in part
248 and which was contracted, used, or intended for use in an election campaign, or which was
249 made or received by a committee or which was contracted, used, or intended to pay
250 previously incurred campaign debts or obligations of a candidate or the debts or obligations of
251 a committee;

252 ~~[(22)]~~ **(23)** "Person", an individual, group of individuals, corporation, partnership,
253 committee, proprietorship, joint venture, any department, agency, board, institution or other
254 entity of the state or any of its political subdivisions, union, labor organization, trade or
255 professional or business association, association, political party or any executive committee
256 thereof, or any other club or organization however constituted or any officer or employee of
257 such entity acting in the person's official capacity;

258 ~~[(23)]~~ **(24)** "Political merchandise", goods such as bumper stickers, pins, hats, ties,
259 jewelry, literature, or other items sold or distributed at a fund-raising event or to the general
260 public for publicity or for the purpose of raising funds to be used in supporting or opposing a
261 candidate for nomination or election or in supporting or opposing the qualification, passage or
262 defeat of a ballot measure;

263 ~~[(24)]~~ **(25)** "Political party", a political party which has the right under law to have the
264 names of its candidates listed on the ballot in a general election;

265 ~~[(25)]~~ **(26)** "Political party committee", a state, district, county, city, or area
266 committee of a political party, as defined in section 115.603, which may be organized as a
267 not-for-profit corporation under Missouri law, and which committee is of continuing
268 existence, and has the primary or incidental purpose of receiving contributions and making
269 expenditures to influence or attempt to influence the action of voters on behalf of the political
270 party;

271 ~~[(26)]~~ **(27)** "Public office" or "office", any state, judicial, county, municipal, school or
272 other district, ward, township, or other political subdivision office or any political party office
273 which is filled by a vote of registered voters;

274 ~~[(27)]~~ **(28)** "Regular session", includes that period beginning on the first Wednesday
275 after the first Monday in January and ending following the first Friday after the second
276 Monday in May;

277 ~~[(28)]~~ **(29)** "Write-in candidate", an individual whose name is not printed on the
278 ballot but who otherwise meets the definition of candidate in subdivision (3) of this section.

130.021. 1. Every committee shall have a treasurer who, except as provided in
2 subsection 10 of this section, shall be a resident of this state and reside in the district or county
3 in which the committee sits. A committee may also have a deputy treasurer who, except as
4 provided in subsection 10 of this section, shall be a resident of this state and reside in the
5 district or county in which the committee sits, to serve in the capacity of committee treasurer
6 in the event the committee treasurer is unable for any reason to perform the treasurer's duties.

7 2. Every candidate for offices listed in subsection 1 of section 130.016 who has not
8 filed a statement of exemption pursuant to that subsection and every candidate for offices
9 listed in subsection 6 of section 130.016 who is not excluded from filing a statement of
10 organization and disclosure reports pursuant to subsection 6 of section 130.016 shall form a
11 candidate committee and appoint a treasurer. Thereafter, all contributions on hand and all
12 further contributions received by such candidate and any of the candidate's own funds to be
13 used in support of the person's candidacy shall be deposited in a candidate committee
14 depository account established pursuant to the provisions of subsection 4 of this section, and
15 all expenditures shall be made through the candidate, treasurer or deputy treasurer of the
16 person's candidate committee. Nothing in this chapter shall prevent a candidate from
17 appointing himself or herself as a committee of one and serving as the person's own treasurer,
18 maintaining the candidate's own records and filing all the reports and statements required to
19 be filed by the treasurer of a candidate committee.

20 3. A candidate who has more than one candidate committee supporting the person's
21 candidacy shall designate one of those candidate committees as the committee responsible for
22 consolidating the aggregate contributions to all such committees under the candidate's control
23 and direction as required by section 130.041.

24 4. (1) Every committee shall have a single official fund depository within this state
25 which shall be a federally or state-chartered bank, a federally or state-chartered savings and
26 loan association, or a federally or state-chartered credit union in which the committee shall
27 open and thereafter maintain at least one official depository account in its own name. An
28 "official depository account" shall be a checking account or some type of negotiable draft or
29 negotiable order of withdrawal account, and the official fund depository shall, regarding an
30 official depository account, be a type of financial institution which provides a record of
31 deposits, cancelled checks or other cancelled instruments of withdrawal evidencing each
32 transaction by maintaining copies within this state of such instruments and other transactions.

33 All contributions which the committee receives in money, checks and other negotiable
34 instruments shall be deposited in a committee's official depository account. Contributions
35 shall not be accepted and expenditures shall not be made by a committee except by or through
36 an official depository account and the committee treasurer, deputy treasurer or candidate;
37 **however, a committee may utilize a credit card or debit card in the name of the**
38 **committee when authorized by the treasurer, deputy treasurer, or candidate, provided**
39 **that all expenditures made by the committee through a credit card are paid through the**
40 **official depository account.** Contributions received by a committee shall not be commingled
41 with any funds of an agent of the committee, a candidate or any other person, except that
42 contributions from a candidate of the candidate's own funds to the person's candidate
43 committee shall be deposited to an official depository account of the person's candidate
44 committee. No expenditure shall be made by a committee when the office of committee
45 treasurer is vacant except that when the office of a candidate committee treasurer is vacant,
46 the candidate shall be the treasurer until the candidate appoints a new treasurer.

47 (2) A committee treasurer, deputy treasurer or candidate may withdraw funds from a
48 committee's official depository account and deposit such funds in one or more savings
49 accounts in the committee's name in any bank, savings and loan association or credit union
50 within this state, and may also withdraw funds from an official depository account for
51 investment in the committee's name in any certificate of deposit, bond or security. Proceeds
52 from interest or dividends from a savings account or other investment or proceeds from
53 withdrawals from a savings account or from the sale of an investment shall not be expended
54 or reinvested, except in the case of renewals of certificates of deposit, without first
55 redepositing such proceeds in an official depository account. Investments, other than savings
56 accounts, held outside the committee's official depository account at any time during a
57 reporting period shall be disclosed by description, amount, any identifying numbers and the
58 name and address of any institution or person in which or through which it is held in an
59 attachment to disclosure reports the committee is required to file. Proceeds from an
60 investment such as interest or dividends or proceeds from its sale, shall be reported by date
61 and amount. In the case of the sale of an investment, the names and addresses of the persons
62 involved in the transaction shall also be stated. Funds held in savings accounts and
63 investments, including interest earned, shall be included in the report of money on hand as
64 required by section 130.041.

65 (3) Notwithstanding any other provision of law to the contrary, funds held in
66 candidate committees, campaign committees, debt service committees, and exploratory
67 committees shall be liquid such that these funds shall be readily available for the specific and
68 limited purposes allowed by law. These funds may be invested only in short-term treasury
69 instruments or short-term bank certificates with durations of one year or less, or that allow the

70 removal of funds at any time without any additional financial penalty other than the loss of
71 interest income. Continuing committees, political party committees, and other committees
72 such as out-of-state committees not formed for the benefit of any single candidate or ballot
73 issue shall not be subject to the provisions of this subdivision. This subdivision shall not be
74 interpreted to restrict the placement of funds in an interest-bearing checking account.

75 5. The treasurer or deputy treasurer acting on behalf of any person or organization or
76 group of persons which is a committee by virtue of the definitions of committee in section
77 130.011 and any candidate who is not excluded from forming a committee in accordance with
78 the provisions of section 130.016 shall file a statement of organization with the appropriate
79 officer within twenty days after the person or organization becomes a committee but no later
80 than the date for filing the first report required pursuant to the provisions of section 130.046.
81 The statement of organization shall contain the following information:

82 (1) The name, mailing address and telephone number, if any, of the committee filing
83 the statement of organization. If the committee is deemed to be affiliated with a connected
84 organization as provided in subdivision (11) of section 130.011, the name of the connected
85 organization, or a legally registered fictitious name which reasonably identifies the connected
86 organization, shall appear in the name of the committee. If the committee is a candidate
87 committee, the name of the candidate shall be a part of the committee's name;

88 (2) The name, mailing address and telephone number of the candidate;

89 (3) The name, mailing address and telephone number of the committee treasurer, and
90 the name, mailing address and telephone number of its deputy treasurer if the committee has
91 named a deputy treasurer;

92 (4) ~~[The names, mailing addresses and titles of its officers, if any;~~

93 ~~(5)]~~ The name and mailing address of any connected organizations with which the
94 committee is affiliated;

95 **(5) The names, mailing addresses, and titles of its officers, if any;**

96 (6) The name and mailing address of its depository, ~~and~~ the name and account
97 number of each account the committee has in the depository, **and the account number and**
98 **issuer of any credit card in the committee's name.** The account number of each account
99 shall be redacted prior to disclosing the statement to the public;

100 (7) Identification of the major nature of the committee such as a candidate committee,
101 campaign committee, continuing committee, political party committee, incumbent committee,
102 or any other committee according to the definition of committee in section 130.011;

103 (8) In the case of the candidate committee designated in subsection 3 of this section,
104 the full name and address of each other candidate committee which is under the control and
105 direction of the same candidate, together with the name, address and telephone number of the
106 treasurer of each such other committee;

107 (9) The name and office sought of each candidate supported or opposed by the
108 committee;

109 (10) The ballot measure concerned, if any, and whether the committee is in favor of or
110 opposed to such measure.

111 6. A committee may omit the information required in subdivisions (9) and (10) of
112 subsection 5 of this section if, on the date on which it is required to file a statement of
113 organization, the committee has not yet determined the particular candidates or particular
114 ballot measures it will support or oppose.

115 7. A committee which has filed a statement of organization and has not terminated
116 shall not be required to file another statement of organization, except that when there is a
117 change in any of the information previously reported as required by subdivisions (1) to (8) of
118 subsection 5 of this section an amended statement of organization shall be filed within twenty
119 days after the change occurs, but no later than the date of the filing of the next report required
120 to be filed by that committee by section 130.046.

121 8. Upon termination of a committee, a termination statement indicating dissolution
122 shall be filed not later than ten days after the date of dissolution with the appropriate officer or
123 officers with whom the committee's statement of organization was filed. The termination
124 statement shall include: the distribution made of any remaining surplus funds and the
125 disposition of any deficits; and the name, mailing address and telephone number of the
126 individual responsible for preserving the committee's records and accounts as required in
127 section 130.036.

128 9. Any statement required by this section shall be signed and attested by the
129 committee treasurer or deputy treasurer, and by the candidate in the case of a candidate
130 committee.

131 10. A committee domiciled outside this state shall be required to file a statement of
132 organization and appoint a treasurer residing in this state and open an account in a depository
133 within this state; provided that either of the following conditions prevails:

134 (1) The aggregate of all contributions received from persons domiciled in this state
135 exceeds twenty percent in total dollar amount of all funds received by the committee in the
136 preceding twelve months; or

137 (2) The aggregate of all contributions and expenditures made to support or oppose
138 candidates and ballot measures in this state exceeds one thousand five hundred dollars in the
139 current calendar year.

140 11. If a committee domiciled in this state receives a contribution of one thousand five
141 hundred dollars or more from any committee domiciled outside of this state, the committee
142 domiciled in this state shall file a disclosure report with the commission. The report shall
143 disclose the full name, mailing address, telephone numbers and domicile of the contributing

144 committee and the date and amount of the contribution. The report shall be filed within forty-
145 eight hours of the receipt of such contribution if the contribution is received after the last
146 reporting date before the election.

147 12. Each legislative and senatorial district committee shall retain only one address in
148 the district it sits for the purpose of receiving contributions.

130.031. 1. No contribution of cash in an amount of more than one hundred dollars
2 shall be made by or accepted from any single contributor for any election by a continuing
3 committee, a campaign committee, a political party committee, an exploratory committee or a
4 candidate committee.

5 2. ~~[Except for expenditures from a petty cash fund which is established and~~
6 ~~maintained by withdrawals of funds from the committee's depository account and with~~
7 ~~records maintained pursuant to the record-keeping requirements of section 130.036 to account~~
8 ~~for expenditures made from petty cash,]~~ Each expenditure of more than fifty dollars, except
9 an in-kind expenditure, shall be made by check **signed by the committee treasurer, deputy**
10 **treasurer, or candidate or by other electronic means authorized by the treasurer, deputy**
11 **treasurer, or candidate** and drawn on the committee's depository ~~[and signed by the~~
12 ~~committee treasurer, deputy treasurer or candidate]~~ **or credit card in the name of the**
13 **committee and authorized by the treasurer, deputy treasurer, or candidate.** A single
14 expenditure ~~[from a petty]~~ **of cash [fund]** shall not exceed fifty dollars, and the aggregate of
15 all expenditures ~~[from a petty]~~ **of cash [fund]** during a calendar year shall not exceed the
16 lesser of five thousand dollars or ten percent of all expenditures made by the committee
17 during that calendar year. ~~[A check made payable to "cash" shall not be made except to~~
18 ~~replenish a petty cash fund.]~~

19 3. No contribution shall be made or accepted and no expenditure shall be made or
20 incurred, directly or indirectly, in a fictitious name, in the name of another person, or by or
21 through another person in such a manner as to conceal the identity of the actual source of the
22 contribution or the actual recipient and purpose of the expenditure. Any person who receives
23 contributions for a committee shall disclose to that committee's treasurer, deputy treasurer or
24 candidate the recipient's own name and address and the name and address of the actual source
25 of each contribution such person has received for that committee. Any person who makes
26 expenditures for a committee shall disclose to that committee's treasurer, deputy treasurer or
27 candidate such person's own name and address, the name and address of each person to whom
28 an expenditure has been made and the amount and purpose of the expenditures the person has
29 made for that committee.

30 4. No anonymous contribution of more than twenty-five dollars shall be made by any
31 person, and no anonymous contribution of more than twenty-five dollars shall be accepted by
32 any candidate or committee. If any anonymous contribution of more than twenty-five dollars

33 is received, it shall be returned immediately to the contributor, if the contributor's identity can
34 be ascertained, and if the contributor's identity cannot be ascertained, the candidate,
35 committee treasurer or deputy treasurer shall immediately transmit that portion of the
36 contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the
37 state.

38 5. The maximum aggregate amount of anonymous contributions which shall be
39 accepted in any calendar year by any committee shall be the greater of five hundred dollars or
40 one percent of the aggregate amount of all contributions received by that committee in the
41 same calendar year. If any anonymous contribution is received which causes the aggregate
42 total of anonymous contributions to exceed the foregoing limitation, it shall be returned
43 immediately to the contributor, if the contributor's identity can be ascertained, and, if the
44 contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or
45 candidate shall immediately transmit the anonymous contribution to the state treasurer to
46 escheat to the state.

47 6. Notwithstanding the provisions of subsection 5 of this section, contributions from
48 individuals whose names and addresses cannot be ascertained which are received from a
49 fund-raising activity or event, such as defined in section 130.011, shall not be deemed
50 anonymous contributions, provided the following conditions are met:

51 (1) There are twenty-five or more contributing participants in the activity or event;

52 (2) The candidate, committee treasurer, deputy treasurer or the person responsible for
53 conducting the activity or event makes an announcement that it is illegal for anyone to make
54 or receive a contribution in excess of one hundred dollars unless the contribution is
55 accompanied by the name and address of the contributor;

56 (3) The person responsible for conducting the activity or event does not knowingly
57 accept payment from any single person of more than one hundred dollars unless the name and
58 address of the person making such payment is obtained and recorded pursuant to the record-
59 keeping requirements of section 130.036;

60 (4) A statement describing the event shall be prepared by the candidate or the
61 treasurer of the committee for whom the funds were raised or by the person responsible for
62 conducting the activity or event and attached to the disclosure report of contributions and
63 expenditures required by section 130.041. The following information to be listed in the
64 statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to
65 the recording and reporting of contributions and expenditures:

66 (a) The name and mailing address of the person or persons responsible for conducting
67 the event or activity and the name and address of the candidate or committee for whom the
68 funds were raised;

69 (b) The date on which the event occurred;

70 (c) The name and address of the location where the event occurred and the
71 approximate number of participants in the event;

72 (d) A brief description of the type of event and the fund-raising methods used;

73 (e) The gross receipts from the event and a listing of the expenditures incident to the
74 event;

75 (f) The total dollar amount of contributions received from the event from participants
76 whose names and addresses were not obtained with such contributions and an explanation of
77 why it was not possible to obtain the names and addresses of such participants;

78 (g) The total dollar amount of contributions received from contributing participants in
79 the event who are identified by name and address in the records required to be maintained
80 pursuant to section 130.036.

81 7. No candidate or committee in this state shall accept contributions from any out-of-
82 state committee unless the out-of-state committee from whom the contributions are received
83 has filed a statement of organization pursuant to section 130.021 or has filed the reports
84 required by sections 130.049 and 130.050, whichever is applicable to that committee.

85 8. Any person publishing, circulating, or distributing any printed matter relative to
86 any candidate for public office or any ballot measure shall on the face of the printed matter
87 identify in a clear and conspicuous manner the person who paid for the printed matter with the
88 words "Paid for by" followed by the proper identification of the sponsor pursuant to this
89 section. For the purposes of this section, "printed matter" shall be defined to include any
90 pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any
91 newspaper or other periodical, sign, including signs for display on motor vehicles, or other
92 imprinted or lettered material; but "printed matter" is defined to exclude materials printed and
93 purchased prior to May 20, 1982, if the candidate or committee can document that delivery
94 took place prior to May 20, 1982; any sign personally printed and constructed by an
95 individual without compensation from any other person and displayed at that individual's
96 place of residence or on that individual's personal motor vehicle; any items of personal use
97 given away or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign
98 jewelry, or clothing, which is paid for by a candidate or committee which supports a candidate
99 or supports or opposes a ballot measure and which is obvious in its identification with a
100 specific candidate or committee and is reported as required by this chapter; and any news
101 story, commentary, or editorial printed by a regularly published newspaper or other periodical
102 without charge to a candidate, committee or any other person.

103 (1) In regard to any printed matter paid for by a candidate from the candidate's
104 personal funds, it shall be sufficient identification to print the first and last name by which the
105 candidate is known.

106 (2) In regard to any printed matter paid for by a committee, it shall be sufficient
107 identification to print the name of the committee as required to be registered by subsection 5
108 of section 130.021 and the name and title of the committee treasurer who was serving when
109 the printed matter was paid for.

110 (3) In regard to any printed matter paid for by a corporation or other business entity,
111 labor organization, or any other organization not defined to be a committee by subdivision (7)
112 of section 130.011 and not organized especially for influencing one or more elections, it shall
113 be sufficient identification to print the name of the entity, the name of the principal officer of
114 the entity, by whatever title known, and the mailing address of the entity, or if the entity has
115 no mailing address, the mailing address of the principal officer.

116 (4) In regard to any printed matter paid for by an individual or individuals, it shall be
117 sufficient identification to print the name of the individual or individuals and the respective
118 mailing address or addresses, except that if more than five individuals join in paying for
119 printed matter it shall be sufficient identification to print the words "For a list of other
120 sponsors contact:" followed by the name and address of one such individual responsible for
121 causing the matter to be printed, and the individual identified shall maintain a record of the
122 names and amounts paid by other individuals and shall make such record available for review
123 upon the request of any person. No person shall accept for publication or printing nor shall
124 such work be completed until the printed matter is properly identified as required by this
125 subsection.

126 9. Any broadcast station transmitting any matter relative to any candidate for public
127 office or ballot measure as defined by this chapter shall identify the sponsor of such matter as
128 required by federal law.

129 10. The provisions of subsection 8 or 9 of this section shall not apply to candidates for
130 elective federal office, provided that persons causing matter to be printed or broadcast
131 concerning such candidacies shall comply with the requirements of federal law for
132 identification of the sponsor or sponsors.

133 11. It shall be a violation of this chapter for any person required to be identified as
134 paying for printed matter pursuant to subsection 8 of this section or paying for broadcast
135 matter pursuant to subsection 9 of this section to refuse to provide the information required or
136 to purposely provide false, misleading, or incomplete information.

137 12. It shall be a violation of this chapter for any committee to offer chances to win
138 prizes or money to persons to encourage such persons to endorse, send election material by
139 mail, deliver election material in person or contact persons at their homes; except that, the
140 provisions of this subsection shall not be construed to prohibit hiring and paying a campaign
141 staff.

130.036. 1. The candidate, treasurer or deputy treasurer of a committee shall
2 maintain accurate records and accounts on a current basis. The records and accounts shall be
3 maintained in accordance with accepted normal bookkeeping procedures and shall contain the
4 bills, receipts, deposit records, cancelled checks, **credit card statements, and records** and
5 other detailed information necessary to prepare and substantiate any statement or report
6 required to be filed pursuant to this chapter. Every person who acts as an agent for a
7 committee in receiving contributions, making expenditures or incurring indebtedness for the
8 committee shall, on request of that committee's treasurer, deputy treasurer or candidate, but in
9 any event within five days after any such action, render to the candidate, committee treasurer
10 or deputy treasurer a detailed account thereof, including names, addresses, dates, exact
11 amounts and any other details required by the candidate, treasurer or deputy treasurer to
12 comply with this chapter. Notwithstanding the provisions of subsection 4 of section 130.021
13 prohibiting commingling of funds, an individual, trade or professional association, business
14 entity, or labor organization which acts as an agent for a committee in receiving contributions
15 may deposit contributions received on behalf of the committee to the agent's account within a
16 financial institution within this state, for purposes of facilitating transmittal of the
17 contributions to the candidate, committee treasurer or deputy treasurer. Such contributions
18 shall not be held in the agent's account for more than five days after the date the contribution
19 was received by the agent, and shall not be transferred to the account of any other agent or
20 person, other than the committee treasurer.

21 2. Unless a contribution is rejected by the candidate or committee and returned to the
22 donor or transmitted to the state treasurer within ten business days after its receipt, it shall be
23 considered received and accepted on the date received, notwithstanding the fact that it was
24 not deposited by the closing date of a reporting period.

25 3. Notwithstanding the provisions of section 130.041 that only contributors of more
26 than one hundred dollars shall be reported by name and address for all committees, the
27 committee's records shall contain a listing of each contribution received by the committee,
28 including those accepted and those which are rejected and either returned to the donor or
29 transmitted to the state treasurer. Each contribution, regardless of the amount, shall be
30 recorded by date received, name and address of the contributor and the amount of the
31 contribution, except that any contributions from unidentifiable persons which are received
32 through fund-raising activities and events as permitted in subsection 6 of section 130.031
33 shall be recorded to show the dates and amounts of all such contributions received together
34 with information contained in statements required by subsection 6 of section 130.031. The
35 procedure for recording contributions shall be of a type which enables the candidate,
36 committee treasurer or deputy treasurer to maintain a continuing total of all contributions
37 received from any one contributor.

38 4. ~~[Notwithstanding the provisions of section 130.041 that certain expenditures need~~
39 ~~not be identified in reports by name and address of the payee,]~~ The committee's records shall
40 include a listing of each expenditure made and each contract, promise or agreement to make
41 an expenditure, showing the date and amount of each transaction, the name and address of the
42 person to whom the expenditure was made or promised, and the purpose of each expenditure
43 made or promised.

44 5. In the case of a committee which makes expenditures for both the support or
45 opposition of any candidate and the passage or defeat of a ballot measure, the committee
46 treasurer shall maintain records segregated according to each candidate or measure for which
47 the expenditures were made.

48 6. Records shall indicate which transactions, either contributions received or
49 expenditures made, were cash transactions or in-kind transactions.

50 7. Any candidate who, pursuant to section 130.016, is exempt from the requirements
51 to form a committee shall maintain records of each contribution received or expenditure made
52 in support of his candidacy. Any other person or combination of persons who, although not
53 deemed to be a committee according to the definition of the term "committee" in section
54 130.011, accepts contributions or makes expenditures, other than direct contributions from the
55 person's own funds, for the purpose of supporting or opposing the election or defeat of any
56 candidate or for the purpose of supporting or opposing the qualifications, passage or defeat of
57 any ballot measure shall maintain records of each contribution received or expenditure made.
58 The records shall include name, address and amount pertaining to each contribution received
59 or expenditure made and any bills, receipts, cancelled checks or other documents relating to
60 each transaction.

61 8. All records and accounts of receipts and expenditures shall be preserved for at least
62 three years after the date of the election to which the records pertain. Records and accounts
63 regarding supplemental disclosure reports or reports not required pursuant to an election shall
64 be preserved for at least three years after the date of the report to which the records pertain.
65 Such records shall be available for inspection by the ~~[campaign finance review board]~~
66 **Missouri ethics commission** and its duly authorized representatives.

130.041. 1. Except as provided in subsection 5 of section 130.016, the candidate, if
2 applicable, treasurer or deputy treasurer of every committee which is required to file a
3 statement of organization, shall file a legibly printed or typed disclosure report of receipts and
4 expenditures. The reports shall be filed with the appropriate officer designated in section
5 130.026 at the times and for the periods prescribed in section 130.046. Except as provided in
6 sections 130.049 and 130.050, each report shall set forth:

7 (1) The full name, as required in the statement of organization pursuant to subsection
8 5 of section 130.021, and mailing address of the committee filing the report and the full name,

9 mailing address and telephone number of the committee's treasurer and deputy treasurer if the
10 committee has named a deputy treasurer;

11 (2) The amount of money, including cash on hand at the beginning of the reporting
12 period;

13 (3) Receipts for the period, including:

14 (a) Total amount of all monetary contributions received which can be identified in the
15 committee's records by name and address of each contributor. In addition, the candidate
16 committee shall make a reasonable effort to obtain and report the employer, or occupation if
17 self-employed or notation of retirement, of each person from whom the committee received
18 one or more contributions which in the aggregate total in excess of one hundred dollars and
19 shall make a reasonable effort to obtain and report a description of any contractual
20 relationship over five hundred dollars between the contributor and the state if the candidate is
21 seeking election to a state office or between the contributor and any political subdivision of
22 the state if the candidate is seeking election to another political subdivision of the state;

23 (b) Total amount of all anonymous contributions accepted;

24 (c) Total amount of all monetary contributions received through fund-raising events
25 or activities from participants whose names and addresses were not obtained with such
26 contributions, with an attached statement or copy of the statement describing each fund-
27 raising event as required in subsection 6 of section 130.031;

28 (d) Total dollar value of all in-kind contributions received;

29 (e) A separate listing by name and address and employer, or occupation if self-
30 employed or notation of retirement, of each person from whom the committee received
31 contributions, in money or any other thing of value, aggregating more than one hundred
32 dollars, together with the date and amount of each such contribution;

33 (f) A listing of each loan received by name and address of the lender and date and
34 amount of the loan. For each loan of more than one hundred dollars, a separate statement
35 shall be attached setting forth the name and address of the lender and each person liable
36 directly, indirectly or contingently, and the date, amount and terms of the loan;

37 (4) Expenditures for the period, including:

38 (a) The total dollar amount of expenditures made by check drawn on the committee's
39 depository;

40 (b) The total dollar amount of expenditures made in cash;

41 (c) The total dollar value of all in-kind expenditures made;

42 (d) **The total dollar amount of expenditures made via electronic means;**

43 (e) The full name and mailing address of each person to whom an expenditure of
44 money or any other thing of value in the amount of more than one hundred dollars has been
45 made, contracted for or incurred, together with the date, amount and purpose of each

46 expenditure. Expenditures of one hundred dollars or less may be grouped and listed by
47 categories of expenditure showing the total dollar amount of expenditures in each category,
48 except that the report shall contain an itemized listing of each payment made to campaign
49 workers by name, address, date, amount and purpose of each payment and the aggregate
50 amount paid to each such worker;

51 ~~[(e)]~~ (f) A list of each loan made, by name and mailing address of the person
52 receiving the loan, together with the amount, terms and date;

53 (5) The total amount of cash on hand as of the closing date of the reporting period
54 covered, including amounts in depository accounts and in petty cash fund;

55 (6) The total amount of outstanding indebtedness as of the closing date of the
56 reporting period covered;

57 (7) The amount of expenditures for or against a candidate or ballot measure during
58 the period covered and the cumulative amount of expenditures for or against that candidate or
59 ballot measure, with each candidate being listed by name, mailing address and office sought.
60 For the purpose of disclosure reports, expenditures made in support of more than one
61 candidate or ballot measure or both shall be apportioned reasonably among the candidates or
62 ballot measure or both. In apportioning expenditures to each candidate or ballot measure,
63 political party committees and continuing committees need not include expenditures for
64 maintaining a permanent office, such as expenditures for salaries of regular staff, office
65 facilities and equipment or other expenditures not designed to support or oppose any
66 particular candidates or ballot measures; however, all such expenditures shall be listed
67 pursuant to subdivision (4) of this subsection;

68 (8) A separate listing by full name and address of any committee including a
69 candidate committee controlled by the same candidate for which a transfer of funds or a
70 contribution in any amount has been made during the reporting period, together with the date
71 and amount of each such transfer or contribution;

72 (9) A separate listing by full name and address of any committee, including a
73 candidate committee controlled by the same candidate from which a transfer of funds or a
74 contribution in any amount has been received during the reporting period, together with the
75 date and amount of each such transfer or contribution;

76 (10) Each committee that receives a contribution which is restricted or designated in
77 whole or in part by the contributor for transfer to a particular candidate, committee or other
78 person shall include a statement of the name and address of that contributor in the next
79 disclosure report required to be filed after receipt of such contribution, together with the date
80 and amount of any such contribution which was so restricted or designated by that
81 contributor, together with the name of the particular candidate or committee to whom such

82 contribution was so designated or restricted by that contributor and the date and amount of
83 such contribution.

84 2. For the purpose of this section and any other section in this chapter except sections
85 130.049 and 130.050 which requires a listing of each contributor who has contributed a
86 specified amount, the aggregate amount shall be computed by adding all contributions
87 received from any one person during the following periods:

88 (1) In the case of a candidate committee, the period shall begin on the date on which
89 the candidate became a candidate according to the definition of the term "candidate" in
90 section 130.011 and end at 11:59 p.m. on the day of the primary election, if the candidate has
91 such an election or at 11:59 p.m. on the day of the general election. If the candidate has a
92 general election held after a primary election, the next aggregating period shall begin at 12:00
93 midnight on the day after the primary election day and shall close at 11:59 p.m. on the day of
94 the general election. Except that for contributions received during the thirty-day period
95 immediately following a primary election, the candidate shall designate whether such
96 contribution is received as a primary election contribution or a general election contribution;

97 (2) In the case of a campaign committee, the period shall begin on the date the
98 committee received its first contribution and end on the closing date for the period for which
99 the report or statement is required;

100 (3) In the case of a political party committee or a continuing committee, the period
101 shall begin on the first day of January of the year in which the report or statement is being
102 filed and end on the closing date for the period for which the report or statement is required;
103 except, if the report or statement is required to be filed prior to the first day of July in any
104 given year, the period shall begin on the first day of July of the preceding year.

105 3. The disclosure report shall be signed and attested by the committee treasurer or
106 deputy treasurer and by the candidate in case of a candidate committee.

107 4. The words "consulting or consulting services, fees, or expenses", or similar words,
108 shall not be used to describe the purpose of a payment as required in this section. The
109 reporting of any payment to such an independent contractor shall be on a form supplied by the
110 appropriate officer, established by the ethics commission and shall include identification of
111 the specific service or services provided including, but not limited to, public opinion polling,
112 research on issues or opposition background, print or broadcast media production, print or
113 broadcast media purchase, computer programming or data entry, direct mail production,
114 postage, rent, utilities, phone solicitation, or fund raising, and the dollar amount prorated for
115 each service.

143.121. 1. The Missouri adjusted gross income of a resident individual shall be the
2 taxpayer's federal adjusted gross income subject to the modifications in this section.

3 2. There shall be added to the taxpayer's federal adjusted gross income:

4 (1) The amount of any federal income tax refund received for a prior year which
5 resulted in a Missouri income tax benefit. The amount added pursuant to this subdivision
6 shall not include any amount of a federal income tax refund attributable to a tax credit
7 reducing a taxpayer's federal tax liability pursuant to Public Law 116-136 or 116-260, enacted
8 by the 116th United States Congress, for the tax year beginning on or after January 1, 2020,
9 and ending on or before December 31, 2020, and deducted from Missouri adjusted gross
10 income pursuant to section 143.171. The amount added under this subdivision shall also not
11 include any amount of a federal income tax refund attributable to a tax credit reducing a
12 taxpayer's federal tax liability under any other federal law that provides direct economic
13 impact payments to taxpayers to mitigate financial challenges related to the COVID-19
14 pandemic, and deducted from Missouri adjusted gross income under section 143.171;

15 (2) Interest on certain governmental obligations excluded from federal gross income
16 by 26 U.S.C. Section 103 of the Internal Revenue Code, as amended. The previous sentence
17 shall not apply to interest on obligations of the state of Missouri or any of its political
18 subdivisions or authorities and shall not apply to the interest described in subdivision (1) of
19 subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced
20 by the amounts applicable to such interest that would have been deductible in computing the
21 taxable income of the taxpayer except only for the application of 26 U.S.C. Section 265 of the
22 Internal Revenue Code, as amended. The reduction shall only be made if it is at least five
23 hundred dollars;

24 (3) The amount of any deduction that is included in the computation of federal
25 taxable income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended
26 by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted
27 relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the
28 extent the amount deducted exceeds the amount that would have been deductible pursuant to
29 26 U.S.C. Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002;

30 (4) The amount of any deduction that is included in the computation of federal
31 taxable income for net operating loss allowed by 26 U.S.C. Section 172 of the Internal
32 Revenue Code of 1986, as amended, other than the deduction allowed by 26 U.S.C. Section
33 172(b)(1)(G) and 26 U.S.C. Section 172(i) of the Internal Revenue Code of 1986, as
34 amended, for a net operating loss the taxpayer claims in the tax year in which the net
35 operating loss occurred or carries forward for a period of more than twenty years and carries
36 backward for more than two years. Any amount of net operating loss taken against federal
37 taxable income but disallowed for Missouri income tax purposes pursuant to this subdivision
38 after June 18, 2002, may be carried forward and taken against any income on the Missouri
39 income tax return for a period of not more than twenty years from the year of the initial loss;
40 and

41 (5) For nonresident individuals in all taxable years ending on or after December 31,
42 2006, the amount of any property taxes paid to another state or a political subdivision of
43 another state for which a deduction was allowed on such nonresident's federal return in the
44 taxable year unless such state, political subdivision of a state, or the District of Columbia
45 allows a subtraction from income for property taxes paid to this state for purposes of
46 calculating income for the income tax for such state, political subdivision of a state, or the
47 District of Columbia;

48 (6) For all tax years beginning on or after January 1, 2018, any interest expense paid
49 or accrued in a previous taxable year, but allowed as a deduction under 26 U.S.C. Section
50 163, as amended, in the current taxable year by reason of the carryforward of disallowed
51 business interest provisions of 26 U.S.C. Section 163(j), as amended. For the purposes of this
52 subdivision, an interest expense is considered paid or accrued only in the first taxable year the
53 deduction would have been allowable under 26 U.S.C. Section 163, as amended, if the
54 limitation under 26 U.S.C. Section 163(j), as amended, did not exist.

55 3. There shall be subtracted from the taxpayer's federal adjusted gross income the
56 following amounts to the extent included in federal adjusted gross income:

57 (1) Interest received on deposits held at a federal reserve bank or interest or dividends
58 on obligations of the United States and its territories and possessions or of any authority,
59 commission or instrumentality of the United States to the extent exempt from Missouri
60 income taxes pursuant to the laws of the United States. The amount subtracted pursuant to
61 this subdivision shall be reduced by any interest on indebtedness incurred to carry the
62 described obligations or securities and by any expenses incurred in the production of interest
63 or dividend income described in this subdivision. The reduction in the previous sentence
64 shall only apply to the extent that such expenses including amortizable bond premiums are
65 deducted in determining the taxpayer's federal adjusted gross income or included in the
66 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses
67 total at least five hundred dollars;

68 (2) The portion of any gain, from the sale or other disposition of property having a
69 higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal
70 income tax purposes on December 31, 1972, that does not exceed such difference in basis. If
71 a gain is considered a long-term capital gain for federal income tax purposes, the modification
72 shall be limited to one-half of such portion of the gain;

73 (3) The amount necessary to prevent the taxation pursuant to this chapter of any
74 annuity or other amount of income or gain which was properly included in income or gain and
75 was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the
76 taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive

77 the income or gain, or to a trust or estate from which the taxpayer received the income or
78 gain;

79 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the
80 extent that the same are included in federal adjusted gross income;

81 (5) The amount of any state income tax refund for a prior year which was included in
82 the federal adjusted gross income;

83 (6) The portion of capital gain specified in section 135.357 that would otherwise be
84 included in federal adjusted gross income;

85 (7) The amount that would have been deducted in the computation of federal taxable
86 income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as in effect on
87 January 1, 2002, to the extent that amount relates to property purchased on or after July 1,
88 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually
89 deducted pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended by the
90 Job Creation and Worker Assistance Act of 2002;

91 (8) For all tax years beginning on or after January 1, 2005, the amount of any income
92 received for military service while the taxpayer serves in a combat zone which is included in
93 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,
94 "combat zone" means any area which the President of the United States by Executive Order
95 designates as an area in which Armed Forces of the United States are or have engaged in
96 combat. Service is performed in a combat zone only if performed on or after the date
97 designated by the President by Executive Order as the date of the commencing of combat
98 activities in such zone, and on or before the date designated by the President by Executive
99 Order as the date of the termination of combatant activities in such zone;

100 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property
101 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an
102 additional modification was made under subdivision (3) of subsection 2 of this section, the
103 amount by which additional modification made under subdivision (3) of subsection 2 of this
104 section on qualified property has not been recovered through the additional subtractions
105 provided in subdivision (7) of this subsection;

106 (10) For all tax years beginning on or after January 1, 2014, the amount of any
107 income received as payment from any program which provides compensation to agricultural
108 producers who have suffered a loss as the result of a disaster or emergency, including the:

109 (a) Livestock Forage Disaster Program;

110 (b) Livestock Indemnity Program;

111 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;

112 (d) Emergency Conservation Program;

113 (e) Noninsured Crop Disaster Assistance Program;

- 114 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
115 (g) Annual Forage Pilot Program;
116 (h) Livestock Risk Protection Insurance Plan;
117 (i) Livestock Gross Margin Insurance Plan;
118 (11) For all tax years beginning on or after January 1, 2018, any interest expense paid
119 or accrued in the current taxable year, but not deducted as a result of the limitation imposed
120 under 26 U.S.C. Section 163(j), as amended. For the purposes of this subdivision, an interest
121 expense is considered paid or accrued only in the first taxable year the deduction would have
122 been allowable under 26 U.S.C. Section 163, as amended, if the limitation under 26 U.S.C.
123 Section 163(j), as amended, did not exist;
124 (12) One hundred percent of any retirement benefits received by any taxpayer as a
125 result of the taxpayer's service in the Armed Forces of the United States, including reserve
126 components and the National Guard of this state, as defined in 32 U.S.C. Sections 101(3) and
127 109, and any other military force organized under the laws of this state; and
128 (13) One hundred percent of any federal grant moneys received for the purpose of
129 providing or expanding access to broadband internet to areas of the state deemed to be lacking
130 such access.
131 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross
132 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.
133 5. There shall be added to or subtracted from the taxpayer's federal adjusted gross
134 income the modifications provided in section 143.411.
135 6. In addition to the modifications to a taxpayer's federal adjusted gross income in this
136 section, to calculate Missouri adjusted gross income there shall be subtracted from the
137 taxpayer's federal adjusted gross income any gain recognized pursuant to 26 U.S.C. Section
138 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or
139 involuntary conversion of property as a result of condemnation or the imminence thereof.
140 7. (1) As used in this subsection, "qualified health insurance premium" means the
141 amount paid during the tax year by such taxpayer for any insurance policy primarily
142 providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's
143 dependents.
144 (2) In addition to the subtractions in subsection 3 of this section, one hundred percent
145 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's
146 federal adjusted gross income to the extent the amount paid for such premiums is included in
147 federal taxable income. The taxpayer shall provide the department of revenue with proof of
148 the amount of qualified health insurance premiums paid.
149 8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this
150 section, one hundred percent of the cost incurred by a taxpayer for a home energy audit

151 conducted by an entity certified by the department of natural resources under section 640.153
152 or the implementation of any energy efficiency recommendations made in such an audit shall
153 be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid
154 for any such activity is included in federal taxable income. The taxpayer shall provide the
155 department of revenue with a summary of any recommendations made in a qualified home
156 energy audit, the name and certification number of the qualified home energy auditor who
157 conducted the audit, and proof of the amount paid for any activities under this subsection for
158 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any
159 recommendations made in a qualified home energy audit to the department of natural
160 resources.

161 (2) At no time shall a deduction claimed under this subsection by an individual
162 taxpayer or taxpayers filing combined returns exceed one thousand dollars per year for
163 individual taxpayers or cumulatively exceed two thousand dollars per year for taxpayers
164 filing combined returns.

165 (3) Any deduction claimed under this subsection shall be claimed for the tax year in
166 which the qualified home energy audit was conducted or in which the implementation of the
167 energy efficiency recommendations occurred. If implementation of the energy efficiency
168 recommendations occurred during more than one year, the deduction may be claimed in more
169 than one year, subject to the limitations provided under subdivision (2) of this subsection.

170 (4) A deduction shall not be claimed for any otherwise eligible activity under this
171 subsection if such activity qualified for and received any rebate or other incentive through a
172 state-sponsored energy program or through an electric corporation, gas corporation, electric
173 cooperative, or municipally owned utility.

174 9. The provisions of subsection 8 of this section shall expire on December 31, 2020.

175 10. (1) As used in this subsection, the following terms mean:

176 (a) "Beginning farmer", a taxpayer who:

177 a. Has filed at least one but not more than ten Internal Revenue Service Schedule F
178 (Form 1040) Profit or Loss From Farming forms since turning eighteen years of age;

179 b. Is approved for a beginning farmer loan through the USDA Farm Service Agency
180 Beginning Farmer direct or guaranteed loan program;

181 c. Has a farming operation that is determined by the department of agriculture to be
182 new production agriculture but is the principal operator of a farm and has substantial farming
183 knowledge; or

184 d. Has been determined by the department of agriculture to be a qualified family
185 member;

186 (b) "Farm owner", an individual who owns farmland and disposes of or relinquishes
187 use of all or some portion of such farmland as follows:

- 188 a. A sale to a beginning farmer;
- 189 b. A lease or rental agreement not exceeding ten years with a beginning farmer; or
- 190 c. A crop-share arrangement not exceeding ten years with a beginning farmer;
- 191 (c) "Qualified family member", an individual who is related to a farm owner within
- 192 the fourth degree by blood, marriage, or adoption and who is purchasing or leasing or is in a
- 193 crop-share arrangement for land from all or a portion of such farm owner's farming operation.
- 194 (2) (a) In addition to all other subtractions authorized in this section, a taxpayer who
- 195 is a farm owner who sells all or a portion of such farmland to a beginning farmer may subtract
- 196 from such taxpayer's Missouri adjusted gross income an amount to the extent included in
- 197 federal adjusted gross income as provided in this subdivision.
- 198 (b) Subject to the limitations in paragraph (c) of this subdivision, the amount that may
- 199 be subtracted shall be equal to the portion of capital gains received from the sale of such
- 200 farmland that such taxpayer receives in the tax year for which such taxpayer subtracts such
- 201 capital gain.
- 202 (c) A taxpayer may subtract the following amounts and percentages per tax year in
- 203 total capital gains received from the sale of such farmland under this subdivision:
- 204 a. For the first two million dollars received, one hundred percent;
- 205 b. For the next one million dollars received, eighty percent;
- 206 c. For the next one million dollars received, sixty percent;
- 207 d. For the next one million dollars received, forty percent; and
- 208 e. For the next one million dollars received, twenty percent.
- 209 (d) The department of revenue shall prepare an annual report reviewing the costs and
- 210 benefits and containing statistical information regarding the subtraction of capital gains
- 211 authorized under this subdivision for the previous tax year including, but not limited to, the
- 212 total amount of all capital gains subtracted and the number of taxpayers subtracting such
- 213 capital gains. Such report shall be submitted before February first of each year to the
- 214 committee on agriculture policy of the Missouri house of representatives and the committee
- 215 on agriculture, food production and outdoor resources of the Missouri senate, or the successor
- 216 committees.
- 217 (3) (a) In addition to all other subtractions authorized in this section, a taxpayer who
- 218 is a farm owner who enters a lease or rental agreement for all or a portion of such farmland
- 219 with a beginning farmer may subtract from such taxpayer's Missouri adjusted gross income an
- 220 amount to the extent included in federal adjusted gross income as provided in this
- 221 subdivision.
- 222 (b) Subject to the limitation in paragraph (c) of this subdivision, the amount that may
- 223 be subtracted shall be equal to the portion of cash rent income received from the lease or

224 rental of such farmland that such taxpayer receives in the tax year for which such taxpayer
225 subtracts such income.

226 (c) No taxpayer shall subtract more than twenty-five thousand dollars per tax year in
227 total cash rent income received from the lease or rental of such farmland under this
228 subdivision.

229 (4) (a) In addition to all other subtractions authorized in this section, a taxpayer who
230 is a farm owner who enters a crop-share arrangement on all or a portion of such farmland with
231 a beginning farmer may subtract from such taxpayer's Missouri adjusted gross income an
232 amount to the extent included in federal adjusted gross income as provided in this
233 subdivision.

234 (b) Subject to the limitation in paragraph (c) of this subdivision, the amount that may
235 be subtracted shall be equal to the portion of income received from the crop-share
236 arrangement on such farmland that such taxpayer receives in the tax year for which such
237 taxpayer subtracts such income.

238 (c) No taxpayer shall subtract more than twenty-five thousand dollars per tax year in
239 total income received from the lease or rental of such farmland under this subdivision.

240 (5) The department of agriculture shall, by rule, establish a process to verify that a
241 taxpayer is a beginning farmer for purposes of this section and shall provide verification to
242 the beginning farmer and farm seller of such farmer's and seller's certification and
243 qualification for the exemption provided in this subsection.

244 **11. (1) For all tax years beginning on or after January 1, 2025, in addition to the**
245 **subtractions authorized under this section, one hundred percent of the amount of any**
246 **gain in interest derived from municipal bonds or any other debt derived from sources in**
247 **another state of the United States, or a political subdivision thereof, or the District of**
248 **Columbia shall be subtracted from the taxpayer's federal adjusted gross income.**

249 **(2) The amount subtracted under this subsection shall apply only if, at the time**
250 **such derived interest was earned on such municipal bonds or any other debt in such**
251 **other state or the District of Columbia, either:**

252 **(a) This state had adopted a reciprocal agreement exempting such state's**
253 **residents from taxes imposed on interest earned on such out-of-state bonds or any other**
254 **out-of-state debt; or**

255 **(b) No reciprocal agreement exists, but at the time such interest was earned on**
256 **any out-of-state bonds or debt, no tax was imposed by the originating state on any such**
257 **Missouri bonds or debt.**

214.330. 1. (1) The endowed care trust fund required by sections 214.270 to 214.410
2 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of
3 this section. The trustee of the endowed care trust shall be a state or federally chartered

4 financial institution authorized to exercise trust powers in Missouri. The contact information
5 for a trust officer or duly appointed representative of the trustee with knowledge and access to
6 the trust fund accounting and trust fund records must be disclosed to the office or its duly
7 authorized representative upon request.

8 (2) The trust fund records, including all trust fund accounting records, shall be
9 maintained in the state of Missouri at all times or shall be electronically stored so that the
10 records may be made available in the state of Missouri within fifteen business days of receipt
11 of a written request. The operator of an endowed care cemetery shall maintain a current name
12 and address of the trustee and the records custodian for the endowed care trust fund and shall
13 supply such information to the office, or its representative, upon request.

14 (3) Missouri law shall control all endowed care trust funds and the Missouri courts
15 shall have jurisdiction over endowed care trusts regardless of where records may be kept or
16 various administrative tasks may be performed.

17 2. An endowed care trust fund shall be administered in accordance with Missouri law
18 governing trusts, including but not limited to the applicable provisions of chapters 456 and
19 469, except as specifically provided in this subsection or where the provisions of sections
20 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any
21 circumstances be authorized to restrict, enlarge, change, or modify the requirements of this
22 section or the provisions of chapters 456 and 469 by agreement or otherwise.

23 (1) Income and principal of an endowed care trust fund shall be determined under the
24 provisions of law applicable to trusts, except that the ~~[provisions of section 469.405 shall not~~
25 ~~apply]~~ **trustee shall have:**

26 (a) **No power of adjustment under section 469.405;**

27 (b) **No power of conversion either from an income trust to a unitrust or from a**
28 **unitrust to an income trust under section 469.475;**

29 (c) **No power or discretion to determine or modify the unitrust rate, as**
30 **established in the terms of the endowed care trust agreement; and**

31 (d) **No discretion to determine applicable value for purposes of computing the**
32 **unitrust amount beyond that granted by law and exercised solely for reasons of**
33 **administrative convenience and not to affect the size of distributions.**

34

35 **In determining applicable value under section 469.473, values over a three-year period**
36 **if available, or the duration of the trust if shorter, shall be used.**

37 (2) No principal shall be distributed from an endowed care trust fund except to the
38 extent that a unitrust ~~[election is in effect with respect to such trust under the provisions of~~
39 ~~section 469.411]~~ **amount is required by the terms of the endowed care trust fund**
40 **agreement under subdivision (6) of this subsection.**

41 (3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist
42 for endowed care trusts.

43 (4) All endowed care trusts shall be irrevocable.

44 (5) No trustee shall have the power to terminate an endowed care trust fund under the
45 provisions of section 456.4-414.

46 (6) A unitrust ~~[election made in accordance with the provisions of chapter 469 shall~~
47 ~~be made by the cemetery operator in the terms of the endowed care trust fund agreement~~
48 ~~itself, not by the trustee]~~ **definition of income under sections 469.471 to 469.487 shall be**
49 **established by the cemetery operator in the terms of the endowed care trust fund**
50 **agreement itself, not by the trustee, and shall not provide for a unitrust rate exceeding**
51 **five percent per annum. The unitrust rate shall be changed only by amendment to the**
52 **agreement as provided in this section.**

53 (7) No contract of insurance shall be deemed a suitable investment for an endowed
54 care trust fund.

55 (8) The income from the endowed care fund may be distributed to the cemetery
56 operator at least annually on a date designated by the cemetery operator **by record**, but no
57 later than sixty days following the end of the ~~[trust fund]~~ **trust's fiscal** year. Any income not
58 distributed within sixty days following the end of the trust's fiscal year shall be added to and
59 held as part of the principal of the trust fund. **The cemetery operator may instruct by**
60 **record the trustee to distribute less than all the income distributable for the year if the**
61 **cemetery operator determines that the money is not needed.**

62 3. The cemetery operator shall have the duty and responsibility to apply the income
63 distributed to provide care and maintenance only for that part of the cemetery designated as
64 an endowed care section and not for any other purpose.

65 4. In addition to any other duty, obligation, or requirement imposed by sections
66 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the
67 maintenance of records related to the trust and the accounting for and investment of moneys
68 deposited by the operator to the endowed care trust fund.

69 (1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed
70 responsible for the care, the maintenance, or the operation of the cemetery, or for any other
71 matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to
72 the cemetery operator, including, but not limited to, compliance with environmental laws and
73 regulations.

74 (2) With respect to cemetery property maintained by endowed care funds, the
75 cemetery operator shall be responsible for the performance of the care and maintenance of the
76 cemetery property.

77 5. If the endowed care cemetery fund is not permanently set aside in a trust fund as
78 required by subsection 1 of this section, then the funds shall be permanently set aside in an
79 escrow account in the state of Missouri. Funds in an escrow account shall be placed in an
80 endowed care trust fund under subsection 1 if the funds in the escrow account exceed three
81 hundred fifty thousand dollars, unless otherwise approved by the division for good cause.
82 The account shall be insured by the Federal Deposit Insurance Corporation or comparable
83 deposit insurance and held in a state or federally chartered financial institution authorized to
84 do business in Missouri and located in this state.

85 (1) The interest from the escrow account may be distributed to the cemetery operator
86 at least in annual or semiannual installments, but not later than six months following the
87 calendar year. Any interest not distributed within six months following the end of the
88 calendar year shall be added to and held as part of the principal of the account.

89 (2) The cemetery operator shall have the duty and responsibility to apply the interest
90 to provide care and maintenance only for that part of the cemetery in which burial space shall
91 have been sold and with respect to which sales the escrow account shall have been established
92 and not for any other purpose. The principal of such funds shall be kept intact. The cemetery
93 operator's duties shall be the maintenance of records and the accounting for an investment of
94 moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to
95 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be
96 responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery
97 property maintained by cemetery care funds, the cemetery operator shall be responsible for
98 the performance of the care and maintenance of the cemetery property owned by the cemetery
99 operator.

100 (3) The division may approve an escrow agent if the escrow agent demonstrates the
101 knowledge, skill, and ability to handle escrow funds and financial transactions and is of good
102 moral character.

103 6. The cemetery operator shall be accountable to the owners of burial space in the
104 cemetery for compliance with sections 214.270 to 214.410.

105 7. Excluding funds held in an escrow account, all endowed care trust funds shall be
106 administered in accordance with an endowed care trust fund agreement, which shall be
107 submitted to the office by the cemetery operator for review and approval. The endowed care
108 cemetery shall be notified in writing by the office of endowed care cemeteries regarding the
109 approval or disapproval of the endowed care trust fund agreement and regarding any changes
110 required to be made for compliance with sections 214.270 to 214.410 and the rules and
111 regulations promulgated thereunder.

112 8. All endowed care cemeteries shall be under a continuing duty to file with the office
113 of endowed care cemeteries and to submit for prior approval any and all changes,

114 amendments, or revisions of the endowed care trust fund agreement at least thirty days before
115 the effective date of such change, amendment, or revision.

116 9. If the endowed care trust fund agreement, or any changes, amendments, or
117 revisions filed with the office, are not disapproved by the office within thirty days after
118 submission by the cemetery operator, the endowed care trust fund agreement, or the related
119 change, amendment, or revision, shall be deemed approved and may be used by the cemetery
120 operator and the trustee. Notwithstanding any other provision of this section, the office may
121 review and disapprove an endowed care trust fund agreement, or any submitted change,
122 amendment, or revision, after the thirty days provided herein or at any other time if the
123 agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated
124 thereunder. Notice of disapproval by the office shall be in writing and delivered to the
125 cemetery operator and the trustee within ten days of disapproval.

126 10. Funds in an endowed care trust fund or escrow account may be commingled with
127 endowed care funds for other endowed care cemeteries, provided that the cemetery operator
128 and the trustee shall maintain adequate accounting records of the disbursements,
129 contributions, and income allocated for each cemetery.

130 11. By accepting the trusteeship of an endowed care trust or accepting funds as an
131 escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits
132 personally to the jurisdiction of the courts of this state and the office of endowed care
133 cemeteries regarding the administration of the trust or escrow account. A trustee or escrow
134 agent shall consent in writing to the jurisdiction of the state of Missouri and the office in
135 regards to the trusteeship or the operation of the escrow account and to the appointment of the
136 office of secretary of state as its agent for service of process regarding any administrative or
137 legal actions relating to the trust or the escrow account, if it has no designated agent for
138 service of process located in this state. Such consent shall be filed with the office prior to
139 accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a
140 form provided by the office by rule.

2 **361.900. Sections 361.900 to 361.1035 shall be known and may be cited as the**
2 **"Money Transmission Modernization Act of 2024".**

2 **361.903. Sections 361.900 to 361.1035 are designed to replace existing state**
2 **money transmission laws currently codified in law and to:**

3 **(1) Ensure states may coordinate in all areas of regulation, licensing, and**
4 **supervision to eliminate unnecessary regulatory burden and more effectively utilize**
5 **regulator resources;**

6 **(2) Protect the public from financial crime;**

7 **(3) Standardize the types of activities that are subject to licensing or otherwise**
8 **exempt from licensing; and**

9 **(4) Modernize safety and soundness requirements to ensure customer funds are**
10 **protected in an environment that supports innovative and competitive business**
11 **practices.**

361.906. For purposes of sections 361.900 to 361.1035, the following terms shall
2 **mean:**

3 **(1) "Acting in concert", persons knowingly acting together with a common goal**
4 **of jointly acquiring control of a licensee, regardless of whether under an express**
5 **agreement;**

6 **(2) "Authorized delegate", a person that a licensee designates to engage in**
7 **money transmission on behalf of the licensee;**

8 **(3) "Average daily money transmission liability", the amount of the licensee's**
9 **outstanding money transmission obligations in this state at the end of each day in a**
10 **given period of time, added together, and divided by the total number of days in the**
11 **given period of time. For purposes of calculating average daily money transmission**
12 **liability under sections 361.900 to 361.1035 for any licensee required to do so, the given**
13 **period of time shall be the quarters ending March thirty-first, June thirtieth, September**
14 **thirtieth, and December thirty-first;**

15 **(4) "Bank Secrecy Act", the Bank Secrecy Act, 31 U.S.C. Section 5311 et seq.,**
16 **and its implementing regulations, as amended and recodified from time to time;**

17 **(5) "Closed loop stored value", stored value that is redeemable by the issuer only**
18 **for goods or services provided by the issuer or its affiliate or franchisees of the issuer or**
19 **its affiliate, except to the extent required by applicable law to be redeemable in cash for**
20 **its cash value;**

21 **(6) "Control":**

22 **(a) The power to vote, directly or indirectly, at least twenty-five percent of the**
23 **outstanding voting shares or voting interests of a licensee or person in control of a**
24 **licensee;**

25 **(b) The power to elect or appoint a majority of key individuals or executive**
26 **officers, managers, directors, trustees, or other persons exercising managerial authority**
27 **of a person in control of a licensee; or**

28 **(c) The power to exercise, directly or indirectly, a controlling influence over the**
29 **management or policies of a licensee or person in control of a licensee.**

30

31 **A person is presumed to exercise a controlling influence if the person holds the power to**
32 **vote, directly or indirectly, at least ten percent of the outstanding voting shares or voting**
33 **interests of a licensee or person in control of a licensee. A person presumed to exercise a**
34 **controlling influence as defined under this subdivision can rebut the presumption of**

35 control if the person is a passive investor. For purposes of determining the percentage of
36 a person controlled by any other person, the person's interest shall be aggregated with
37 the interest of any other immediate family member, including the person's spouse,
38 parents, children, siblings, mothers- and fathers-in law, sons- and daughters-in-law,
39 brothers- and sisters-in-law, and any other person who shares such person's home;

40 (7) "Director", the director of the Missouri division of finance;

41 (8) "Eligible rating", a credit rating of any of the three highest rating categories
42 provided by an eligible rating service. Each category may include rating category
43 modifiers such as "plus" or "minus" for Standard and Poor's or the equivalent for any
44 other eligible rating service;

45 (9) "Eligible rating service", any nationally recognized statistical rating
46 organization (NRSRO) as defined by the United States Securities and Exchange
47 Commission and any other organization designated by rule or order;

48 (10) "Federally insured depository financial institution", a bank, credit union,
49 savings and loan association, trust company, savings association, savings bank,
50 industrial bank, or industrial loan company organized under the laws of the United
51 States or any state of the United States if such bank, credit union, savings and loan
52 association, trust company, savings association, savings bank, industrial bank, or
53 industrial loan company has federally insured deposits;

54 (11) "In this state", at a physical location within this state for a transaction
55 requested in person. For a transaction requested electronically or by phone, the
56 provider of money transmission may determine if the person requesting the transaction
57 is in this state by relying on other information provided by the person regarding the
58 location of the individual's residential address or a business entity's principal place of
59 business or other physical address location, and any records associated with the person
60 that the provider of money transmission may have that indicate such location including,
61 but not limited to, an address associated with an account;

62 (12) "Individual", a natural person;

63 (13) "Key individual", any individual ultimately responsible for establishing or
64 directing policies and procedures of the licensee, such as an executive officer, manager,
65 director, or trustee;

66 (14) "Licensee", a person licensed under sections 361.900 to 361.1035;

67 (15) "Material litigation", litigation that, according to United States generally
68 accepted accounting principles, is significant to a person's financial health and would be
69 required to be disclosed in the person's annual audited financial statements, report to
70 shareholders, or similar records;

71 **(16) "Monetary value", a medium of exchange, regardless of whether**
72 **redeemable in money;**

73 **(17) "Money", a medium of exchange that is authorized or adopted by the**
74 **United States or a foreign government. The term includes a monetary unit of account**
75 **established by an intergovernmental organization or by agreement between two or more**
76 **governments;**

77 **(18) "Money transmission", any of the following:**

78 **(a) Selling or issuing payment instruments to a person located in this state;**

79 **(b) Selling or issuing stored value to a person located in this state; or**

80 **(c) Receiving money for transmission from a person located in this state.**

81

82 **The term includes payroll processing services. The term does not include the provision**
83 **solely of online or telecommunications services or network access;**

84 **(19) "Multistate licensing process", any agreement entered into by and among**
85 **state regulators relating to coordinated processing of applications for money**
86 **transmission licenses, applications for the acquisition of control of a licensee, control**
87 **determinations, or notice and information requirements for a change of key individuals;**

88 **(20) "NMLS", the Nationwide Multistate Licensing System and Registry**
89 **developed by the Conference of State Bank Supervisors and the American Association**
90 **of Residential Mortgage Regulators and owned and operated by the State Regulatory**
91 **Registry LLC or any successor or affiliated entity for the licensing and registration of**
92 **persons in financial services industries;**

93 **(21) "Outstanding money transmission obligations":**

94 **(a) Any payment instrument or stored value issued or sold by the licensee to a**
95 **person located in the United States or reported as sold by an authorized delegate of the**
96 **licensee to a person that is located in the United States that has not yet been paid or**
97 **refunded by or for the licensee or escheated in accordance with applicable abandoned**
98 **property laws; or**

99 **(b) Any money received for transmission by the licensee or an authorized**
100 **delegate in the United States from a person located in the United States that has not**
101 **been received by the payee or refunded to the sender, or escheated in accordance with**
102 **applicable abandoned property laws.**

103

104 **For purposes of this subdivision, "in the United States" shall include, to the extent**
105 **applicable, a person in any state, territory, or possession of the United States; the**
106 **District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation**
107 **that is located in a foreign country;**

- 108 **(22) "Passive investor", a person that:**
- 109 **(a) Does not have the power to elect a majority of key individuals or executive**
110 **officers, managers, directors, trustees, or other persons exercising managerial authority**
111 **of a person in control of a licensee;**
- 112 **(b) Is not employed by and does not have any managerial duties of the licensee**
113 **or person in control of a licensee;**
- 114 **(c) Does not have the power to exercise, directly or indirectly, a controlling**
115 **influence over the management or policies of a licensee or person in control of a licensee;**
116 **and**
- 117 **(d) Either:**
- 118 **a. Attests to paragraphs (a), (b), and (c) of this subdivision, in a form and in a**
119 **medium prescribed by the director; or**
- 120 **b. Commits to the passivity characteristics of paragraphs (a), (b), and (c) of this**
121 **subdivision in a written document;**
- 122 **(23) "Payment instrument", a written or electronic check, draft, money order,**
123 **traveler's check, or other written or electronic instrument for the transmission or**
124 **payment of money or monetary value, regardless of whether negotiable. The term does**
125 **not include stored value or any instrument that:**
- 126 **(a) Is redeemable by the issuer only for goods or services provided by the issuer**
127 **or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by**
128 **applicable law to be redeemable in cash for its cash value; or**
- 129 **(b) Is not sold to the public but issued and distributed as part of a loyalty,**
130 **rewards, or promotional program;**
- 131 **(24) "Payroll processing services", receiving money for transmission under a**
132 **contract with a person to deliver wages or salaries, make payment of payroll taxes to**
133 **state and federal agencies, make payments relating to employee benefit plans, or make**
134 **distributions of other authorized deductions from wages or salaries. The term does not**
135 **include an employer performing payroll processing services on its own behalf or on**
136 **behalf of its affiliate or a professional employer organization subject to regulation under**
137 **sections 285.700 to 285.750;**
- 138 **(25) "Person", any individual, general partnership, limited partnership, limited**
139 **liability company, corporation, trust, association, joint stock corporation, or other**
140 **corporate entity identified by the director;**
- 141 **(26) "Receiving money for transmission" or "money received for transmission",**
142 **receiving money or monetary value in the United States for transmission within or**
143 **outside the United States by electronic or other means;**

(27) "Stored value", monetary value representing a claim against the issuer evidenced by an electronic or digital record and that is intended and accepted for use as a means of redemption for money, or monetary value, or payment for goods or services. The term includes, but is not limited to, "prepaid access" as defined under 31 CFR Section 1010.100, as amended or recodified from time to time. Notwithstanding the provisions of this subdivision, the term does not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program;

(28) "Tangible net worth", the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

361.909. Sections 361.900 to 361.1035 shall not apply to:

(1) An operator of a payment system to the extent that it provides processing, clearing, or settlement services between or among persons exempted under this section or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearinghouse transfers, or similar funds transfers;

(2) A person appointed as an agent of a payee to collect and process a payment from a payer to the payee for goods or services, other than money transmission itself, provided to the payer by the payee, provided that:

(a) There exists a written agreement between the payee and the agent directing the agent to collect and process payments from a payer on the payee's behalf;

(b) The payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(c) Payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payer's obligation is extinguished and there is no risk of loss to the payer if the agent fails to remit the funds to the payee;

(3) A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender and the sender's designated recipient, provided that the entity:

(a) Is properly licensed or exempt from licensing requirements under sections 361.900 to 361.1035;

(b) Provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

25 (c) Bears sole responsibility to satisfy the outstanding money transmission
26 obligation to the sender, including the obligation to make the sender whole in connection
27 with any failure to transmit the funds to the sender's designated recipient;

28 (4) The United States or a department, agency, or instrumentality thereof, or its
29 agent;

30 (5) Money transmission by the United States Postal Service or by an agent of the
31 United States Postal Service;

32 (6) A state, county, city, or any other governmental agency or governmental
33 subdivision or instrumentality of a state, or its agent;

34 (7) A federally insured depository financial institution; bank holding company;
35 office of an international banking corporation; foreign bank that establishes a federal
36 branch under the International Bank Act, 12 U.S.C. Section 3102, as amended or
37 recodified from time to time; corporation organized under the Bank Service
38 Corporation Act, 12 U.S.C. Sections 1861-1867, as amended or recodified from time
39 to time; or corporation organized under the Edge Act, 12 U.S.C. Sections 611-633, as
40 amended or recodified from time to time, under the laws of a state or the United States;

41 (8) Electronic funds transfer of governmental benefits for a federal, state,
42 county, or governmental agency by a contractor on behalf of the United States or a
43 department, agency, or instrumentality thereof, or on behalf of a state or governmental
44 subdivision, agency, or instrumentality thereof;

45 (9) A board of trade designated as a contract market under the federal
46 Commodity Exchange Act, 7 U.S.C. Sections 1-25, as amended or recodified from time
47 to time, or a person that, in the ordinary course of business, provides clearance and
48 settlement services for a board of trade to the extent of its operation as or for such a
49 board;

50 (10) A registered futures commission merchant under the federal commodities
51 laws to the extent of its operation as such a merchant;

52 (11) A person registered as a securities broker-dealer under federal or state
53 securities laws to the extent of its operation as such a broker-dealer;

54 (12) An individual employed by a licensee, authorized delegate, or any person
55 exempted from the licensing requirements under sections 361.900 to 361.1035 if acting
56 within the scope of employment and under the supervision of the licensee, authorized
57 delegate, or exempted person as an employee and not as an independent contractor;

58 (13) A person expressly appointed as a third-party service provider to or agent
59 of an entity exempt under subdivision (7) of this subsection solely to the extent that:

60 (a) Such service provider or agent is engaging in money transmission on behalf
61 of and under a written agreement with the exempt entity that sets forth the specific
62 functions that the service provider or agent is to perform; and

63 (b) The exempt entity assumes all risk of loss and all legal responsibility for
64 satisfying the outstanding money transmission obligations owed to purchasers and
65 holders of the outstanding money transmission obligations upon receipt of the
66 purchaser's or holder's money or monetary value by the service provider or agent.

 361.912. The director may require that any person claiming to be exempt from
2 licensing under section 361.909 provide information and documentation to the director
3 demonstrating that the person qualifies for any claimed exemption.

 361.915. 1. In order to carry out the purposes of sections 361.900 to 361.1035,
2 the director may, subject to the provisions of subsections 1 and 2 of section 361.918:

3 (1) Enter into agreements or relationships with other government officials or
4 federal and state regulatory agencies and regulatory associations in order to improve
5 efficiencies and reduce regulatory burden by standardizing methods or procedures, and
6 sharing resources, records, or related information obtained under sections 361.900 to
7 361.1035;

8 (2) Use, hire, contract, or employ analytical systems, methods, or software to
9 examine or investigate any person subject to sections 361.900 to 361.1035;

10 (3) Accept, from other state or federal government agencies or officials,
11 licensing, examination, or investigation reports made by such other state or federal
12 government agencies or officials; and

13 (4) Accept audit reports made by an independent certified public accountant or
14 other qualified third-party auditor for an applicant or licensee and incorporate the
15 audit report in any report of examination or investigation.

16 2. The director shall have the broad administrative authority to:

17 (1) Administer, interpret, and enforce sections 361.900 to 361.1035 and
18 promulgate rules or regulations implementing sections 361.900 to 361.1035; and

19 (2) Recover the cost of administering and enforcing sections 361.900 to 361.1035
20 by imposing and collecting proportionate and equitable fees and costs associated with
21 applications, examinations, investigations, and other actions required to achieve the
22 purpose of sections 361.900 to 361.1035.

23 3. The director shall promulgate all necessary rules and regulations for the
24 administration of sections 361.900 to 361.1035. Any rule or portion of a rule, as that
25 term is defined in section 536.010, that is created under the authority delegated in this
26 section shall become effective only if it complies with and is subject to all of the
27 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter

28 **536 are nonseverable and if any of the powers vested with the general assembly**
29 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
30 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
31 **and any rule proposed or adopted after August 28, 2024, shall be invalid and void.**

361.918. 1. Except as otherwise provided in subsection 2 of this section, all
2 **information or reports obtained by the director from an applicant, licensee, or**
3 **authorized delegate and all information contained in or related to an examination,**
4 **investigation, operating report, or condition report prepared by, on behalf of, or for the**
5 **use of the director, or financial statements, balance sheets, or authorized delegate**
6 **information, shall be confidential and held in accordance with section 361.080.**

7 **2. The director may disclose information not otherwise subject to disclosure**
8 **under subsection 1 of this section to representatives of state or federal agencies who**
9 **shall confirm in writing that they will maintain the confidentiality of the information.**

10 **3. This section does not prohibit the director from disclosing to the public a list**
11 **of all licensees or the aggregated financial or transactional data concerning those**
12 **licensees.**

361.921. 1. The director may conduct an examination or investigation of a
2 **licensee or authorized delegate or otherwise take independent action authorized by**
3 **sections 361.900 to 361.1035 or by a rule adopted or order issued under sections 361.900**
4 **to 361.1035 as reasonably necessary or appropriate to administer and enforce sections**
5 **361.900 to 361.1035, regulations implementing sections 361.900 to 361.1035, and other**
6 **applicable law, including the Bank Secrecy Act and the USA PATRIOT Act. The**
7 **director may:**

8 **(1) Conduct an examination either onsite or offsite as the director may**
9 **reasonably require;**

10 **(2) Conduct an examination in conjunction with an examination conducted by**
11 **representatives of other state agencies or agencies of another state or of the federal**
12 **government;**

13 **(3) Accept the examination report of another state agency or an agency of**
14 **another state or of the federal government, or a report prepared by an independent**
15 **accounting firm, which on being accepted is considered for all purposes as an official**
16 **report of the director; and**

17 **(4) Summon and examine under oath a key individual or employee of a licensee**
18 **or authorized delegate and require the person to produce records regarding any matter**
19 **related to the condition and business of the licensee or authorized delegate.**

20 **2. A licensee or authorized delegate shall provide, and the director shall have full**
21 **and complete access to, all records the director may reasonably require to conduct a**

22 complete examination. The records shall be provided at the location and in the format
23 specified by the director. The director may utilize multistate record production
24 standards and examination procedures if such standards and procedures will
25 reasonably achieve the requirements of this subsection.

26 3. Unless otherwise directed by the director, a licensee shall pay all costs
27 reasonably incurred in connection with an examination of the licensee or the licensee's
28 authorized delegates.

361.924. 1. To efficiently and effectively administer and enforce sections 361.900
2 to 361.1035 and to minimize regulatory burden, the director is authorized to participate
3 in multistate supervisory processes established between states or coordinated through
4 the Conference of State Bank Supervisors, Money Transmitter Regulators Association,
5 and affiliates and successors thereof for all licensees that hold licenses in this state and
6 other states. As a participant in multistate supervision, the director may:

7 (1) Cooperate, coordinate, and share information with other state and federal
8 regulators in accordance with section 361.918;

9 (2) Enter into written cooperation, coordination, or information-sharing
10 contracts or agreements with organizations the membership of which is made up of
11 state or federal governmental agencies; and

12 (3) Cooperate, coordinate, and share information with organizations the
13 membership of which is made up of state or federal governmental agencies, provided
14 that the organizations agree in writing to maintain the confidentiality and security of the
15 shared information in accordance with this section.

16 2. The director shall not waive and nothing in this section constitutes a waiver of
17 the director's authority to conduct an examination or investigation or otherwise take
18 independent action authorized by sections 361.900 to 361.1035 or a rule adopted or
19 order issued under sections 361.900 to 361.1035 to enforce compliance with applicable
20 state or federal law.

21 3. A joint examination or investigation, or acceptance of an examination or
22 investigation report, does not waive an examination assessment provided for in sections
23 361.900 to 361.1035.

361.927. 1. In the event state money transmission jurisdiction is conditioned on
2 a federal law, any inconsistencies between a provision of sections 361.900 to 361.1035
3 and the federal law governing money transmission shall be governed by the applicable
4 federal law to the extent of the inconsistency.

5 2. In the event of any inconsistencies between sections 361.900 to 361.1035 and a
6 federal law that governs under subsection 1 of this section, the director may provide
7 interpretive guidance that:

8 (1) Identifies the inconsistency; and

9 (2) Identifies the appropriate means of compliance with federal law.

 361.930. 1. A person shall not engage in the business of money transmission or
2 advertise, solicit, or hold itself out as providing money transmission unless the person is
3 licensed under sections 361.900 to 361.1035.

4 2. Subsection 1 of this section shall not apply to:

5 (1) A person that is an authorized delegate of a person licensed under sections
6 361.900 to 361.1035 acting within the scope of authority conferred by a written contract
7 with the licensee; or

8 (2) A person that is exempt under section 361.909 and does not engage in money
9 transmission outside the scope of such exemption.

10 3. A license issued under section 361.942 shall not be transferable or assignable.

 361.933. 1. To establish consistent licensing between this state and other states,
2 the director is authorized to:

3 (1) Implement the licensing provisions of sections 361.900 to 361.1035 in a
4 manner that is consistent with other states that have adopted the money transmission
5 modernizations act or multistate licensing processes; and

6 (2) Participate in nationwide protocols for licensing cooperation and
7 coordination among state regulators, provided that such protocols are consistent with
8 sections 361.900 to 361.1035.

9 2. In order to fulfill the purposes of sections 361.900 to 361.1035, the director is
10 authorized to establish relationships or contracts with NMLS, or other entities
11 designated by NMLS or other third parties to enable the director to:

12 (1) Collect and maintain records;

13 (2) Coordinate multistate licensing processes and supervision processes;

14 (3) Process fees; and

15 (4) Facilitate communication between this state and licensees or other persons
16 subject to sections 361.900 to 361.1035.

17 3. The director is authorized to utilize NMLS for all aspects of licensing in
18 accordance with sections 361.900 to 361.1035 including, but not limited to, license
19 applications, applications for acquisitions of control, surety bonds, reporting, criminal
20 history background checks, credit checks, fee processing, and examinations.

21 4. The director is authorized to utilize NMLS forms, processes, and
22 functionalities in accordance with sections 361.900 to 361.1035.

23 5. (1) The director is authorized to establish and adopt, by rule or regulation,
24 requirements for participation by applicants and licensees in NMLS upon the division of

25 finance's determination that each requirement is consistent with law, public interest,
26 and the purposes of this section.

27 (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is
28 created under the authority delegated in this section shall become effective only if it
29 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
30 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
31 vested with the general assembly pursuant to chapter 536 to review, to delay the
32 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
33 then the grant of rulemaking authority and any rule proposed or adopted after August
34 28, 2024, shall be invalid and void.

361.936. 1. Applicants for a license shall apply in a form and in a medium as
2 prescribed by the director. Each such form shall contain content as set forth by rule,
3 regulation, instruction, or procedure of the director and may be changed or updated by
4 the director in accordance with applicable law in order to carry out the purposes of
5 sections 361.900 to 361.1035 and maintain consistency with licensing standards and
6 practices. The application shall state or contain, as applicable:

7 (1) The legal name and residential and business addresses of the applicant and
8 any fictitious or trade name used by the applicant in conducting its business;

9 (2) Whether the applicant has been convicted of, or pled guilty or nolo
10 contendere to, a felony involving an act of fraud, dishonesty, a breach of trust, or money
11 laundering;

12 (3) A description of any money transmission previously provided by the
13 applicant and the money transmission that the applicant seeks to provide in this state;

14 (4) A list of the applicant's proposed authorized delegates and the locations in
15 this state where the applicant and its authorized delegates propose to engage in money
16 transmission;

17 (5) A list of other states in which the applicant is licensed to engage in money
18 transmission and any license revocations, suspensions, or other disciplinary action taken
19 against the applicant in another state;

20 (6) Information concerning any bankruptcy or receivership proceedings
21 affecting the licensee or a person in control of a licensee;

22 (7) A sample form of contract for authorized delegates, if applicable;

23 (8) A sample form of payment instrument or stored value, as applicable;

24 (9) The name and address of any federally insured depository financial
25 institution through which the applicant plans to conduct money transmission;

26 (10) A list of any material litigation in which the applicant has been involved in
27 the ten-year period next preceding the submission of the application; and

28 (11) Any other information the director reasonably requires with respect to the
29 applicant.

30 2. If an applicant is a corporation, limited liability company, partnership, or
31 other legal entity, the applicant shall also provide:

32 (1) The date of the applicant's incorporation or formation and state or country
33 of incorporation or formation;

34 (2) If applicable, a certificate of good standing from the state or country in which
35 the applicant is incorporated or formed;

36 (3) A brief description of the structure or organization of the applicant,
37 including any parents or subsidiaries of the applicant, and whether any parents or
38 subsidiaries are publicly traded;

39 (4) The legal name, any fictitious or trade name, all business and residential
40 addresses, and the employment, as applicable, in the ten-year period next preceding the
41 submission of the application of each key individual and person in control of the
42 applicant;

43 (5) Whether they have been convicted of, or pled guilty or nolo contendere to, a
44 felony involving an act of fraud, dishonesty, a breach of trust, or money laundering;

45 (6) A copy of audited financial statements of the applicant for the most recent
46 fiscal year and for the two-year period next preceding the submission of the application
47 or, if determined to be acceptable to the director, certified unaudited financial
48 statements for the most recent fiscal year or other period acceptable to the director;

49 (7) A certified copy of unaudited financial statements of the applicant for the
50 most recent fiscal quarter;

51 (8) If the applicant is a publicly traded corporation, a copy of the most recent
52 report filed with the United States Securities and Exchange Commission under Section
53 13 of the federal Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended or
54 recodified from time to time;

55 (9) If the applicant is a wholly owned subsidiary of:

56 (a) A corporation publicly traded in the United States, a copy of audited
57 financial statements for the parent corporation for the most recent fiscal year or a copy
58 of the parent corporation's most recent report filed under Section 13 of the U.S.
59 Securities Exchange Act of 1934, 15 U.S.C. Section 78m, as amended or recodified from
60 time to time; or

61 (b) A corporation publicly traded outside the United States, a copy of similar
62 documentation filed with the regulator of the parent corporation's domicile outside the
63 United States;

64 (10) The name and address of the applicant's registered agent in this state;

65 (11) A list of any material litigation in which the applicant has been involved in
66 the ten-year period next preceding the submission of the application; and

67 (12) Any other information the director reasonably requires with respect to the
68 applicant.

69 3. A nonrefundable application fee and license fee, as determined by the director,
70 shall accompany an application for a license under this section.

71 4. The director may waive one or more requirements of subsections 1 and 2 of
72 this section or permit an applicant to submit other information in lieu of the required
73 information.

361.939. 1. Any individual in control of a licensee or applicant, any individual
2 that seeks to acquire control of a licensee, and each key individual shall furnish to the
3 director through NMLS the following:

4 (1) The individual's fingerprints for submission to the Federal Bureau of
5 Investigation and the director for purposes of a national criminal history background
6 check unless the person currently resides outside of the United States and has resided
7 outside of the United States for the last ten years; and

8 (2) Personal history and experience in a form and in a medium prescribed by the
9 director, to obtain the following:

10 (a) An independent credit report from a consumer reporting agency unless the
11 individual does not have a Social Security number, in which case this requirement shall
12 be waived;

13 (b) Whether they have been convicted of, or pled guilty or nolo contendere to, a
14 felony involving an act of fraud, dishonesty, a breach of trust, or money laundering; and

15 (c) Information related to any regulatory or administrative action and any civil
16 litigation involving claims of fraud, misrepresentation, conversion, mismanagement of
17 funds, breach of fiduciary duty, or breach of contract.

18 2. If the individual has resided outside of the United States at any time in the last
19 ten years, the individual shall also provide an investigative background report prepared
20 by an independent search firm that meets the following requirements:

21 (1) At a minimum, the search firm shall:

22 (a) Demonstrate that it has sufficient knowledge and resources and employs
23 accepted and reasonable methodologies to conduct the research for the background
24 report; and

25 (b) Not be affiliated with or have an interest with the individual it is researching;
26 and

27 (2) At a minimum, the investigative background report shall be written in the
28 English language and shall contain the following:

29 (a) If available in the individual's current jurisdiction of residency, a
30 comprehensive credit report, or any equivalent information obtained or generated by
31 the independent search firm to accomplish such report, including a search of the court
32 data in the countries, provinces, states, cities, towns, and contiguous areas where the
33 individual resided and worked;

34 (b) Criminal records information for the past ten years including, but not
35 limited to, felonies, misdemeanors, or similar convictions for violations of law in the
36 countries, provinces, states, cities, towns, and contiguous areas where the individual
37 resided and worked;

38 (c) Employment history;

39 (d) Media history, including an electronic search of national and local
40 publications, wire services, and business applications; and

41 (e) Financial services-related regulatory history including but not limited to,
42 money transmission, securities, banking, insurance, and mortgage-related industries.

361.942. 1. If an application for an original license under sections 361.900 to
2 361.1035 appears to include all the items and addresses and all of the matters that are
3 required, the application is complete and the director shall promptly notify the
4 applicant in a record of the date on which the application is determined to be complete,
5 and:

6 (1) The director shall approve or deny the application within one hundred
7 twenty days after the completion date; or

8 (2) If the application is not approved or denied within one hundred twenty days
9 after the completion date:

10 (a) The application is approved; and

11 (b) The license takes effect as of the first business day after expiration of the one-
12 hundred-twenty-day period.

13

14 The director may for good cause extend the application period.

15 2. A determination by the director that an application is complete and is
16 accepted for processing means only that the application, on its face, appears to include
17 all of the items, including the criminal background check response from the Federal
18 Bureau of Investigation, and address all of the matters that are required, and is not an
19 assessment of the substance of the application or of the sufficiency of the information
20 provided.

21 3. If an application is filed and considered complete under this section, the
22 director shall investigate the applicant's financial condition and responsibility, financial
23 and business experience, character, and general fitness. The director may conduct an

24 onsite investigation of the applicant, the reasonable cost of which the applicant shall pay.
25 The director shall issue a license to an applicant under this section if the director finds
26 that all of the following conditions have been fulfilled:

27 (1) The applicant has complied with the provisions of sections 361.929 and
28 361.936; and

29 (2) The financial condition and responsibility, financial and business experience,
30 competence, character, and general fitness of the applicant; and the competence,
31 experience, character, and general fitness of the key individuals and persons in control
32 of the applicant indicate that it is in the interest of the public to permit the applicant to
33 engage in money transmission.

34 4. If an applicant avails itself or is otherwise subject to a multistate licensing
35 process:

36 (1) The director shall be authorized to accept the investigation results of a lead
37 investigative state for the purpose of subsection 3 of this section if the lead investigative
38 state has sufficient staffing, expertise, and minimum standards; or

39 (2) If this state is a lead investigative state, the director shall be authorized to
40 investigate the applicant under subsection 3 of this section and the time frames
41 established by agreement through the multistate licensing process, provided however,
42 that in no case shall such time frame be noncompliant with the application period in
43 subdivision (1) of subsection 1 of this section.

44 5. The director shall issue a formal written notice of the denial of a license
45 application within thirty days of the decision to deny the application. The director shall
46 set forth in the notice of denial the specific reasons for the denial of the application. An
47 applicant whose application is denied by the director under this subsection may appeal
48 within thirty days after receipt of the written notice of the denial under chapter 536.

49 6. The initial license term shall begin on the day the application is approved.
50 The license shall expire on December thirty-first of the year in which the license term
51 began unless the initial license date is between November first and December thirty-
52 first, in which instance the initial license term shall run through December thirty-first of
53 the following year.

361.945. 1. A license under sections 361.900 to 361.1035 shall be renewed
2 annually. An annual renewal fee, to be determined by the director, shall be paid no
3 more than sixty days before the license expiration. The renewal term shall be for a
4 period of one year and shall begin on January first of each year after the initial license
5 term and shall expire on December thirty-first of the year the renewal term begins.

6 2. A licensee shall submit a renewal report with the renewal fee, in a form and in
7 a medium prescribed by the director. The renewal report shall state or contain a

8 description of each material change in information submitted by the licensee in its
9 original license application that has not been reported to the director.

10 3. The director for good cause may grant an extension of the renewal date.

11 4. The director shall be authorized and encouraged to utilize NMLS to process
12 license renewals, provided that such functionality is consistent with this section.

361.948. 1. If a licensee does not continue to meet the qualifications or satisfy the
2 requirements that apply to an applicant for a new money transmission license, the
3 director may suspend or revoke the licensee's license in accordance with the procedures
4 established under sections 361.900 to 361.1035 or other applicable state law for such
5 suspension or revocation.

6 2. An applicant for a money transmission license shall demonstrate that it meets
7 or will meet, and a money transmission licensee shall at all times meet, the requirements
8 in sections 361.999, 361.1002, and 361.1005.

361.951. 1. Any person, or group of persons acting in concert, seeking to acquire
2 control of a licensee shall obtain the written approval of the director prior to acquiring
3 control. An individual is not deemed to acquire control of a licensee and is not subject to
4 the acquisition of control provisions if that individual becomes a key individual in the
5 ordinary course of business.

6 2. A person, or group of persons acting in concert, seeking to acquire control of a
7 licensee shall, in cooperation with the licensee:

8 (1) Submit an application in a form and in a medium prescribed by the director;
9 and

10 (2) Submit a nonrefundable fee, to be determined by the director, with the
11 request for approval.

12 3. Upon request, the director may permit a licensee or a person, or group of
13 persons acting in concert, to submit some or all information required by the director
14 under subdivision (1) of subsection 2 of this section without using NMLS.

15 4. The application required under subdivision (1) of subsection 2 of this section
16 shall include information required under section 361.939 for any new key individuals
17 that have not previously completed the requirements of section 361.939 for a licensee.

18 5. When an application for acquisition of control under this section appears to
19 include all the items and address all of the matters that are required, the application
20 shall be considered complete. The director shall promptly notify the applicant in a
21 record of the date on which the application was determined to be complete, and:

22 (1) The director shall approve or deny the application within sixty days after the
23 completion date; or

24 **(2) If the application is not approved or denied within sixty days after the**
25 **completion date:**

26 **(a) The application is approved; and**

27 **(b) The person, or group of persons acting in concert, are not prohibited from**
28 **acquiring control; and**

29 **(3) The director may for good cause extend the application period.**

30 **6. A determination by the director that an application is complete and is**
31 **accepted for processing means only that the application, on its face, appears to include**
32 **all of the items and address all of the matters that are required, and is not an assessment**
33 **of the substance of the application or of the sufficiency of the information provided.**

34 **7. If an application is filed and considered complete under subsection 5 of this**
35 **section, the director shall investigate the financial condition and responsibility, financial**
36 **and business experience, character, and general fitness of the person, or group of**
37 **persons acting in concert, seeking to acquire control. The director shall approve an**
38 **acquisition of control under this section if the director finds that all of the following**
39 **conditions have been fulfilled:**

40 **(1) The requirements of subsections 2 and 4 of this section have been met, as**
41 **applicable; and**

42 **(2) The financial condition and responsibility, financial and business experience,**
43 **competence, character, and general fitness of the person, or group of persons acting in**
44 **concert, seeking to acquire control and the competence, experience, character, and**
45 **general fitness of the key individuals and persons that would be in control of the licensee**
46 **after the acquisition of control indicate that it is in the interest of the public to permit**
47 **the person, or group of persons acting in concert, to control the licensee.**

48 **8. If an applicant avails itself or is otherwise subject to a multistate licensing**
49 **process:**

50 **(1) The director is authorized to accept the investigation results of a lead**
51 **investigative state for the purpose of subsection 7 of this section if the lead investigative**
52 **state has sufficient staffing, expertise, and minimum standards; or**

53 **(2) If this state is a lead investigative state, the director is authorized to**
54 **investigate the applicant under subsection 7 of this section and the time frames**
55 **established by agreement through the multistate licensing process.**

56 **9. The director shall issue a formal written notice of the denial of an application**
57 **to acquire control within thirty days of the decision to deny the application. The**
58 **director shall set forth in the notice of denial the specific reasons for the denial of the**
59 **application. An applicant whose application is denied by the director under this**

60 subsection may appeal within thirty days after receipt of the written notice of the denial
61 under chapter 536.

62 10. The requirements of subsections 1 and 2 of this section shall not apply to any
63 of the following:

64 (1) A person that acts as a proxy for the sole purpose of voting at a designated
65 meeting of the shareholders or holders of voting shares or voting interests of a licensee
66 or a person in control of a licensee;

67 (2) A person that acquires control of a licensee by devise or descent;

68 (3) A person that acquires control of a licensee as a personal representative,
69 custodian, guardian, conservator, or trustee, or as an officer appointed by a court of
70 competent jurisdiction or by operation of law;

71 (4) A person that is exempt under subsection 7 of section 361.909;

72 (5) A person that the director determines is not subject to subsection 1 of this
73 section based on the public interest;

74 (6) A public offering of securities of a licensee or a person in control of a
75 licensee; or

76 (7) An internal reorganization of a person in control of the licensee where the
77 ultimate person in control of the licensee remains the same.

78 11. Persons in subdivisions (2), (3), (4), (6), and (7) of subsection 10 of this section
79 in cooperation with the licensee shall notify the director within fifteen days after the
80 acquisition of control.

81 12. (1) The requirements of subsections 1 and 2 of this section shall not apply to
82 a person that has complied with and received approval to engage in money transmission
83 under sections 361.900 to 361.1035 or was identified as a person in control in a prior
84 application filed with and approved by the director or by another state under a
85 multistate licensing process, provided that:

86 (a) The person has not had a license revoked or suspended or controlled a
87 licensee that has had a license revoked or suspended while the person was in control of
88 the licensee in the previous five years;

89 (b) If the person is a licensee, the person is well managed and has received at
90 least a satisfactory rating for compliance at its most recent examination by another state
91 if such rating was given;

92 (c) The licensee to be acquired is projected to meet the requirements of sections
93 361.999, 361.1002, and 361.1005 after the acquisition of control is completed, and if the
94 person acquiring control is a licensee, that licensee is also projected to meet the
95 requirements of sections 361.999, 361.1002, and 361.1005 after the acquisition of control
96 is completed;

97 (d) The licensee to be acquired will not implement any material changes to its
98 business plan as a result of the acquisition of control, and if the person acquiring control
99 is a licensee, that licensee also will not implement any material changes to its business
100 plan as a result of the acquisition of control; and

101 (e) The person provides notice of the acquisition in cooperation with the licensee
102 and attests to paragraphs (a) to (d) of this subdivision in a form and in a medium
103 prescribed by the director.

104 (2) If the notice is not disapproved within thirty days after the date on which the
105 notice was determined to be complete, the notice is deemed approved.

106 13. Before filing an application for approval to acquire control of a licensee, a
107 person may request in writing a determination from the director as to whether the
108 person would be considered a person in control of a licensee upon consummation of a
109 proposed transaction. If the director determines that the person would not be a person
110 in control of a licensee, the proposed person and transaction is not subject to the
111 requirements of subsections 1 and 2 of this section.

112 14. If a multistate licensing process includes a determination under subsection 13
113 of this section and an applicant avails itself or is otherwise subject to the multistate
114 licensing process:

115 (1) The director is authorized to accept the control determination of a lead
116 investigative state with sufficient staffing, expertise, and minimum standards for the
117 purpose of subsection 13 of this section; or

118 (2) If this state is a lead investigative state, the director is authorized to
119 investigate the applicant under subsection 13 of this section and the time frames
120 established by agreement through the multistate licensing process.

361.954. 1. A licensee adding or replacing any key individual shall:

2 (1) Provide notice in a manner prescribed by the director within fifteen days
3 after the effective date of the key individual's appointment; and

4 (2) Provide information as required by section 361.939 within forty-five days of
5 the effective date.

6 2. Within ninety days of the date on which the notice provided under subsection
7 1 of this section was determined to be complete, the director may issue a notice of
8 disapproval of a key individual if the competence, experience, character, or integrity of
9 the individual would not be in the best interests of the public or the customers of the
10 licensee to permit the individual to be a key individual of such licensee.

11 3. A notice of disapproval shall contain a statement of the basis for disapproval
12 and shall be sent to the licensee and the disapproved individual. A licensee may appeal a

13 notice of disapproval under chapter 536 within thirty days after receipt of such notice of
14 disapproval.

15 4. If the notice provided under subsection 1 of this section is not disapproved
16 within ninety days after the date on which the notice was determined to be complete, the
17 key individual is deemed approved.

18 5. If a multistate licensing process includes a key individual notice review and
19 disapproval process under this section and the licensee avails itself or is otherwise
20 subject to the multistate licensing process:

21 (1) The director is authorized to accept the determination of another state if the
22 investigating state has sufficient staffing, expertise, and minimum standards for the
23 purpose of this section; or

24 (2) If this state is a lead investigative state, the director is authorized to
25 investigate the applicant under subsection 2 of this section and the time frames
26 established by agreement through the multistate licensing process.

361.957. 1. Each licensee shall submit a report of condition within forty days of
2 the end of the calendar quarter or within any extended time as the director may
3 prescribe.

4 2. The report of condition shall include:

5 (1) Financial information at the licensee level;

6 (2) Nationwide and state-specific money transmission transaction information in
7 every jurisdiction in the United States where the licensee is licensed to engage in money
8 transmission;

9 (3) Permissible investments report;

10 (4) Transaction destination country reporting for money received for
11 transmission, if applicable; and

12 (5) Any other information the director reasonably requires with respect to the
13 licensee. The director is authorized to utilize NMLS for the submission of the report
14 required by subsection 1 of this section and is authorized to update as necessary the
15 requirements of this section to carry out the purposes of sections 361.900 to 361.1035
16 and maintain consistency with NMLS reporting.

17 3. The information required under subdivision (4) of subsection 2 of this section
18 shall be included only in a report of condition submitted within forty-five days of the
19 end of the fourth calendar quarter.

361.960. 1. Each licensee shall, within ninety days after the end of each fiscal
2 year or within any extended time as the director may prescribe, file with the director:

3 (1) An audited financial statement of the licensee for the fiscal year prepared in
4 accordance with United States generally accepted accounting principles; and

5 (2) Any other information as the director may reasonably require.

6 2. The audited financial statement shall be prepared by an independent certified
7 public accountant or independent public accountant who is satisfactory to the director.

8 3. The audited financial statements shall include or be accompanied by a
9 certificate of opinion of the independent certified public accountant or independent
10 public accountant that is satisfactory in form and content to the director. If the
11 certificate or opinion is qualified, the director may order the licensee to take any action
12 as the director may find necessary to enable the independent certified public accountant
13 or independent public accountant to remove the qualification.

 361.963. 1. Each licensee shall submit a report of authorized delegates within
2 forty-five days of the end of the calendar quarter. The director is authorized to utilize
3 NMLS for the submission of the report required under this section, provided that such
4 functionality is consistent with the requirements of this section.

5 2. The authorized delegate report shall include, at a minimum, each authorized
6 delegate's:

- 7 (1) Company legal name;
- 8 (2) Taxpayer employer identification number;
- 9 (3) Principal provider identifier;
- 10 (4) Physical address, if any;
- 11 (5) Mailing address;
- 12 (6) Any business conducted in other states;
- 13 (7) Any fictitious or trade name;
- 14 (8) Contact person name, phone number, and email;
- 15 (9) Start date as licensee's authorized delegate;
- 16 (10) End date acting as licensee's authorized delegate, if applicable; and
- 17 (11) Any other information the director reasonably requires with respect to the
18 authorized delegate.

 361.966. 1. A licensee shall file a report with the director within one business
2 day after the licensee has reason to know of the occurrence of any of the following
3 events:

- 4 (1) The filing of a petition by or against the licensee under the United States
5 Bankruptcy Code, 11 U.S.C. Section 101-110, as amended or recodified from time to
6 time, for bankruptcy or reorganization;
- 7 (2) The filing of a petition by or against the licensee for receivership, the
8 commencement of any other judicial or administrative proceeding for its dissolution or
9 reorganization, or the making of a general assignment for the benefit of its creditors; or

10 **(3) The commencement of a proceeding to revoke or suspend its license in a state**
11 **or country in which the licensee engages in business or is licensed.**

12 **2. A licensee shall notify the director within three business days after the licensee**
13 **has reason to know that:**

14 **(1) The licensee or a key individual or person in control of the licensee, has been**
15 **convicted of, or pled guilty or nolo contendere to a felony involving an act of fraud,**
16 **dishonesty, a breach of trust, or money laundering; or**

17 **(2) An authorized delegate has been convicted of, or pled guilty or nolo**
18 **contendere to, a felony involving an act of fraud, dishonesty, a breach of trust, or money**
19 **laundering.**

361.969. A licensee and an authorized delegate shall file all reports required by
2 **federal currency reporting, record keeping, and suspicious activity reporting**
3 **requirements as set forth in the Bank Secrecy Act and other federal and state laws**
4 **pertaining to money laundering. The timely filing of a complete and accurate report**
5 **required under this section with the appropriate federal agency is deemed compliant**
6 **with the requirements of this section.**

361.972. 1. A licensee shall maintain the following records for determining its
2 **compliance with sections 361.900 to 361.1035 for at least three years:**

3 **(1) A record of each outstanding money transmission obligation sold;**

4 **(2) A general ledger posted at least monthly containing all asset, liability, capital,**
5 **income, and expense accounts;**

6 **(3) Bank statements and bank reconciliation records;**

7 **(4) Records of outstanding money transmission obligations;**

8 **(5) Records of each outstanding money transmission obligation paid within the**
9 **three-year period;**

10 **(6) A list of the last known names and addresses of all of the licensee's authorized**
11 **delegates; and**

12 **(7) Any other records the director reasonably requires by rule.**

13 **2. The items specified in subsection 1 of this section may be maintained in any**
14 **form of record.**

15 **3. Records specified in subsection 1 of this section may be maintained outside**
16 **this state if the records are made accessible to the director on seven business days' notice**
17 **that is sent in a record.**

18 **4. All records maintained by the licensee as required in subsections 1 to 3 of this**
19 **section are open to inspection by the director under subsection 1 of section 361.921.**

2 **361.975. 1. As used in this section, "remit" means to make direct payments of**
3 **money to a licensee or its representative authorized to receive money or to deposit**
4 **money in a bank in an account specified by the licensee.**

5 **2. Before a licensee is authorized to conduct business through an authorized**
6 **delegate, or allows a person to act as the licensee's authorized delegate, the licensee**
7 **shall:**

8 **(1) Adopt, and update as necessary, written policies and procedures reasonably**
9 **designed to ensure that the licensee's authorized delegates comply with applicable state**
10 **and federal law;**

11 **(2) Enter into a written contract that complies with subsection 4 of this section;**
12 **and**

13 **(3) Conduct a reasonable risk-based background investigation sufficient for the**
14 **licensee to determine whether the authorized delegate has complied and will likely**
15 **comply with applicable state and federal law.**

16 **3. An authorized delegate shall operate in full compliance with sections 361.900**
17 **to 361.1035.**

18 **4. The written contract required under subsection 2 of this section shall be**
19 **signed by the licensee and the authorized delegate and, at a minimum, shall:**

20 **(1) Appoint the person signing the contract as the licensee's authorized delegate**
21 **with the authority to conduct money transmission on behalf of the licensee;**

22 **(2) Set forth the nature and scope of the relationship between the licensee and**
23 **the authorized delegate and the respective rights and responsibilities of the parties;**

24 **(3) Require the authorized delegate to agree to fully comply with all applicable**
25 **state and federal laws, rules, and regulations pertaining to money transmission,**
26 **including sections 361.900 to 361.1035 and regulations implementing sections 361.900 to**
27 **361.1035, relevant provisions of the Bank Secrecy Act, and the USA PATRIOT Act;**

28 **(4) Require the authorized delegate to remit and handle money and monetary**
29 **value in accordance with the terms of the contract between the licensee and the**
30 **authorized delegate;**

31 **(5) Impose a trust on money and monetary value net of fees received for money**
32 **transmission for the benefit of the licensee;**

33 **(6) Require the authorized delegate to prepare and maintain records as required**
34 **by sections 361.900 to 361.1035 or regulations implementing sections 361.900 to**
35 **361.1035, or as reasonably requested by the director;**

36 **(7) Acknowledge that the authorized delegate consents to examination or**
37 **investigation by the director;**

37 **(8) State that the licensee is subject to regulation by the director and that, as part**
38 **of that regulation, the director may suspend or revoke an authorized delegate**
39 **designation or require the licensee to terminate an authorized delegate designation; and**

40 **(9) Acknowledge receipt of the written policies and procedures required under**
41 **subdivision (1) of subsection 1 of this section.**

42 **5. If the licensee's license is suspended, revoked, surrendered, or expired, the**
43 **licensee shall, within five business days, provide documentation to the director that the**
44 **licensee has notified all applicable authorized delegates of the licensee whose names are**
45 **in a record filed with the directors of the suspension, revocation, surrender, or**
46 **expiration of a license. Upon suspension, revocation, surrender, or expiration of a**
47 **license, applicable authorized delegates shall immediately cease to provide money**
48 **transmission as an authorized delegate of the licensee.**

49 **6. An authorized delegate of a licensee holds in trust for the benefit of the**
50 **licensee all money net of fees received from money transmission. If any authorized**
51 **delegate commingles any funds received from money transmission with any other funds**
52 **or property owned or controlled by the authorized delegate, all commingled funds and**
53 **other property shall be considered held in trust in favor of the licensee in an amount**
54 **equal to the amount of money net of fees received from money transmission.**

55 **7. An authorized delegate shall not use a subdelegate to conduct money**
56 **transmission on behalf of a licensee.**

361.978. A person shall not engage in the business of money transmission on
2 **behalf of a person not licensed under sections 361.900 to 361.1035 or not exempt under**
3 **sections 361.909 and 361.912. A person that engages in such activity provides money**
4 **transmission to the same extent as if the person were a licensee and shall be jointly and**
5 **severally liable with the unlicensed or nonexempt person.**

361.981. 1. The circuit court in an action brought by a licensee shall have
2 **jurisdiction to grant appropriate equitable or legal relief, including without limitation**
3 **prohibiting the authorized delegate from directly or indirectly acting as an authorized**
4 **delegate for any licensee in this state and the payment of restitution, damages, or other**
5 **monetary relief, if the circuit court finds that an authorized delegate failed to remit**
6 **money in accordance with the written contract required by subsection 2 of section**
7 **361.1275 or as otherwise directed by the licensee or required by law.**

8 **2. If the circuit court issues an order prohibiting a person from acting as an**
9 **authorized delegate for any licensee under subsection 1 of this section, the licensee that**
10 **brought the action shall report the order to the director within thirty days and shall**
11 **report the order through NMLS within ninety days.**

12 **3. An authorized delegate who holds money in trust for the benefit of a licensee**
13 **and knowingly fails to remit more than one thousand dollars of such money is guilty of a**
14 **class E felony.**

15 **4. An authorized delegate who holds money in trust for the benefit of a licensee**
16 **and knowingly fails to remit no more than one thousand dollars of such money is guilty**
17 **of a class A misdemeanor.**

361.984. 1. Every licensee shall forward all money received for transmission in
2 **accordance with the terms of the agreement between the licensee and the sender unless**
3 **the licensee has a reasonable belief or a reasonable basis to believe that the sender may**
4 **be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred,**
5 **is occurring, or may occur.**

6 **2. If a licensee fails to forward money received for transmission in accordance**
7 **with this section, the licensee shall respond to inquiries by the sender with the reason for**
8 **the failure unless providing a response would violate a state or federal law, rule, or**
9 **regulation.**

361.987. 1. This section shall not apply to:

2 **(1) Money received for transmission subject to the federal Remittance Rule, 12**
3 **CFR Part 1005, Subpart B, as amended or recodified from time to time; or**

4 **(2) Money received for transmission under a written agreement between the**
5 **licensee and payee to process payments for goods or services provided by the payee.**

6 **2. Every licensee shall refund to the sender, within ten days of receipt of the**
7 **sender's written request for a refund, any and all money received for transmission**
8 **unless any of the following occurs:**

9 **(1) The money has been forwarded within ten days of the date on which the**
10 **money was received for transmission;**

11 **(2) Instructions have been given committing an equivalent amount of money to**
12 **the person designated by the sender within ten days of the date on which the money was**
13 **received for transmission;**

14 **(3) The agreement between the licensee and the sender instructs the licensee to**
15 **forward the money at a time that is beyond ten days of the date on which the money was**
16 **received for transmission. If funds have not yet been forwarded in accordance with the**
17 **terms of the agreement between the licensee and the sender, the licensee shall issue a**
18 **refund in accordance with the other provisions of this section;**

19 **(4) The refund is requested for a transaction that the licensee has not completed**
20 **based on a reasonable belief or a reasonable basis to believe that a crime or violation of**
21 **law, rule, or regulation has occurred, is occurring, or may occur; or**

22 **(5) The refund request does not enable the licensee to:**

- 23 (a) Identify the sender's name and address or telephone number; or
24 (b) Identify the particular transaction to be refunded in the event the sender has
25 multiple transactions outstanding.

361.990. 1. This section shall not apply to:

- 2 (1) Money received for transmission subject to the federal Remittance Rule, 12
3 CFR Part 1005, Subpart B, as amended or recodified from time to time;
4 (2) Money received for transmission that is not primarily for personal, family, or
5 household purposes;
6 (3) Money received for transmission under a written agreement between the
7 licensee and payee to process payments for goods or services provided by the payee; or
8 (4) Payroll processing services.

9 2. For purposes of this section, "receipt" means a paper receipt, electronic
10 record, or other written confirmation. For a transaction conducted in person, the
11 receipt may be provided electronically if the sender requests or agrees to receive an
12 electronic receipt. For a transaction conducted electronically or by phone, a receipt may
13 be provided electronically. All electronic receipts shall be provided in a retainable form.

14 3. (1) Every licensee or its authorized delegate shall provide the sender a receipt
15 for money received for transmission. The receipt shall contain the following
16 information, as applicable:

- 17 (a) The name of the sender;
18 (b) The name of the designated recipient;
19 (c) The date of the transaction;
20 (d) The unique transaction or identification number;
21 (e) The name of the licensee, NMLS unique identifier, the licensee's business
22 address, and the licensee's customer service telephone number;
23 (f) The amount of the transaction in United States dollars;
24 (g) Any fee charged by the licensee to the sender for the transaction; and
25 (h) Any taxes collected by the licensee from the sender for the transaction.

26 (2) The receipt required by this section shall be in English and in the language
27 principally used by the licensee or authorized delegate to advertise, solicit, or negotiate,
28 either orally or in writing, for a transaction conducted in person, electronically, or by
29 phone, if other than English.

361.996. 1. A licensee that provides payroll processing services shall:

- 2 (1) Issue reports to clients detailing client payroll obligations in advance of the
3 payroll funds being deducted from an account; and
4 (2) Make available worker paystubs or an equivalent statement to workers.

5 2. Subsection 1 of this section shall not apply to a licensee providing payroll
6 processing services if the licensee's client designates the intended recipients to the
7 licensee and is responsible for providing the disclosures required by subdivision (2) of
8 subsection 1 of this section.

 361.999. 1. A licensee under sections 361.900 to 361.1035 shall maintain at all
2 times a tangible net worth of the greater of one hundred thousand dollars or three
3 percent of total assets for the first one hundred million dollars, two percent of additional
4 assets for one hundred million dollars to one billion dollars, and one-half of one percent
5 of additional assets for over one billion dollars.

6 2. Tangible net worth shall be demonstrated at initial application by the
7 applicant's most recent audited or unaudited financial statements under subdivision (6)
8 of subsection 2 of section 361.936.

9 3. Notwithstanding the provisions of this section, the director shall have the
10 authority, for good cause shown, to exempt, in part or in whole, from the requirements
11 of this section any applicant or licensee.

 361.1002. 1. An applicant for a money transmission license shall provide, and a
2 licensee at all times shall maintain, security consisting of a surety bond in a form
3 satisfactory to the director.

4 2. The amount of the required security shall be:

5 (1) The greater of one hundred thousand dollars or an amount equal to one
6 hundred percent of the licensee's average daily money transmission liability in this state
7 calculated for the most recently completed three-month period, up to a maximum of five
8 hundred thousand dollars; or

9 (2) In the event that the licensee's tangible net worth exceeds ten percent of the
10 total assets, a surety bond of one hundred thousand dollars.

11 3. A licensee that maintains a bond in the maximum amount provided for in
12 subsection 2 of this section shall not be required to calculate its average daily money
13 transmission liability in this state for purposes of this section.

 361.1005. 1. A licensee shall maintain at all times permissible investments that
2 have a market value computed in accordance with United States generally accepted
3 accounting principles of not less than the aggregate amount of all of its outstanding
4 money transmission obligations.

5 2. Except for permissible investments enumerated in subsection 1 of section
6 361.1008, the director, with respect to any licensee, may by rule limit the extent to which
7 a specific investment maintained by a licensee within a class of permissible investments
8 may be considered a permissible investment if the specific investment represents undue
9 risk to customers not reflected in the market value of investments.

10 **3. Permissible investments, even if commingled with other assets of the licensee,**
11 **are held in trust for the benefit of the purchasers and holders of the licensee's**
12 **outstanding money transmission obligations in the event of insolvency, the filing of a**
13 **petition by or against the licensee under the United States Bankruptcy Code, 11 U.S.C.**
14 **Section 101-110, as amended or recodified from time to time, for bankruptcy or**
15 **reorganization, the filing of a petition by or against the licensee for receivership, the**
16 **commencement of any other judicial or administrative proceeding for its dissolution or**
17 **reorganization, or in the event of an action by a creditor against the licensee who is not a**
18 **beneficiary of the statutory trust. No permissible investments impressed with a trust**
19 **under this subsection shall be subject to attachment, levy of execution, or sequestration**
20 **by order of any court, except for a beneficiary of the statutory trust.**

21 **4. Upon the establishment of a statutory trust in accordance with subsection 3 of**
22 **this section or when any funds are drawn on a letter of credit under subdivision (4) of**
23 **subsection 1 of section 361.1008, the director shall notify the applicable regulator of each**
24 **state in which the licensee is licensed to engage in money transmission, if any, of the**
25 **establishment of the trust or the funds drawn on the letter of credit, as applicable.**
26 **Notice shall be deemed satisfied if performed under a multistate agreement or through**
27 **NMLS. Funds drawn on a letter of credit, and any other permissible investments held**
28 **in trust for the benefit of the purchasers and holders of the licensee's outstanding money**
29 **transmission obligations, are deemed held in trust for the benefit of such purchasers and**
30 **holders on a pro rata and equitable basis in accordance with statutes under which**
31 **permissible investments are required to be held in this state, and other states, as**
32 **applicable. Any statutory trust established under this subsection shall be terminated**
33 **upon extinguishment of all of the licensee's outstanding money transmission obligations.**

34 **5. The director by rule or by order may allow other types of investments that the**
35 **director determines are of sufficient liquidity and quality to be a permissible investment.**
36 **The director is authorized to participate in efforts with other state regulators to**
37 **determine that other types of investments are of sufficient liquidity and quality to be a**
38 **permissible investment.**

361.1008. 1. The following investments are permissible under section 361.1005:

2 **(1) Cash, including demand deposits, savings deposits, and funds in such**
3 **accounts held for the benefit of the licensee's customers in a federally insured depository**
4 **financial institution, and cash equivalents, including automated clearinghouse items in**
5 **transit to the licensee and automated clearinghouse items or international wires in**
6 **transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-**
7 **owned locations, debit card or credit card funded transmission receivables owed by any**

8 bank, or money market mutual funds rated AAA by Standard & Poor's, or the
9 equivalent from any eligible rating service;

10 (2) Certificates of deposit or senior debt obligations of an insured depository
11 institution, as defined under the Federal Deposit Insurance Act, 12 U.S.C. Section 1813,
12 as amended or recodified from time to time, or as defined under the federal Credit
13 Union Act, 12 U.S.C. Section 1781, as amended or recodified from time to time;

14 (3) An obligation of the United States or a commission, agency, or
15 instrumentality thereof; an obligation that is guaranteed fully as to principal and
16 interest by the United States; or an obligation of a state or a governmental subdivision,
17 agency, or instrumentality thereof;

18 (4) One hundred percent of the surety bond provided for under section 361.1002
19 that exceeds the average daily money transmission liability in this state; and

20 (5) The full drawable amount of an irrevocable standby letter of credit for which
21 the stated beneficiary is the director that stipulates that the beneficiary need draw only
22 a sight draft under the letter of credit and present it to obtain funds up to the letter of
23 credit amount within seven days of presentation of the items required by paragraph (d)
24 of this subdivision. The letter of credit shall:

25 (a) Be issued by a federally insured depository financial institution, a foreign
26 bank that is authorized under federal law to maintain a federal agency or federal
27 branch office in a state or states, or a foreign bank that is authorized under state law to
28 maintain a branch in a state that:

29 a. Bears an eligible rating or whose parent company bears an eligible rating; and

30 b. Is regulated, supervised, and examined by United States federal or state
31 authorities having regulatory authority over banks, credit unions, and trust companies;

32 (b) Be irrevocable, unconditional, and indicate that it is not subject to any
33 condition or qualifications outside of the letter of credit;

34 (c) Not contain references to any other agreements, documents or entities, or
35 otherwise provide for any security interest in the licensee; and

36 (d) Contain an issue date and expiration date, and expressly provide for
37 automatic extension, without a written amendment, for an additional period of one year
38 from the present or each future expiration date unless the issuer of the letter of credit
39 notifies the director in writing by certified or registered mail or courier mail or other
40 receipted means, at least sixty days prior to any expiration date, that the irrevocable
41 letter of credit will not be extended.

42 2. In the event of any notice of expiration or nonextension of a letter of credit
43 issued under paragraph (d) of subdivision (4) of subsection 1 of this section, the licensee
44 shall be required to demonstrate to the satisfaction of the director, fifteen days prior to

45 expiration, that the licensee maintains and will maintain permissible investments in
46 accordance with subsection 1 of section 361.1005 upon the expiration of the letter of
47 credit. If the licensee is not able to do so, the director may draw on the letter of credit in
48 an amount up to the amount necessary to meet the licensee's requirements to maintain
49 permissible investments in accordance with subsection 1 of section 361.1005. Any such
50 draw shall be offset against the licensee's outstanding money transmission obligations.
51 The drawn funds shall be held in trust by the director or the director's designated agent,
52 to the extent authorized by law, as agent for the benefit of the purchasers and holders of
53 the licensee's outstanding money transmission obligations.

54 3. The letter of credit shall provide that the issuer of the letter of credit will
55 honor, at sight, a presentation made by the beneficiary to the issuer of the following
56 documents on or prior to the expiration date of the letter of credit:

57 (1) The original letter of credit, including any amendments; and

58 (2) A written statement from the beneficiary stating that any of the following
59 events have occurred:

60 (a) The filing of a petition by or against the licensee under the United States
61 Bankruptcy Code, 11 U.S.C. Sections 101-110, as amended or recodified from time to
62 time, for bankruptcy or reorganization;

63 (b) The filing of a petition by or against the licensee for receivership, or the
64 commencement of any other judicial or administrative proceeding for its dissolution or
65 reorganization;

66 (c) The seizure of assets of a licensee by the director under an emergency order
67 issued in accordance with applicable law, on the basis of an action, violation, or
68 condition that has caused or is likely to cause the insolvency of the licensee; or

69 (d) The beneficiary has received notice of expiration or nonextension of a letter
70 of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that
71 the licensee will maintain permissible investments in accordance with subsection 1 of
72 section 361.1005 upon the expiration or nonextension of the letter of credit.

73 4. The director may designate an agent to serve on the director's behalf as
74 beneficiary to a letter of credit so long as the agent and letter of credit meet
75 requirements established by the director. The director's agent may serve as agent for
76 multiple licensing authorities for a single irrevocable letter of credit if the proceeds of
77 the drawable amount for the purposes of this subsection are assigned to the director.

78 5. The director is authorized to participate in multistate processes designed to
79 facilitate the issuance and administration of letters of credit including, but not limited
80 to, services provided by the NMLS, State Regulatory Registry LLC or other third
81 parties.

82 **6. Unless permitted by the director by rule or by order to exceed the limit as set**
83 **forth herein, the following investments are permissible under section 361.1005 to the**
84 **extent specified:**

85 **(1) Receivables that are payable to a licensee from its authorized delegates in the**
86 **ordinary course of business that are less than seven days old, up to fifty percent of the**
87 **aggregate value of the licensee's total permissible investments. Of the receivables**
88 **permissible under this subdivision, receivables that are payable to a licensee from a**
89 **single authorized delegate in the ordinary course of business shall not exceed ten percent**
90 **of the aggregate value of the licensee's total permissible investments;**

91 **(2) The following investments, up to twenty percent per category and combined**
92 **up to fifty percent of the aggregate value of the licensee's total permissible investments:**

93 **(a) A short-term investment bearing an eligible rating. For purposes of this**
94 **paragraph, "short-term" means up to six months;**

95 **(b) Commercial paper bearing an eligible rating;**

96 **(c) A bill, note, bond, or debenture bearing an eligible rating;**

97 **(d) United States triparty repurchase agreements collateralized at one hundred**
98 **percent or more with United States government or agency securities, municipal bonds,**
99 **or other securities bearing an eligible rating;**

100 **(e) Money market mutual funds rated less than "AAA" and equal to or higher**
101 **than "A-" by Standard & Poor's, or the equivalent from any other eligible rating**
102 **service; and**

103 **(f) A mutual fund or other investment fund composed solely and exclusively of**
104 **one or more permissible investments listed in subdivisions (1) to (3) of subsection 1 of**
105 **this section; and**

106 **(3) Cash, including demand deposits, savings deposits, and funds in such**
107 **accounts held for the benefit of the licensee's customers, at foreign depository**
108 **institutions to ten percent of the aggregate value of the licensee's total permissible**
109 **investments if the licensee has received a satisfactory rating in its most recent**
110 **examination and the foreign depository institution:**

111 **(a) Has an eligible rating;**

112 **(b) Is registered under the Foreign Account Tax Compliance Act;**

113 **(c) Is not located in any country subject to sanctions from the Office of Foreign**
114 **Asset Control; and**

115 **(d) Is not located in a high risk or noncooperative jurisdiction as designated by**
116 **the Financial Action Task Force.**

361.1011. 1. The director may suspend or revoke a license or order a licensee to
2 **revoke the designation of an authorized delegate if:**

3 (1) The licensee violates sections 361.900 to 361.1035 or a rule adopted or an
4 order issued under sections 361.900 to 361.1035;

5 (2) The licensee does not cooperate with an examination or investigation by the
6 director;

7 (3) The licensee engages in fraud, intentional misrepresentation, or gross
8 negligence;

9 (4) An authorized delegate is convicted of, or enters a plea of guilty or nolo
10 contendere to a felony involving an act of fraud, dishonesty, a breach of trust, or money
11 laundering, or violates a rule adopted or an order issued under sections 361.900 to
12 361.1035 as a result of the licensee's willful misconduct or willful blindness;

13 (5) The competence, experience, character, or general fitness of the licensee,
14 authorized delegate, person in control of a licensee, key individual, or responsible
15 person of the authorized delegate indicates that it is not in the public interest to permit
16 the person to provide money transmission;

17 (6) The licensee engages in an unsafe or unsound practice;

18 (7) The licensee is insolvent, suspends payment of its obligations, or makes a
19 general assignment for the benefit of its creditors; or

20 (8) The licensee does not remove an authorized delegate after the director issues
21 and serves upon the licensee a final order including a finding that the authorized
22 delegate has violated sections 361.900 to 361.1035.

23 2. In determining whether a licensee is engaging in an unsafe or unsound
24 practice, the director may consider the size and condition of the licensee's money
25 transmission, the magnitude of the loss, the gravity of the violation of sections 361.900 to
26 361.1035, and the previous conduct of the person involved.

 361.1014. 1. The director may issue an order suspending or revoking the
2 designation of an authorized delegate, if the director finds that:

3 (1) The authorized delegate violated sections 361.900 to 361.1035 or a rule
4 adopted or an order issued under sections 361.900 to 361.1035;

5 (2) The authorized delegate did not cooperate with an examination or
6 investigation by the director;

7 (3) The authorized delegate engaged in fraud, intentional misrepresentation, or
8 gross negligence;

9 (4) The authorized delegate has been convicted of, or pled guilty or nolo
10 contendere to a felony involving an act of fraud, dishonesty, a breach of trust, or money
11 laundering;

12 **(5) The competence, experience, character, or general fitness of the authorized**
13 **delegate or a person in control of the authorized delegate indicates that it is not in the**
14 **public interest to permit the authorized delegate to provide money transmission; or**

15 **(6) The authorized delegate is engaging in an unsafe or unsound practice.**

16 **2. In determining whether an authorized delegate is engaging in an unsafe or**
17 **unsound practice, the director may consider the size and condition of the authorized**
18 **delegate's provision of money transmission, the magnitude of the loss, the gravity of the**
19 **violation of sections 361.900 to 361.1035 or a rule adopted or order issued under sections**
20 **361.900 to 361.1035, and the previous conduct of the authorized delegate.**

21 **3. An authorized delegate may apply for relief from a suspension or revocation**
22 **of designation as an authorized delegate according to procedures prescribed by the**
23 **director.**

361.1017. 1. If the director determines that a violation of sections 361.900 to
2 **361.1035 or of a rule adopted or an order issued under sections 361.900 to 361.1035 by a**
3 **licensee or authorized delegate is likely to cause immediate and irreparable harm to the**
4 **licensee, its customers, or the public as a result of the violation, or cause insolvency or**
5 **significant dissipation of assets of the licensee, the director may issue an order requiring**
6 **the licensee or authorized delegate to cease and desist from the violation. The order**
7 **becomes effective upon service to the licensee or authorized delegate.**

8 **2. The director may issue an order against a licensee to cease and desist from**
9 **providing money transmission through an authorized delegate that is the subject of a**
10 **separate order by the director.**

11 **3. An order to cease and desist remains effective and enforceable pending the**
12 **completion of an administrative proceeding under chapter 536.**

13 **4. A licensee or an authorized delegate that is served with an order to cease and**
14 **desist may petition the circuit court with jurisdiction for a judicial order setting aside,**
15 **limiting, or suspending the enforcement, operation, or effectiveness of the order pending**
16 **the completion of an administrative proceeding under chapter 536.**

17 **5. An order to cease and desist expires unless the director commences an**
18 **administrative proceeding under chapter 536 within ten days after it is issued.**

361.1020. The director may enter into a consent order at any time with a person
2 **to resolve a matter arising under sections 361.900 to 361.1035 or a rule adopted or order**
3 **issued under sections 361.900 to 361.1035. A consent order shall be signed by the person**
4 **to whom it is issued or by the person's authorized representative and shall indicate**
5 **agreement with the terms contained in the order. A consent order may provide that it**
6 **does not constitute an admission by a person that sections 361.900 to 361.1035 or a rule**
7 **adopted or an order issued under sections 361.900 to 361.1035 has been violated.**

361.1023. 1. A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under sections 361.900 to 361.1035 or that intentionally makes a false entry or omits a material entry in such a record is guilty of a class E felony.

2. A person that knowingly engages in an activity for which a license is required under sections 361.900 to 361.1035 without being licensed under sections 361.900 to 361.1035 and that receives more than five hundred dollars in compensation within a thirty-day period for this activity is guilty of a class E felony.

3. A person that knowingly engages in an activity for which a license is required under sections 361.900 to 361.1035 without being licensed under sections 361.900 to 361.1035 and that receives no more than five hundred dollars in compensation within a thirty-day period for this activity is guilty of a class A misdemeanor.

361.1026. The director may assess a civil penalty against a person that violates sections 361.900 to 361.1035 or a rule adopted or an order issued under sections 361.900 to 361.1035 in an amount not to exceed one thousand dollars per day for each day the violation is outstanding, plus this state's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees.

361.1029. 1. If the director has reason to believe that a person has violated or is violating section 361.930, the director may issue an order to show cause why an order to cease and desist shall not be issued requiring that the person cease and desist from the violation of section 361.930.

2. In an emergency, the director may petition the circuit court with jurisdiction for the issuance of a temporary restraining order under the rules of civil procedure.

3. An order to cease and desist becomes effective upon service to the person.

4. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding under chapter 536.

5. A person that is served with an order to cease and desist for violating section 361.930 may petition the circuit court with jurisdiction for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding under chapter 536.

6. An order to cease and desist expires unless the director commences an administrative proceeding within ten days after it is issued.

361.1032. In applying and construing sections 361.900 to 361.1035, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

361.1035. 1. A person licensed in this state to engage in the business of money transmission shall not be subject to the provisions of sections 361.900 to 361.1035 to the

3 extent that they conflict with current law or establish new requirements not imposed
4 under current law, until such time as the licensee renews the licensee's current license.

5 2. Notwithstanding subsection 1 of this section, a licensee shall be required only
6 to amend its authorized delegate contracts for contracts entered into or amended after
7 the effective date or the completion of any transition period contemplated under
8 subsection 1 of this section. Nothing herein shall be construed as limiting an authorized
9 delegate's obligations to operate in full compliance with sections 361.900 to 361.1035 as
10 required by subsection 3 of section 361.975.

362.245. 1. The affairs and business of the corporation shall be managed by a board
2 of directors, consisting of not less than five nor more than thirty-five stockholders who shall
3 be elected annually; except, that trust companies in existence on October 13, 1967, may
4 continue to divide the directors into three classes of equal number, as near as may be, and to
5 elect one class each year for three-year terms. Notwithstanding any provision of this chapter
6 to the contrary, a director who is not a stockholder shall have all the rights, privileges, and
7 duties of a director who is a stockholder.

8 2. Each director shall be a citizen of the United States, and **except for a private trust**
9 **company as described under section 361.160**, at least a majority of the directors must be
10 residents of this state at the time of their election and during their continuance in office;
11 provided, however, that if a director actually resides within a radius of one hundred miles of
12 the banking house of said bank or trust company, even though his or her residence be in
13 another state adjoining and contiguous to the state of Missouri, he or she shall for the
14 purposes of this section be considered as a resident of this state and in the event such director
15 shall be a nonresident of the state of Missouri he or she shall upon his or her election as a
16 director file with the president of the banking house or such other chief executive ~~[office]~~
17 **officer** as otherwise permitted by this chapter written consent to service of legal process upon
18 him in his or her capacity as a director by service of the legal process upon the president as
19 though the same were personally served upon the director in Missouri.

20 3. If at a time when not more than a majority of the directors are residents of this
21 state, **except for a private trust company as described under section 361.160**, any director
22 shall cease to be a resident of this state or adjoining state as ~~[defined]~~ **described** in subsection
23 2 of this section, he or she shall forthwith cease to be a director of the bank or trust company
24 and his or her office shall be vacant.

25 4. No person shall be a director in any bank or trust company against whom such
26 bank or trust company shall hold a judgment.

27 5. Cumulative voting shall only be permitted at any meeting of the members or
28 stockholders in electing directors when it is provided for in the articles of incorporation or
29 bylaws.

362.1010. Sections 362.1010 to ~~[362.1115]~~ **362.1117** shall be known and may be
2 cited as the "Missouri Family Trust Company Act".

362.1015. For purposes of sections 362.1010 to ~~[362.1115]~~ **362.1117**, the following
2 terms mean:

3 (1) "Authorized representative", if a family trust company is organized as a
4 corporation, then an officer or director of the family trust company or, if a family trust
5 company is organized as a limited liability company, then a manager, officer, or member of
6 the family trust company;

7 (2) "Collateral kinship", a relationship that is not lineal but stems from a common
8 ancestor;

9 (3) "Controlling stockholder or member", an individual who owns or has the ability or
10 power to directly or indirectly vote ten percent or more of the outstanding shares, membership
11 interest, or membership units of the family trust company;

12 (4) "Designated relative", a common ancestor of a family, either living or deceased,
13 who is so designated in a family trust company's initial registration application and any
14 annual registration report;

15 (5) **"Director", the director of the Missouri division of finance;**

16 (6) **"Director's designee", an attorney-at-law or a certified public accountant**
17 **designated by the director under subsection 1 of section 362.1085;**

18 (7) "Engage in trust company business with the general public", any sales,
19 solicitations, arrangements, agreements, or transactions to provide trust or other business
20 services, whether for a fee, commission, or any other type of remuneration, with any person
21 who is not a family member or any sole proprietorship, partnership, limited liability company,
22 joint venture, association, corporation, trust, estate, business trust, or other company that is
23 not one hundred percent owned by one or more family members;

24 ~~[(6)]~~ (8) "Family affiliate", a company or other entity wholly and exclusively owned
25 by, directly or indirectly, and operated for the sole benefit of:

26 (a) One or more family members; or

27 (b) Charitable foundations, charitable trusts, or other charitable entities if such
28 foundation, trust, or entity is funded exclusively by one or more family members;

29 ~~[(7)]~~ (9) "Family member":

30 (a) A designated relative;

31 (b) Any person within the tenth degree of lineal kinship of a designated relative;

32 (c) Any person within the ninth degree of collateral kinship to a designated relative;

33 (d) The spouse of any person who qualifies under paragraphs (a) through (c) of this
34 subdivision;

35 (e) Any former spouse of any person who qualifies under paragraphs (a) through (c)
36 of this subdivision;

37 (f) The probate estate of any person who qualified as a family member under
38 paragraphs (a) through (e) of this subdivision;

39 (g) A family affiliate;

40 (h) An irrevocable trust funded exclusively by one or more family members of which
41 all permissible distributees, as defined under subdivision (16) of section 456.1-103, qualify
42 under paragraphs (a) through (g) of this subdivision or are charitable foundations, charitable
43 trusts, or other charitable entities;

44 (i) An irrevocable trust of which one or more family members are the only
45 permissible distributees; or

46 (j) A revocable trust of which one or more family members are the sole settlors.

47

48 For purposes of this subdivision, a legally adopted person shall be treated as a natural child of
49 the adoptive parents; a stepchild shall be treated as a natural child of the family member who
50 is or was the stepparent of that child; and a foster child or an individual who was a minor
51 when a family member became his or her legal guardian shall be treated as a natural child of
52 the family member appointed as foster parent or guardian. Degrees of kinship are calculated
53 by adding the number of steps from the designated relative through each person to the family
54 member either directly in case of lineal kinship or through the common ancestor in the case of
55 collateral kinship;

56 ~~[(8)]~~ (10) "Family trust company", a corporation or limited liability company
57 organized or qualified to do business in this state that is wholly owned and exclusively
58 controlled by, directly or indirectly, one or more family members, excluding any former
59 spouse of a family member; that operates for the exclusive benefit of a family member
60 regardless of whether compensation is received or anticipated; and that does not engage in
61 trust company business with the general public or otherwise hold itself out as a trustee for hire
62 by advertisement, solicitation, or other means. The term "family trust company" shall include
63 foreign family trust companies unless context indicates otherwise;

64 ~~[(9)]~~ (11) "Family trust company affiliated party":

65 (a) A director, officer, manager, employee, or controlling stockholder or member of a
66 family trust company; or

67 (b) A stockholder, member, or any other person as determined by the ~~[secretary]~~
68 **director** who participates in the affairs of a family trust company;

69 ~~[(10)]~~ (12) "Foreign family trust company", a family trust company that:

70 (a) Is licensed by the District of Columbia or a state in the United States other than
71 this state;

72 (b) Has its principal place of business in the District of Columbia or a state in the
73 United States other than this state;

74 (c) Is operated in accordance with family or private trust company laws of the District
75 of Columbia or of the state in which it is licensed;

76 (d) Is subject to statutory or regulatory mandated oversight by the District of
77 Columbia or state in which the principal place of business is located; and

78 (e) Is not owned by or a subsidiary of a corporation, limited liability company, or
79 other business entity that is organized in or licensed by any foreign country;

80 ~~[(11)]~~ (13) "Lineal kinship", a relationship in the direct line of ascent or descent from
81 a designated relative;

82 ~~[(12)]~~ (14) "Officer", an individual, regardless of whether the individual has an
83 official title or receives a salary or other compensation, who may participate in the major
84 policy-making functions of a family trust company other than as a director. The term shall
85 not include an individual who may have an official title and exercises discretion in the
86 performance of duties and functions but who does not participate in determining the major
87 policies of the family trust company and whose decisions are limited by policy standards
88 established by other officers, regardless of whether the policy standards have been adopted by
89 the board of directors. The chair of the board of directors, the president, the chief executive
90 officer, the chief financial officer, the senior trust officer, all executive vice presidents of a
91 family trust company, and all managers if organized as a limited liability company are
92 presumed to be officers unless such officer is excluded, other than in the capacity of a
93 director, by resolution of the board of directors or members or by the bylaws or operating
94 agreement of the family trust company from participating in major policy-making functions
95 of the family trust company, and such excluded officer does not actually participate therein;

96 ~~[(13)]~~ (15) "Organizational instrument", the articles of incorporation for a corporation
97 or the articles of organization for a limited liability company, as they may be amended or
98 supplemented from time to time;

99 ~~[(14)]~~ (16) "Principal place of business", the physical location where officers of a
100 family trust company direct, control, and coordinate the trust company's activities;

101 ~~[(15)]~~ (17) "Principal place of operations", the physical location in this state where a
102 foreign family trust company stores and maintains its books and records pertaining to
103 operations in this state;

104 ~~[(16)]~~ (18) "Qualified beneficiary", the same meaning as defined under subdivision
105 (21) of section 456.1-103;

106 ~~[(17)]~~ (19) "Registered agent", a business or individual designated by a family trust
107 company to receive service of process on behalf of the family trust company;

108 ~~[(18)]~~ **(20)** "Reports of examinations, operations, or conditions", records submitted to
109 the ~~[secretary]~~ **director** or prepared by the ~~[secretary]~~ **director** as part of the ~~[secretary's]~~
110 **director's** duties performed under sections 362.1010 to 362.1117;

111 ~~[(19) "Secretary", the secretary of state for the state of Missouri;~~

112 ~~(20) "Secretary's designee", an attorney at law or a certified public accountant~~
113 ~~designated by the secretary under subsection 1 of section 362.1085;]~~

114 (21) "Working papers", the records of the procedures followed, tests performed,
115 information obtained, and conclusions reached in an investigation under sections 362.1010 to
116 362.1117. The term shall also include books and records.

362.1030. 1. There is hereby established in the state treasury the "Family Trust
2 Company Fund", which shall consist of all fees collected by the ~~[secretary]~~ **director** from
3 family trust companies registering as provided in this section. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may
5 approve disbursements. The fund shall be a dedicated fund, and moneys in the fund shall be
6 used solely to support the ~~[secretary's]~~ **director's** role and fulfillment of duties under sections
7 362.1010 to 362.1117. Notwithstanding the provisions of section 33.080 to the contrary, any
8 moneys remaining in the fund at the end of the biennium that exceed twenty thousand dollars
9 shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys
10 in the fund in the same manner as other funds are invested. Any interest and moneys earned
11 on such investments shall be credited to the fund.

12 2. A family trust company that is not a foreign family trust company shall not conduct
13 business in this state unless such family trust company:

14 (1) ~~[Files its organizational instrument with the secretary]~~ **Files with the director, an**
15 **initial registration application in a format prescribed by the director, a one-time original**
16 **filing fee of five thousand dollars, the proposed organizational instruments to be filed**
17 **with the secretary of state, and all required filing fees; and**

18 (2) ~~[Pays a one time original filing fee of five thousand dollars to the secretary]~~
19 **Receives from the director an order approving the application, instruction as to who**
20 **shall file the order, the proposed organizational instruments and all required filing fees**
21 **with the secretary of state;**~~and~~

22 (3) ~~Registers by filing with the secretary an initial registration application in a format~~
23 ~~prescribed by the secretary].~~

24
25 **A family trust company that is not a foreign family trust company that is, as of August**
26 **28, 2024, a registered family trust company in good standing with the secretary of state**
27 **shall be deemed to have complied with the requirements of subsection 2 of section**
28 **362.1030.**

29 3. A foreign family trust company shall not conduct business in this state unless such
30 foreign family trust company:

31 (1) ~~[Pays a one-time original filing fee of five thousand dollars to the secretary]~~ **Files**
32 **with the director, an initial registration application in a format prescribed by the**
33 **director, a one-time original filing fee of five thousand dollars, the proposed application**
34 **for a certificate of authority if a corporation or application for registration if a limited**
35 **liability company to be filed with the secretary of state, and all required filing fees; and**

36 (2) ~~[Registers by filing with the secretary an initial registration application in a format~~
37 ~~prescribed by the secretary]~~ **Receives from the director an order approving the**
38 **application, instruction as to who shall file the order, the proposed application for a**
39 **certificate of authority if a corporation, or application for registration if a limited**
40 **liability company, to be filed with the secretary of state and all required filing fees[; and**

41 (3) ~~If such foreign family trust company is a corporation, files an application for a~~
42 ~~certificate of authority or, if such foreign family trust company is a limited liability company,~~
43 ~~files an application for registration].~~

44

45 **A foreign family trust company that is, as of August 28, 2024, a registered family trust**
46 **company in good standing with the secretary of state shall be deemed to have complied**
47 **with the requirements of subsection 3 of section 362.1030.**

48 4. The ~~[secretary]~~ **director** shall deposit all family trust company filing fees into the
49 family trust company fund established under subsection 1 of this section.

50 5. A foreign family trust company application shall be submitted on a form prescribed
51 by the ~~[secretary]~~ **director** and be signed, under penalty of perjury, by an authorized
52 representative. At a minimum, the application shall include:

53 (1) A statement attesting that the foreign family trust company:

54 (a) Will comply with the provisions of sections 362.1010 to 362.1117; and

55 (b) Is in compliance with the family trust company laws and regulations of the
56 jurisdiction of its incorporation or organization;

57 (2) The current telephone number and street address of:

58 (a) The foreign family trust company's principal place of business in the jurisdiction
59 of its incorporation or organization;

60 (b) The foreign family trust company's principal place of operations; and

61 (c) Any other offices located within this state;

62 (3) The name and current street address in this state of its registered agent;

63 (4) A certified copy of a certificate of good standing, or an equivalent document,
64 authenticated by the official having custody of records in the jurisdiction where the foreign
65 family trust company is incorporated or organized;

66 (5) Satisfactory proof, as determined by the ~~[secretary]~~ **director**, that the foreign
67 family trust company is organized in a manner similar to a Missouri family trust company and
68 is in compliance with the family trust company laws and regulations of the jurisdiction in
69 which the foreign family trust company was incorporated or organized; and

70 (6) Any other information reasonably ~~[and customarily]~~ required by the ~~[secretary of~~
71 ~~foreign corporations or foreign limited liability companies seeking to qualify to conduct~~
72 ~~business in this state]~~ **director**.

362.1035. 1. No family trust company shall be organized or operated with a capital
2 account of less than two hundred fifty thousand dollars. The full amount of the initial capital
3 account of a family trust company shall consist of one or more asset groups described under
4 subsection 1 of section 362.1070, exclusive of all organization expenses.

5 2. A family trust company shall maintain:

6 (1) A physical office in this state where original or true copies, including electronic
7 copies, of all material business records and accounts of the family trust company may be
8 accessed and are readily available for examination by the ~~[secretary]~~ **director**. A family trust
9 company may also maintain one or more branch offices within or outside of this state;

10 (2) A registered agent who maintains an office in this state;

11 (3) All applicable state and local business licenses, charters, and permits; and

12 (4) A deposit account with a state-chartered or national financial institution that has a
13 principal or branch office in this state.

14 3. In addition to the requirements of subsection 2 of this section, a foreign family trust
15 company shall also:

16 (1) Be in good standing in the jurisdiction in which it is incorporated or organized;
17 and

18 (2) Stay in compliance with the family trust company laws and regulations of such
19 jurisdiction.

362.1040. 1. One or more persons may subscribe to an organizational instrument in
2 writing for the purpose of forming a family trust company, subject to the conditions
3 prescribed by law.

4 2. The organizational instrument of a family trust company shall set forth all of the
5 information required under chapter 347 or 351, as applicable, and the following:

6 (1) The name of the company, which shall distinguish the company from any other
7 nonfamily trust company or family trust company formed or engaging in business in this
8 state. If the word "trust" is included in the name, it shall be immediately preceded by the
9 word "family" so as to distinguish the entity from a nonfamily trust company operating under
10 this chapter. This subdivision shall not apply to a foreign family trust company using a
11 fictitious name that is registered and maintained in this state pursuant to the requirements

12 administered by the secretary **of state** and that distinguishes the foreign family trust company
13 from a nonfamily trust company authorized to operate under this chapter;

14 (2) A statement that the purpose for which the company is formed is to engage in any
15 and all activities permitted under sections 362.1010 to 362.1117; and

16 (3) A statement affirming that the family trust company shall not engage in trust
17 company business with the general public.

18 3. The term "trust company" in the name adopted by a family trust company shall not
19 be deemed to violate section 362.425.

362.1055. 1. A family trust company shall file an annual registration report with, and
2 shall pay an annual filing fee of one thousand dollars to, the ~~[secretary]~~ **director**.

3 2. The annual registration report filed by a family trust company that is not a foreign
4 family trust company shall include:

5 (1) A statement by an authorized representative verifying that the family trust
6 company is in compliance with the provisions of sections 362.1010 to 362.1117 and with
7 applicable federal laws including, but not limited to, anti-money laundering and customer-
8 identification rules or regulations;

9 (2) The name of the company's designated relative and the street address for its
10 principal place of business; and

11 (3) Any other information reasonably ~~[and customarily]~~ required by the ~~[secretary of~~
12 ~~general business corporations in connection with filing their annual registration reports]~~
13 **director**.

14 3. The annual registration report filed by a foreign family trust company shall
15 include:

16 (1) A statement by an authorized representative verifying that the foreign family trust
17 company is in compliance with the provisions of sections 362.1010 to 362.1117, with the
18 family trust company laws and regulations of the jurisdiction in which it was incorporated or
19 organized, and with applicable federal laws including, but not limited to, anti-money
20 laundering and customer-identification rules or regulations;

21 (2) The current telephone number and street address of the foreign family trust
22 company's principal place of business in the jurisdiction in which it was incorporated or
23 organized;

24 (3) The current telephone number and street address of the foreign family trust
25 company's principal place of operations;

26 (4) The current telephone number and address of the physical location of any other
27 offices located in this state;

28 (5) The name and current street address in this state of the trust company's registered
29 agent;

30 (6) Documentation, to the satisfaction of the ~~[secretary]~~ **director**, showing that the
31 foreign family trust company is in compliance with the family trust company laws and
32 regulations of the jurisdiction in which it was incorporated or organized; and

33 (7) Any other information reasonably ~~[and customarily]~~ required by the ~~[secretary of~~
34 ~~general business corporations in connection with filing their annual registration reports]~~
35 **director**.

36 4. An annual registration report shall be submitted on a form prescribed by the
37 ~~[secretary]~~ **director** and signed under penalty of perjury by an authorized representative.

362.1060. 1. A family trust company may, but only for family members:

2 (1) Act as a sole or copersonal representative, executor, or administrator for a probate
3 estate within or outside this state;

4 (2) Act as an attorney-in-fact or agent under a power of attorney;

5 (3) Except as provided under section 362.1065, act within or outside this state as a
6 sole fiduciary or cofiduciary, including acting as a trustee, advisory agent, assignee, assignee
7 for the benefit of creditors, authenticating agent, bailee, bond or indenture trustee,
8 conservator, conversion agent, custodian, escrow agent, fiscal or paying agent, financial
9 advisor, guardian, investment advisor or manager, managing agent, purchase agent, receiver,
10 registrar, safekeeping or subscription agent, transfer agent for entities other than public
11 companies, warrant agent, or other similar capacity generally performed by a corporate
12 trustee. In so acting, the family trust company may possess, purchase, sell, invest, reinvest,
13 safekeep, or otherwise manage or administer the real or personal property of family members;
14 (4) Exercise the powers of a corporation or limited liability company incorporated or
15 organized under the laws of this state, or qualified to transact business as a foreign
16 corporation or limited liability company under the laws of this state that are reasonably
17 necessary to enable the trust company to fully exercise a power conferred under sections
18 362.1010 to 362.1117 in accordance with commonly accepted customs and usages;

19 (5) Delegate duties and powers, including investment and management functions
20 under section 469.909, in accordance with the powers granted to a trustee under chapter 456
21 or other applicable law and retain agents, attorneys, accountants, investment advisors, or
22 other individuals or entities to advise or assist the family trust company in the exercise of its
23 powers and duties under sections 362.1010 to 362.1117 and chapter 456. Such exercise of
24 power may include, but is not limited to, retaining a bank trust department or a public trust
25 company other than another family trust company; and

26 (6) Perform all acts necessary to exercise the powers enumerated in this section or
27 authorized under sections 362.1010 to 362.1117 and other applicable laws of this state.

28 2. A foreign family trust company **that has complied with section 362.1030 and is**
29 in good standing in the jurisdiction in which it is incorporated or organized may exercise all
30 the trust powers in this state that a Missouri family trust company may exercise.

 362.1085. 1. The ~~[secretary]~~ **director** may designate an attorney-at-law or a certified
2 public accountant to examine or investigate, or assist in the examination of, a family trust
3 company.

4 2. The ~~[secretary]~~ **director** or the ~~[secretary's]~~ **director's** designee may examine or
5 investigate a family trust company at any time the ~~[secretary]~~ **director** deems necessary to
6 determine if the family trust company engaged in an act prohibited under section 362.1065 or
7 362.1080 and, if a family trust company engaged in such act, to determine whether any other
8 applicable law was violated.

9 3. The ~~[secretary]~~ **director** or the ~~[secretary's]~~ **director's** designee may examine the
10 books and records of a foreign family trust company at any time the ~~[secretary]~~ **director**
11 deems necessary to determine if such foreign family trust company is in compliance with
12 sections 362.1010 to 362.1117. In connection with an examination of the books and records
13 of the trust company, the ~~[secretary]~~ **director** or the ~~[secretary's]~~ **director's** designee may rely
14 upon the most recent examination report, review, certification letters, or similar
15 documentation issued by the agency supervising the foreign family trust company in the
16 jurisdiction in which the foreign family trust company is incorporated or organized. The
17 examination by the ~~[secretary]~~ **director** or the ~~[secretary's]~~ **director's** designee of the books
18 and records of a foreign family trust company shall be, to the extent practicable, limited to
19 books and records of operations in this state.

20 4. For each examination or investigation of a family trust company under this section,
21 the family trust company shall pay the costs of the examination or investigation. As used in
22 this subsection, the term "costs" means the salary of and travel expenses incurred by any
23 individual that are directly attributable to the examination or investigation of the family trust
24 company. The mailing of payment for costs incurred shall be postmarked within thirty days
25 after the receipt of a notice that states the costs are due. The ~~[secretary]~~ **director** may levy a
26 late payment of up to one hundred dollars per day for each day that a payment is overdue
27 unless waived for good cause. However, if the late payment of costs is intentional, the
28 ~~[secretary]~~ **director** may levy an administrative fine of up to one thousand dollars per day for
29 each day the payment is overdue.

30 5. The ~~[secretary]~~ **director** may establish by rule the requirements and records
31 necessary to demonstrate conformity with sections 362.1010 to 362.1117 by a family trust
32 company.

 362.1090. 1. The ~~[secretary]~~ **director** or the ~~[secretary's]~~ **director's** designee may
2 issue and serve upon a family trust company or family trust company affiliated party a notice

3 of charges if the [secretary] **director** or the [secretary's] **director's** designee has reason to
4 believe that such company, family trust company affiliated party, or individual named therein
5 is engaging in or has engaged in any of the following acts:

6 (1) The family trust company fails to satisfy the requirements of a family trust
7 company or foreign family trust company under sections 362.1010 to 362.1117;

8 (2) A violation of section 362.1035, 362.1040, 362.1050, 362.1055, 362.1060, or
9 362.1080;

10 (3) A violation of any rule of the [secretary] **director**;

11 (4) A violation of any order of the [secretary] **director**;

12 (5) A breach of any written agreement with the [secretary] **director**;

13 (6) A prohibited act or practice under section 362.1065;

14 (7) A willful failure to provide information or documents to the [secretary] **director**
15 upon written request;

16 (8) An act of commission or omission that is judicially determined by a court of
17 competent jurisdiction to be a breach of trust or fiduciary duty; or

18 (9) A violation of state or federal law related to anti-money laundering, customer
19 identification, or any related rule or regulation.

20 2. The notice of charges shall contain a statement of facts and notice of opportunity
21 for a hearing.

22 3. If no hearing is requested within thirty days after the date of service of the notice of
23 charges or if a hearing is held and the [secretary] **director** or [secretary's] **director's** designee
24 finds that any of the charges are true, the [secretary] **director** or [secretary's] **director's**
25 designee may enter an order directing the family trust company, family trust company
26 affiliated party, or the individual named in the notice of charges to cease and desist such
27 conduct and to take corrective action.

28 4. A contested or default cease and desist order is effective when reduced to writing
29 and served upon the family trust company, family trust company affiliated party, or the
30 individual named therein. An uncontested cease and desist order is effective as agreed.

31 5. If the [secretary] **director** or the [secretary's] **director's** designee finds that
32 conduct described under subsection 1 of this section is likely to cause substantial prejudice to
33 members, shareholders, beneficiaries of fiduciary accounts of the family trust company, or
34 beneficiaries of services rendered by the family trust company, the [secretary] **director** or the
35 [secretary's] **director's** designee may issue an emergency cease and desist order requiring the
36 family trust company, family trust company affiliated party, or individual named therein to
37 immediately cease and desist from engaging in the conduct stated and to take corrective
38 action. The emergency order is effective immediately upon service of a copy of the order
39 upon the family trust company or family trust company affiliated party and shall remain

40 effective for ninety days. If the [secretary] **director** or the [secretary's] **director's** designee
41 begins nonemergency cease and desist proceedings under subsection 1 of this section, the
42 emergency order shall remain effective until the conclusion of the proceedings under this
43 section.

44 6. A family trust company shall have ninety days to wind up its affairs after entry of
45 any order to cease and desist from operating as a family trust company. If a family trust
46 company that is not a foreign family trust company is still operating after ninety days, the
47 [secretary] **director** or the [secretary's] **director's** designee may seek an order from a circuit
48 court for the annulment or dissolution of the company. If a foreign family trust company is
49 still operating after ninety days, the [secretary] **director** or the [secretary's] **director's**
50 designee may seek an injunction from a circuit court restraining the company from continuing
51 to operate in this state.

362.1095. If a family trust company fails to submit within the prescribed period its
2 annual registration report or any other report required by sections 362.1010 to 362.1117 or
3 rule, the [secretary] **director** may impose a fine of up to one hundred dollars for each day that
4 the annual registration report or other report is overdue. Failure to provide the annual
5 registration report within sixty days after the end of the calendar year shall automatically
6 result in termination of the registration of a family trust company. A family trust company
7 may have its registration automatically reinstated by submitting to the [secretary] **director**, on
8 or before August thirty-first of the calendar year in which the annual registration report is due,
9 the company's annual registration report, a five hundred dollar late fee, and the amount of any
10 fine imposed by the [secretary] **director** under this section. A family trust company that fails
11 to renew or reinstate its registration shall wind up its affairs on or before November thirtieth
12 of the calendar year in which such failure occurs.

362.1100. 1. The [secretary] **director** or the [secretary's] **director's** designee may
2 issue and serve upon a family trust company and a family trust company affiliated party a
3 notice of charges if the [secretary] **director** or the [secretary's] **director's** designee has reason
4 to believe that the family trust company affiliated party is engaging or has engaged in conduct
5 that:

- 6 (1) Demonstrates that the family trust company does not satisfy the requirements of a
7 family trust company or of a foreign family trust company under sections 362.1010 to
8 362.1117;
- 9 (2) Is a prohibited act or practice under section 362.1065;
- 10 (3) Violates section 362.1035, 362.1040, 362.1050, 362.1055, 362.1060, or 362.1080;
- 11 (4) Violates any other law involving fraud or moral turpitude that constitutes a felony;
- 12 (5) Violates a state or federal law related to anti-money laundering, customer
13 identification, or any related rule or regulation;

- 14 (6) Is a willful violation of a rule of the **[secretary] director**;
- 15 (7) Is a willful violation of an order of the **[secretary] director**;
- 16 (8) Is a willful breach of a written agreement with the **[secretary] director**; or
- 17 (9) Is an act of commission or omission or a practice that the **[secretary] director** or
- 18 the **[secretary's] director's** designee has reason to believe is a breach of trust or fiduciary
- 19 duty.
- 20 2. The notice of charges shall contain a statement of facts and notice of opportunity
- 21 for a hearing.
- 22 3. If no hearing is requested within thirty days after the date of service of the notice of
- 23 charges or if a hearing is held and the **[secretary] director** or **[secretary's] director's** designee
- 24 finds that any of the charges in the notice of charges are true, the **[secretary] director** or
- 25 **[secretary's] director's** designee may enter an order that removes the family trust company
- 26 affiliated party from the family trust company or that restricts or prohibits the family trust
- 27 company affiliated party from participating in the affairs of the family trust company.
- 28 4. A contested or default order of removal is effective when reduced to writing and
- 29 served upon the family trust company and the family trust company affiliated party. An
- 30 uncontested order of removal is effective as agreed.
- 31 5. (1) The chief executive officer of a family trust company or the person holding the
- 32 equivalent office shall promptly notify the **[secretary] director** if such person has actual
- 33 knowledge that a family trust company affiliated party is charged with a felony in a state or
- 34 federal court.
- 35 (2) If a family trust company affiliated party is charged with a felony in a state or
- 36 federal court or, in a court of a foreign country with which the United States maintains
- 37 diplomatic relations, is charged with an offense that involves a violation of law relating to
- 38 fraud, currency transaction reporting, money laundering, theft, or moral turpitude and such
- 39 offense is equivalent to a felony charge under state or federal law, then the **[secretary]**
- 40 **director** or the **[secretary's] director's** designee may enter an emergency order that suspends
- 41 the family trust company affiliated party or that restricts or prohibits participation by such
- 42 party in the affairs of the family trust company effective upon service of the order on the
- 43 company and such family trust company affiliated party.
- 44 (3) The order shall contain notice of opportunity for a hearing, at which the family
- 45 trust company affiliated party may request a postsuspension hearing to show that continued
- 46 service to or participation in the affairs of the family trust company does not pose a threat to
- 47 the interests of the family trust company. In accordance with applicable rules, the **[secretary]**
- 48 **director** or **[secretary's] director's** designee shall notify the family trust company affiliated
- 49 party whether the order suspending or prohibiting the family trust company affiliated party
- 50 from participating in the affairs of the family trust company will be rescinded or otherwise

51 modified. The emergency order shall remain in effect, unless otherwise modified by the
52 **[secretary] director** or **[secretary's] director's** designee, until the criminal charge is disposed.
53 The emergency order shall dissolve upon the final, unappealed dismissal of all charges
54 against or the acquittal of the family trust company affiliated party. Such occurrences shall
55 not prohibit the **[secretary] director** or the **[secretary's] director's** designee from instituting
56 proceedings under subsection 1 of this section. If the family trust company affiliated party
57 charged is convicted or pleads guilty or nolo contendere, regardless of adjudication, the
58 emergency order shall become final.

59 6. No family trust company affiliated party removed from office under this section
60 shall be eligible for reinstatement to such office or to any other official position in a family
61 trust company or financial institution in this state except with the written consent of the
62 **[secretary] director**. A family trust company affiliated party who is removed, restricted, or
63 prohibited from participation in the affairs of a family trust company under this section may
64 petition the **[secretary] director** for modification or termination of such removal, restriction,
65 or prohibition.

66 7. The resignation, termination of employment or participation, or separation from a
67 family trust company of the family trust company affiliated party shall not affect the
68 jurisdiction and authority of the **[secretary] director** or the **[secretary's] director's** designee to
69 issue a notice and proceed under this section against the family trust company affiliated party
70 if such notice is served within six years of the date such person ceased to be a family trust
71 company affiliated party.

362.1105. 1. The books and records of a family trust company are confidential and
2 shall be made available for inspection and examination only:

3 (1) To the **[secretary] director** or the **[secretary's] director's** authorized
4 representative;

5 (2) To any person authorized to act for the family trust company;

6 (3) As compelled by a court, pursuant to a subpoena issued in accordance with state
7 or federal law. Before the production of the books and records, the party seeking production
8 shall agree to reimburse the company for the reasonable costs and fees incurred in compliance
9 with the production. If the parties disagree on the amount of reimbursement, the party
10 seeking the records may request the court that issued the subpoena to set the amount of
11 reimbursement;

12 (4) Pursuant to a subpoena held by any federal or state law enforcement or
13 prosecutorial instrumentality authorized to investigate suspected criminal activity;

14 (5) As authorized by, if a corporation, the board of directors or, if a limited liability
15 company, the managers; or

16 (6) As provided under subsection 2 of this section.

17 2. (1) If a corporation, each customer and stockholder, or if a limited liability
18 company, each member has the right to inspect the books and records of a family trust
19 company as they pertain to such person's accounts or the determination of such person's
20 voting rights.

21 (2) The books and records pertaining to customers, members, and stockholders of a
22 family trust company shall be kept confidential by the company and its directors, managers,
23 officers, and employees. The books and records of customers, members, and stockholders
24 shall not be released except upon the express authorization of the customer as to his or her
25 own accounts or a stockholder or member regarding his or her voting rights. However,
26 information may be released without the authorization of a customer, member, or shareholder
27 in a manner prescribed by the board of directors of a corporation or managers of a limited
28 liability company for the purposes of verifying or corroborating the existence or amount of a
29 customer's account if such information is reasonably provided to meet the needs of commerce
30 and to ensure accurate credit information. Notwithstanding this subdivision, this subsection
31 shall not prohibit a family trust company from disclosing financial information as permitted
32 under 15 U.S.C. Section 6802, as amended.

33 (3) The willful unlawful disclosure of confidential information in violation of this
34 section shall be a class E felony.

35 (4) This subsection shall not apply to a foreign family trust company. The laws of the
36 jurisdiction in which a foreign family trust company was incorporated or organized govern
37 the rights of its customers, members, and stockholders to inspect its books and records.

38 3. For purposes of this section, the term "books and records" shall include, but is not
39 limited to, the initial registration documents of a family trust company under section
40 362.1030 and the annual registration report made by a family trust company under section
41 362.1055.

362.1110. 1. A family trust company shall keep at its principal place of business or
2 principal place of operations:

3 (1) Full and complete records of the names and residences of all its shareholders or
4 members;

5 (2) The number of shares or membership units held by each, as applicable; and

6 (3) The ownership percentage of each shareholder or member.

7
8 The records are subject to inspection by all shareholders or members of the family trust
9 company and the [secretary] **director** or the [secretary's] **director's** authorized representative
10 during the normal business hours of the family trust company. A current list of shareholders
11 or members shall be made available to the [secretary] **director** or the [secretary's] **director's**

12 authorized representative for their inspection and, upon the request of the [secretary]
13 **director**, shall be submitted to the [secretary] **director**.

14 2. The [secretary] **director** shall retain for at least ten years:

15 (1) Examination reports;

16 (2) Investigatory records;

17 (3) The organizational instrument of a family trust company; and

18 (4) The annual registration reports filed by a family trust company.

19 3. A copy of any document on file with the [secretary] **director** that is certified by the
20 [secretary] **director** as a true copy may be introduced in evidence as if it were the original.

21 The [secretary] **director** shall establish a schedule of fees for preparing true copies of
22 documents.

23 4. Orders issued by courts or administrative law judges for the production of
24 confidential records or information shall provide for inspection in camera by the court or the
25 administrative law judge. If the court or administrative law judge determines that the
26 documents requested are relevant or would likely lead to the discovery of admissible
27 evidence, the documents shall be subject to further orders by the court or the administrative
28 law judge to protect the confidentiality thereof. An order directing the release of information
29 shall be immediately reviewable, and a petition by the [secretary] **director** for review of the
30 order shall automatically stay any further proceedings in a trial court or administrative
31 hearing until the disposition of the petition by the reviewing court. If any other party files a
32 petition for review, such filing shall stay proceedings only upon an order of the reviewing
33 court.

362.1115. 1. The following information held by the [secretary] **director** is
2 confidential and exempt from chapter 610:

3 (1) Any personal identifying information appearing in records relating to a
4 registration or an annual certification of a family trust company;

5 (2) Any personal identifying information appearing in records relating to an
6 examination of a family trust company;

7 (3) Any personal identifying information appearing in reports of examinations,
8 operations, or conditions of a family trust company, including working papers;

9 (4) Any portion of a list of names of the shareholders or members of a family trust
10 company;

11 (5) Information received by the [secretary] **director** from a person from another state
12 or nation or the federal government that is otherwise confidential or exempt under the laws of
13 such state or nation or under federal law; and

14 (6) An emergency cease and desist order issued under section 362.1090 until the
15 emergency order is made permanent, unless the [secretary] **director** finds that such
16 confidentiality will result in substantial risk of financial loss to the public.

17 2. Information made confidential and exempt under subsection 1 of this section may
18 be disclosed by the [secretary] **director** to:

19 (1) The authorized representative or representatives of the family trust company
20 under examination. The authorized representative or representatives shall be identified in a
21 resolution or by written consent of the board of directors if a corporation or the managers if a
22 limited liability company;

23 (2) A fidelity insurance company upon written consent of the family trust company's
24 board of directors if a corporation or its managers if a limited liability company;

25 (3) An independent auditor upon written consent of the family trust company's board
26 of directors if a corporation or its managers if a limited liability company;

27 (4) A liquidator, receiver, or conservator if appointed. However, any portion of the
28 information that discloses the identity of a bondholder, customer, family member, member, or
29 stockholder shall be redacted by the [secretary] **director** before releasing such information;

30 (5) Any other state, federal, or foreign agency responsible for the regulation or
31 supervision of family trust companies;

32 (6) A law enforcement agency in the furtherance of such agency's official duties and
33 responsibilities;

34 (7) The appropriate law enforcement or prosecutorial agency for the purpose of
35 reporting any suspected criminal activity; or

36 (8) Comply with a legislative subpoena. A legislative body or committee that
37 receives records or information pursuant to such subpoena shall maintain the confidential
38 status of such records or information. However, in a case involving the investigation of
39 charges against a public official subject to impeachment or removal, records or information
40 may be disclosed to the extent necessary as determined by the legislative body or committee.

41 3. This section shall not prevent or restrict the publication of:

42 (1) A report required by federal law; or

43 (2) The name of the family trust company and the address of its registered agent.

44 4. The willful disclosure of information made confidential and exempt by this section
45 is a class E felony.

362.1116. The [secretary] **director** may issue forms and orders and, after notice and
2 comment, may adopt and amend rules necessary or appropriate to carry out the provisions of
3 sections 362.1010 to 362.1117 and may repeal rules and forms.

362.1117. 1. Except as otherwise provided in sections 362.1010 to 362.1117, any
2 interested person aggrieved by any order of the [secretary] **director** or [secretary's] **director's**

3 designee under any provision of sections 362.1010 to 362.1117 shall be entitled to a hearing
4 before the ~~[secretary]~~ **director** or the ~~[secretary's]~~ **director's** authorized representative in
5 accordance with the provisions of chapter 536. A cease and desist order issued by the
6 ~~[secretary]~~ **director** or ~~[secretary's]~~ **director's** designee is subject to judicial review in
7 accordance with the provisions of chapter 536 in the circuit court of Cole County.

8 2. A rule adopted under sections 362.1010 to 362.1117 is subject to judicial review in
9 accordance with the provisions of chapter 536 in the circuit court of Cole County.

376.1345. 1. As used in this section, unless the context clearly indicates otherwise,
2 terms shall have the same meaning as ascribed to them in section 376.1350.

3 2. No health carrier, nor any entity acting on behalf of a health carrier, shall restrict
4 methods of reimbursement to health care providers for health care services to a
5 reimbursement method requiring the provider to pay a fee, discount the amount of their
6 claim for reimbursement, or remit any other form of remuneration in order to redeem the
7 amount of their claim for reimbursement.

8 3. **(1) If a health carrier ~~[initiates or changes]~~ proposes to initiate or change the**
9 **method used to reimburse a health care provider to a method of reimbursement that will**
10 **require the health care provider to pay a fee, discount the amount of its claim for**
11 **reimbursement, or remit any other form of remuneration to the health carrier or any entity**
12 **acting on behalf of the health carrier in order to redeem the amount of its claim for**
13 **reimbursement, as described in subsection 2 of this section, the health carrier or an entity**
14 **acting on its behalf shall first receive approval from the health care provider before**
15 **reimbursing the health care provider with such payment method.**

16 **(2) If a health carrier is currently reimbursing a health care provider with a**
17 **payment method described in subsection 2 of this section, the health care provider may**
18 **send one notice to the health carrier for all the health care provider's patients covered**
19 **by such health carrier stating that the health care provider declines to be reimbursed**
20 **with a payment method described in subsection 2 of this section. Such notice shall**
21 **remain in effect for the duration of the contract unless the health care provider requests**
22 **otherwise in the manner described in paragraph (b) of subdivision (3) of this subsection.**
23 **All payments made by the health carrier to the health care provider after receipt of the**
24 **notice declining to be reimbursed with a payment method described in subsection 2 of**
25 **this section shall not require the health care provider to pay a fee, discount the amount**
26 **of the provider's claim for reimbursement, or remit any other form of remuneration in**
27 **order to redeem the amount of the provider's claim for reimbursement.**

28 **(3) A health carrier that proposes to reimburse a health care provider with a**
29 **payment method described in subsection 2 of this section shall:**

30 ~~[(1)]~~ (a) Notify such health care provider of the fee, discount, or other remuneration
31 required to receive reimbursement through the new or different reimbursement method; and

32 ~~[(2)]~~ (b) In such notice, provide clear instructions to the health care provider as to
33 how to select ~~[an alternative]~~ the payment method **described in subsection 2 of this section**,
34 and upon request **by the health care provider** such ~~[alternative]~~ payment method shall be
35 ~~[used]~~ **allowed** to reimburse the provider until the provider requests otherwise.

36 4. A health carrier shall allow the provider to select to be reimbursed by an electronic
37 funds transfer through the Automated Clearing House Network as required pursuant to 45
38 C.F.R. Sections 162.925, 162.1601, and 162.1602, and if the provider makes such selection,
39 the health carrier shall use such reimbursement method to reimburse the provider until the
40 provider requests otherwise.

41 5. An amount a health carrier claims was overpaid to a provider may only be
42 collected, withheld, or recouped from the provider, or third party that submitted the provider's
43 claim under the third party's provider identification number, to whom the overpaid amount
44 was originally paid. The notice of withholding or recoupment by a health carrier shall also
45 inform the provider or third party of the health care service, date of service, and patient for
46 which the recoupment is being made.

47 6. Violation of this section shall be deemed an unfair trade practice under sections
48 375.930 to 375.948.

379.1640. 1. As used in this section, the following terms shall mean:

2 (1) "Department", the department of commerce and insurance;

3 (2) "Director", the director of the department of commerce and insurance;

4 (3) "Limited lines self-service storage insurance producer", an owner, operator, lessor,
5 or sublessor of a self-service storage facility, or an agent or other person authorized to manage
6 the facility, duly licensed by the department of commerce and insurance;

7 (4) "Offer and disseminate", provide general information, including a description of
8 the coverage and price, as well as process the application, collect premiums, and perform
9 other nonlicensable activities permitted by the state;

10 (5) "Self-service storage insurance", insurance coverage for the loss of, or damage to,
11 tangible personal property in a self-service storage facility as defined in section 415.405 or in
12 transit during the rental period.

13 2. Notwithstanding any other provision of law:

14 (1) Individuals may offer and disseminate self-service storage insurance on behalf of
15 and under the control of a limited lines self-service storage insurance producer only if the
16 following conditions are met:

17 (a) The limited lines self-service storage insurance producer provides to purchasers of
18 self-service storage insurance:

- 19 a. A description of the material terms or the actual material terms of the insurance
20 coverage;
- 21 b. A description of the process for filing a claim;
- 22 c. A description of the review or cancellation process for the self-service storage
23 insurance coverage; and
- 24 d. The identity and contact information of the insurer and any third-party
25 administrator or supervising entity authorized to act on behalf of the insurer;
- 26 (b) At the time of licensure, the limited lines self-service storage insurance producer
27 shall establish and maintain a register on a form prescribed by the director of each individual
28 that offers self-service storage insurance on the limited lines self-service storage insurance
29 producer's behalf. The register shall be maintained and updated annually by the limited lines
30 self-service storage insurance producer and shall include the name, address, and contact
31 information of the limited lines self-service storage insurance producer and an officer or
32 person who directs or controls the limited lines self-service storage insurance producer's
33 operations, and the self-service storage facility's federal tax identification number. The
34 limited lines self-service storage insurance producer shall submit such register within thirty
35 days upon request by the department. The limited lines self-service storage insurance
36 producer shall also certify that each individual listed on the self-service storage register
37 complies with 18 U.S.C. Section 1033;
- 38 (c) The limited lines self-service storage insurance producer serves as or has
39 designated one of its employees who is a licensed individual producer as a person responsible
40 for the business entity's compliance with the self-service storage insurance laws, rules, and
41 regulations of this state;
- 42 (d) An individual applying for a limited lines self-service storage insurance producer
43 license shall make application to the director on the specified application and declare under
44 penalty of refusal, suspension or revocation of the license that the statements made on the
45 application are true, correct and complete to the best of the knowledge and belief of the
46 applicant. Before approving the application, the director shall find that the individual:
- 47 a. Is at least eighteen years of age;
- 48 b. Has not committed any act that is a ground for denial, suspension, or revocation set
49 forth in section 375.141;
- 50 c. Has paid a license fee in the sum of one hundred dollars; and
- 51 d. Has completed a qualified training program regarding self-service storage
52 insurance policies, which has been filed with and approved by the director;
- 53 (e) Individuals applying for limited lines self-service storage insurance producer
54 licenses shall be exempt from examination. The director may require any documents
55 reasonably necessary to verify the information contained in an application. Within thirty

56 working days after the change of any information submitted on the application, the self-
57 service storage insurance producer shall notify the director of the change. No fee shall be
58 charged for any such change. If the director has taken no action within twenty-five working
59 days of receipt of an application, the application shall be deemed approved and the applicant
60 may act as a licensed self-service storage insurance producer, unless the applicant has
61 indicated a conviction for a felony or a crime involving moral turpitude;

62 (f) The limited lines self-service storage insurance producer requires each employee
63 and authorized representative of the self-service storage insurance producer whose duties
64 include offering and disseminating self-service storage insurance to receive a program of
65 instruction or training provided or authorized by the insurer or supervising entity that has
66 been reviewed and approved by the director. The training material shall, at a minimum,
67 contain instructions on the types of insurance offered, ethical sales practices, and required
68 disclosures to prospective customers;

69 (2) Any individual offering or disseminating self-service storage insurance shall
70 provide to prospective purchasers brochures or other written materials that:

71 (a) Provide the identity and contact information of the insurer and any third-party
72 administrator or supervising entity authorized to act on behalf of the insurer;

73 (b) Explain that the purchase of self-service storage insurance is not required in order
74 to lease self-storage units;

75 (c) Explain that an unlicensed self-service storage operator is permitted to provide
76 general information about the insurance offered by the self-service storage operator, including
77 a description of the coverage and price, but is not qualified or authorized to answer technical
78 questions about the terms and conditions of the insurance offered by the self-service storage
79 operator or to evaluate the adequacy of the customer's existing insurance coverage; and

80 (d) Disclose that self-service storage insurance may provide duplication of coverage
81 already provided by an occupant's, homeowner's, renter's, or other source of coverage;

82 (3) A limited lines self-service storage producer's employee or authorized
83 representative, who is not licensed as an insurance producer, may not:

84 (a) Evaluate or interpret the technical terms, benefits, and conditions of the offered
85 self-service storage insurance coverage;

86 (b) Evaluate or provide advice concerning a prospective purchaser's existing
87 insurance coverage; or

88 (c) Hold themselves or itself out as a licensed insurer, licensed producer, or insurance
89 expert;

90 (4) If self-service storage insurance is offered to the customer, premium or other
91 charges specifically applicable to self-service storage insurance shall be listed as a separate

92 amount and apart from other charges relating to the lease and/or procurement of a self-service
93 storage unit on all documentation pertinent to the transaction.

94 3. Notwithstanding any other provision of law, a limited lines self-service storage
95 insurance provider whose insurance-related activities, and those of its employees and
96 authorized representatives, are limited to offering and disseminating self-service storage
97 insurance on behalf of and under the direction of a limited lines self-service storage insurance
98 producer meeting the conditions stated in this section is authorized to do so and receive
99 related compensation, upon registration by the limited lines self-service storage insurance
100 producer as described in paragraph (b) of subdivision (1) of subsection 2 of this section.

101 4. Self-service storage insurance may be provided under an individual policy or under
102 a group or master policy.

103 5. Limited lines self-service storage insurance producers, operators, employees and
104 authorized representatives offering and disseminating self-service storage insurance under the
105 limited lines self-service storage insurance producer license shall be subject to the provisions
106 of chapters 374 and 375, except as provided for in this section.

107 6. Limited lines self-service storage insurance producers, operators, employees and
108 authorized representatives may offer and disseminate self-service storage insurance policies
109 in an amount not to exceed ~~five~~**fifteen** thousand dollars of coverage per customer per
110 storage unit.

111 7. The director may promulgate rules to effectuate this section. Any rule or portion of
112 a rule, as that term is defined in section 536.010, that is created under the authority delegated
113 in this section shall become effective only if it complies with and is subject to all of the
114 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
115 are nonseverable and if any of the powers vested with the general assembly pursuant to
116 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
117 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
118 proposed or adopted after August 28, 2016, shall be invalid and void.

381.410. As used in this section and section 381.412, the following terms mean:

2 (1) "Cashier's check", a check, however labeled, drawn on the financial institution,
3 which is signed only by an officer or employee of such institution, is a direct obligation of
4 such institution, and is provided to a customer of such institution or acquired from such
5 institution for remittance purposes;

6 (2) "Certified funds", United States currency, funds conveyed by a cashier's check,
7 certified check, **or** teller's check, as defined in Federal Reserve Regulations CC, **or funds**
8 **conveyed by wire transfers~~[, including]~~ unconditionally received by the settlement agent**
9 **or the agent's depository, or funds conveyed by a real-time payment system, including**
10 **but not limited to RTP and Fed Now, for which a settlement agent receives** written advice

11 from a financial institution that collected funds have been credited to the settlement agent's
12 account;

13 (3) "Director", the director of the department of commerce and insurance, unless the
14 settlement agent's primary regulator is another department. When the settlement agent is
15 regulated by such department, that department shall have jurisdiction over this section and
16 section 381.412;

17 (4) "Financial institution":

18 (a) A person or entity doing business under the laws of this state or the United States
19 relating to banks, trust companies, savings and loan associations, credit unions, commercial
20 and consumer finance companies, industrial loan companies, insurance companies, small
21 business investment corporations licensed under the Small Business Investment Act of 1958,
22 15 U.S.C. Section 661, et seq., as amended, or real estate investment trusts as defined in 26
23 U.S.C. Section 856, as amended, or institutions constituting the Farm Credit System under the
24 Farm Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

25 (b) A mortgage loan company or mortgage banker doing business under the laws of
26 this state or the United States which is subject to licensing, supervision, or auditing by the
27 Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or
28 the United States Veterans' Administration, or the Government National Mortgage
29 Association, or the United States Department of Housing and Urban Development, or a
30 successor of any of the foregoing agencies or entities, as an approved seller or servicer, if
31 their principal place of business is in Missouri or a state which is contiguous to Missouri;

32 (5) "Settlement agent", a person, corporation, partnership, or other business
33 organization which accepts funds and documents as fiduciary for the buyer, seller or lender
34 for the purposes of closing a sale of an interest in real estate located within the state of
35 Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar,
36 or a person licensed under chapter 339.

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

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

6 (2) Extension of credit primarily for agricultural, business, or commercial purposes;

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

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

2 408.140. 1. No further or other charge or amount whatsoever shall be directly or
3 indirectly charged, contracted for or received for interest, service charges or other fees as an
4 incident to any such extension of credit except as provided and regulated by sections 367.100
5 to 367.200 and except:

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

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

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

24 (4) If the contract so provides, a charge for late payment for a single payment note in
25 default for a period of not less than fifteen days in an amount not to exceed five percent of the
26 payment due; provided that, the late charge for a single payment note shall not exceed fifty
27 dollars;

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

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

37 (7) 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

38 returned unpaid by a financial institution, plus an amount equal to the actual fees charged by
39 the financial institution for each check, draft, order, or like instrument returned unpaid;

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

46 (9) If the open-end credit contract is tied to a transaction account in a depository
47 institution, such account is in the institution's assets and such contract provides for loans of
48 thirty-one days or longer which are "open-end credit", as such term is defined in the federal
49 Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit
50 advance fee of up to the lesser of seventy-five dollars or ten percent of the credit advanced
51 from time to time from the line of credit; such credit advance fee may be added to the open-
52 end credit outstanding along with any interest, and shall not be considered the unlawful
53 compounding of interest as specified under section 408.120;

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

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

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

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

63 **(12) A charge equal to the cost of the credit report.**

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

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

415.415. 1. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in sale of such personal property, as provided in sections 415.400 to 415.425. The lien established by this subsection shall have priority over all other liens except those liens that have been perfected and recorded on personal property. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that property stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

2. If the occupant is in default for a period of more than forty-five days, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash. Sale of the property stored on the premises may be done at a public or private sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may be at any time or place and on any terms as long as the sale is done in a commercially reasonable manner in accordance with the provisions of section 400.9-627. The operator may otherwise dispose of any property which has no commercial value.

3. The proceeds of any sale made under this subsection shall be applied to satisfy the lien, with any surplus being held for delivery on demand to the occupant or any other lienholders which the operator knows of or which are contained in the statement filed by the occupant pursuant to subsection 3 of section 415.410 for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. No proceeds shall be paid to an occupant until such occupant files a sworn affidavit with the operator stating that there are no other valid liens outstanding against the property sold and that he or she, the occupant, shall indemnify the operator for any damages incurred or moneys paid by the operator due to claims arising from other lienholders of the property sold. After the one-year period set in this subsection, any proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with laws pertaining to the disposition of unclaimed property.

4. Before conducting a sale under subsection 2 of this section, the operator shall:

(1) At least forty-five days before any disposition of property under this section, which shall run concurrently with subsection 2 of this section, notify the occupant and each lienholder which is contained in any statement filed by the occupant pursuant to subsection 3 of section 415.410 of the default by first-class mail or electronic mail at the occupant's or lienholder's last known address, and shall notify any third-party owner identified by the occupant pursuant to subsection 3 of section 415.410;

37 (2) No sooner than ten days after mailing the notice required in subdivision (1) of this
38 subsection, mail a second notice of default, by verified mail or electronic mail, to the
39 occupant at the occupant's or lienholder's last known address, which notice shall include:

40 (a) A statement that the contents of the occupant's leased space are subject to the
41 operator's lien;

42 (b) A statement of the operator's claim, indicating the charges due on the date of the
43 notice, the amount of any additional charges which shall become due before the date of
44 release for sale and the date those additional charges shall become due;

45 (c) A demand for payment of the charges due within a specified time, not less than ten
46 days after the date on which the second notice was mailed;

47 (d) A statement that unless the claim is paid within the time stated, the contents of the
48 occupant's space will be sold after a specified time; and

49 (e) The name, street address and telephone number of the operator, or a designated
50 agent whom the occupant may contact, to respond to the notice;

51 (3) At least seven days before the sale, advertise the time, place, and terms of the sale
52 in **the classified section of** a newspaper of general circulation in the jurisdiction where the
53 sale is to be held **or in any other commercially reasonable manner.** ~~[Such]~~ **The manner of**
54 advertisement shall be ~~[in the classified section of the newspaper and shall state that the items~~
55 ~~will be released for sale]~~ **deemed commercially reasonable if at least three independent**
56 **bidders attend or view the sale at the time and place advertised.**

57 5. If the property is a vehicle, watercraft, or trailer and rent and other charges remain
58 unpaid for sixty days, the owner may treat the vehicle, watercraft, or trailer as an abandoned
59 vehicle and have the vehicle, watercraft, or trailer towed from the self-service storage facility.
60 When the vehicle, watercraft, or trailer is towed from the self-service storage facility, the
61 owner shall not be liable for the vehicle, watercraft, or trailer for any damages to the motor
62 vehicle, watercraft, or trailer once the tower takes possession of the property.

63 6. At any time before a sale under this section, the occupant may pay the amount
64 necessary to satisfy the lien and redeem the occupant's personal property.

**427.300. 1. This section shall be known, and may be cited as, the "Commercial
2 Financing Disclosure Law".**

3 **2. For purposes of this section, the following terms mean:**

4 **(1) "Account",**

5 **(a) Includes:**

6 **a. A right to payment of a monetary obligation, whether or not earned by**
7 **performance, for one of the following:**

8 **(i) Property that has been or is to be sold, leased, licensed, assigned, or otherwise**
9 **disposed of;**

- 10 (ii) Services rendered or to be rendered;
- 11 (iii) A policy of insurance issued or to be issued;
- 12 (iv) A secondary obligation incurred or to be incurred;
- 13 (v) Energy provided or to be provided;
- 14 (vi) The use or hire of a vessel under a charter or other contract;
- 15 (vii) Arising out of the use of a credit or charge card or information contained on
- 16 or for use with the card; or
- 17 (viii) As winnings in a lottery or other game of chance operated or sponsored by
- 18 a state, governmental unit of a state, or person licensed or authorized to operate the
- 19 game by a state or governmental unit of a state; and
- 20 b. Health care-insurance receivables.
- 21 (b) "Account" does not include:
- 22 a. Rights to payment evidenced by chattel paper or an instrument;
- 23 b. Commercial tort claims;
- 24 c. Deposit accounts;
- 25 d. Investment property;
- 26 e. Letter-of-credit rights or letters of credit; or
- 27 f. Rights to payment for money or funds advanced or sold, other than rights
- 28 arising out of the use of a credit or charge card or information contained on or for use
- 29 with the card.
- 30 (2) "Accounts receivable purchase transaction", any transaction in which the
- 31 business forwards or otherwise sells to the provider all or a portion of the business's
- 32 accounts or payment intangibles at a discount to their expected value. The provider's
- 33 characterization of an accounts receivable purchase transaction as a purchase is
- 34 conclusive that the accounts receivable purchase transaction is not a loan or a
- 35 transaction for the use, forbearance, or detention of money;
- 36 (3) "Broker", any person who, for compensation or the expectation of
- 37 compensation, obtains a commercial financing transaction or an offer for a commercial
- 38 financing transaction from a third party that would, if executed, be binding upon that
- 39 third party and communicates that offer to a business located in this state. The term
- 40 "broker" excludes a "provider", or any individual or entity whose compensation is not
- 41 based on or dependent upon the terms of the specific commercial financing transaction
- 42 obtained or offered;
- 43 (4) "Business", an individual or group of individuals, sole proprietorship,
- 44 corporation, limited liability company, trust, estate, cooperative, association, or limited
- 45 or general partnership engaged in a business activity;

46 (5) "Business purpose transaction", any transaction where the proceeds are
47 provided to a business or are intended to be used to carry on a business and not for
48 personal, family, or household purposes. For purposes of determining whether a
49 transaction is a business purpose transaction, the provider may rely on any written
50 statement of intended purpose signed by the business. The statement may be a separate
51 statement or may be contained in an application, agreement, or other document signed
52 by the business or the business owner or owners;

53 (6) "Commercial financing facility", a provider's plan for purchasing multiple
54 accounts receivable from the recipient over a period of time pursuant to an agreement
55 that sets forth the terms and conditions governing the use of the facility;

56 (7) "Commercial financing transaction", any commercial loan, accounts
57 receivable purchase transaction, commercial open-end credit plan or each to the
58 extent the transaction is a business purpose transaction;

59 (8) "Commercial loan", a loan to a business, whether secured or unsecured;

60 (9) "Commercial open-end credit plan", commercial financing extended by any
61 provider under a plan in which:

62 (a) The provider reasonably contemplates repeat transactions; and

63 (b) The amount of financing that may be extended to the business during the
64 term of the plan, up to any limit set by the provider, is generally made available to the
65 extent that any outstanding balance is repaid;

66 (10) "Depository institution", any of the following:

67 (a) A bank, trust company, or industrial loan company doing business under the
68 authority of, or in accordance with, a license, certificate, or charter issued by the United
69 States, this state, or any other state, district, territory, or commonwealth of the United
70 States that is authorized to transact business in this state;

71 (b) A federally chartered savings and loan association, federal savings bank, or
72 federal credit union that is authorized to transact business in this state; and

73 (c) A savings and loan association, savings bank, or credit union organized
74 under the laws of this or any other state that is authorized to transact business in this
75 state;

76 (11) "General intangible", any personal property, including things in action,
77 other than accounts, chattel paper, commercial tort claims, deposit accounts,
78 documents, goods, instruments, investment property, letter-of-credit rights, letters of
79 credit, money, and oil, gas, or other minerals before extraction. "General intangible"
80 also includes payment intangibles and software;

81 (12) "Payment intangible", a general intangible under which the account
82 debtor's principal obligation is a monetary obligation;

83 **(13) "Provider", a person who consummates more than five commercial**
84 **financing transactions to a business located in this state in any calendar year.**
85 **"Provider" also includes a person that enters into a written agreement with a depository**
86 **institution to arrange for the extension of a commercial financing transaction by the**
87 **depository institution to a business via an online lending platform administered by the**
88 **person. The fact that a provider extends a specific offer for a commercial financing**
89 **transaction on behalf of a depository institution shall not be construed to mean that the**
90 **provider engaged in lending or financing or originated that loan or financing.**

91 **3. (1) A provider that consummates a commercial financing transaction shall**
92 **disclose the terms of the commercial financing transaction as required by this section.**
93 **The disclosures shall be provided at or before consummation of the transaction. Only**
94 **one disclosure is required for each commercial financing transaction, and a disclosure is**
95 **not required as a result of the modification, forbearance, or change to a consummated**
96 **commercial financing transaction.**

97 **(2) A provider shall disclose the following in connection with each commercial**
98 **financing transaction:**

99 **(a) The total amount of funds provided to the business under the terms of the**
100 **commercial financing transaction. This disclosure shall be labeled "Total Amount of**
101 **Funds Provided";**

102 **(b) The total amount of funds disbursed to the business under the terms of the**
103 **commercial financing transaction, if less than the total amount of funds provided, as a**
104 **result of any fees deducted or withheld at disbursement and any amount paid to a third**
105 **party on behalf of the business. This disclosure shall be labeled "Total Amount of Funds**
106 **Disbursed";**

107 **(c) The total amount to be paid to the provider pursuant to the commercial**
108 **financing transaction agreement. This disclosure shall be labeled "Total of Payments";**

109 **(d) The total dollar cost of the commercial financing transaction under the terms**
110 **of the agreement, derived by subtracting the total amount of funds provided from the**
111 **total of payments. This calculation shall include any fees or charges deducted by the**
112 **provider from the "Total Amount of Funds Provided". This disclosure shall be labeled**
113 **"Total Dollar Cost of Financing";**

114 **(e) The manner, frequency, and amount of each payment. This disclosure shall**
115 **be labeled "Payments". If the payments may vary, the provider shall instead disclose**
116 **the manner, frequency, and the estimated amount of the initial payment labeled**
117 **"Estimated Payments" and the commercial financing transaction agreement shall**
118 **include a description of the methodology for calculating any variable payment and the**
119 **circumstances when payments may vary; and**

(f) A statement of whether there are any costs or discounts associated with prepayment of the commercial financing transaction including a reference to the paragraph in the agreement that creates the contractual rights of the parties related to prepayment. This disclosure shall be labeled "Prepayment".

(3) A provider that consummates a commercial financing facility may provide disclosures required by subdivision (2) of this subsection that are based on an example of a transaction that could occur under the agreement. The example shall be based on an account receivable total face amount owed of ten thousand dollars. Only one disclosure is required for each commercial financing facility, and a disclosure is not required as result of a modification, forbearance, or change to the facility. A new disclosure is not required each time accounts receivable are purchased under the facility.

4. This section shall not apply to the following:

(1) A provider that is a depository institution or a subsidiary or service corporation that is:

(a) Owned and controlled by a depository institution; and

(b) Regulated by a federal banking agency;

(2) A provider that is a lender regulated under the federal Farm Credit Act, 12 U.S.C. Section 2001, et seq.;

(3) A commercial financing transaction that is:

(a) Secured by real property;

(b) A lease; or

(c) A purchase money obligation that is incurred as all or part of the price of the collateral or for value given to enable the business to acquire rights in or the use of the collateral if the value is in fact so used;

(4) A commercial financing transaction in which the recipient is a motor vehicle dealer or an affiliate of such a dealer, or a vehicle rental company or an affiliate of such a company, pursuant to a commercial loan or commercial open-end credit plan of at least fifty thousand dollars or a commercial financing transaction offered by a person in connection with the sale or lease of products or services that such person manufactures, licenses, or distributes, or whose parent company or any of its directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes;

(5) A commercial financing transaction that is a factoring transaction, purchase, sale, advance, or similar of accounts receivables owed to a health care provider because of a patient's personal injury treated by the health care provider;

155 (6) A provider that is licensed as a money transmitter in accordance with a
156 license, certificate, or charter issued by this state or any other state, district, territory, or
157 commonwealth of the United States;

158 (7) A provider that consummates no more than five commercial financing
159 transactions in this state in a twelve-month period;

160 (8) A commercial financing transaction of more than five hundred thousand
161 dollars; or

162 (9) A commercial financing transaction that is a premium finance agreement as
163 defined in subdivision (3) of section 364.100 offered or entered into by a provider that is
164 a registered premium finance company.

165 5. (1) No person shall engage in business as a broker for commercial financing
166 within this state for compensation, unless prior to conducting such business, the person
167 has filed a registration with the division of finance within the department of commerce
168 and insurance and has on file a good and sufficient bond as specified in this subsection.
169 The registration shall be effective upon receipt by the division of finance of a completed
170 registration form and the required registration fee, and shall remain effective until the
171 time of renewal.

172 (2) After filing an initial registration form, a broker shall file, on or before
173 January thirty-first of each year, a renewal registration form along with the required
174 renewal registration fee.

175 (3) The broker shall pay a one hundred dollar registration fee upon the filing of
176 an initial registration and a fifty dollar renewal registration fee upon the filing of a
177 renewal registration.

178 (4) The registration form required by this subsection shall include the following:

179 (a) The name of the broker;

180 (b) The name in which the broker is transacted if different from that stated in
181 paragraph (a) of this subdivision;

182 (c) The address of the broker's principal office, which may be outside this state;

183 (d) Whether any officer, director, manager, operator, or principal of the broker
184 has been convicted of a felony involving an act of fraud, dishonesty, breach of trust, or
185 money laundering; and

186 (e) The name and address in this state of a designated agent upon whom service
187 of process may be made.

188 (5) If information in a registration form changes or otherwise becomes
189 inaccurate after filing, the broker shall not be required to file a further registration
190 form prior to the time of renewal.

191 **(6) Every broker shall obtain a surety bond issued by a surety company**
192 **authorized to do business in this state. The amount of the bond shall be ten thousand**
193 **dollars. The bond shall be in favor of the state of Missouri. Any person damaged by the**
194 **broker's breach of contract or of any obligation arising therefrom, or by any violation of**
195 **this section, may bring an action against the bond to recover damages suffered. The**
196 **aggregate liability of the surety shall be only for actual damages and in no event shall**
197 **exceed the amount of the bond.**

198 **(7) Employees regularly employed by a broker who has complied with this**
199 **subsection shall not be required to file a registration or obtain a surety bond when**
200 **acting within the scope of their employment for the broker.**

201 **6. (1) Any person who violates any provision of this section shall be punished by**
202 **a fine of five hundred dollars per incident, not to exceed twenty thousand dollars for all**
203 **aggregated violations arising from the use of the transaction documentation or materials**
204 **found to be in violation of this section. Any person who violates any provision of this**
205 **section after receiving written notice of a prior violation from the attorney general shall**
206 **be punished by a fine of one thousand dollars per incident, not to exceed fifty thousand**
207 **dollars for all aggregated violations arising from the use of the transaction**
208 **documentation or materials found to be in violation of this section.**

209 **(2) Violation of any provision of this section shall not affect the enforceability or**
210 **validity of the underlying agreement.**

211 **(3) This section shall not create a private right of action against any person or**
212 **other entity based upon compliance or noncompliance with its provisions.**

213 **(4) Authority to enforce compliance with this section is vested exclusively in the**
214 **attorney general of this state.**

215 **7. The requirements of subsections 3 and 5 of this section shall take effect upon**
216 **either:**

217 **(1) Six months after the division of finance finalizes promulgating rules, if the**
218 **division intends to promulgate rules; or**

219 **(2) February 28, 2025, if the division does not intend to promulgate rules.**

220 **8. The division of finance may promulgate rules implementing this section. If**
221 **the division of finance intends to promulgate rules, it shall declare its intent to do so no**
222 **later than February 28, 2025. Any rule or portion of a rule, as that term is defined in**
223 **section 536.010, that is created under the authority delegated in this section shall**
224 **become effective only if it complies with and is subject to all of the provisions of chapter**
225 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable**
226 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
227 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**

228 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
229 **adopted after August 28, 2024, shall be invalid and void.**

442.210. 1. The certificate of acknowledgment shall state the act of
2 acknowledgment, and that the person making the same was personally known to at least
3 one judge of the court, or to the officer granting the certificate, to be the person whose name is
4 subscribed to the instrument as a party thereto, or was proved to be such by at least two
5 witnesses, whose names and places of residence shall be inserted in the certificate; and the
6 following forms of acknowledgment may be used in the case of conveyances or other written
7 instruments affecting real estate; and any acknowledgment so taken and certificate shall be
8 sufficient to satisfy all requirements of law relating to the execution or recording of such
9 instruments (begin in all cases by a caption, specifying the state and place where the
10 acknowledgment is taken):

11 (1) In case of natural persons acting in their own right

12 On this _____ day of _____, 20_____, before me personally appeared A B (or A B
13 and C D), to me known to be the person (or persons) described in and who executed the
14 foregoing instrument, and acknowledged that he (or they) executed the same as his (or their)
15 free act and deed.

16 (2) In the case of natural persons acting by attorney

17 On this _____ day of _____, 20_____, before me personally appeared A B, to me
18 known to be the person who executed the foregoing instrument in behalf of C D, and
19 acknowledged that he executed the same as the free act and deed of C D.

20 (3) In the case of corporations or joint stock associations

21 On this _____ day of _____, 20_____, before me appeared A B, to me personally
22 known, who, being by me duly sworn (or affirmed) did say that he is the president (or other
23 officer or agent of the corporation or association), of (describing the corporation or
24 association), and that the seal affixed to foregoing instrument is the corporate seal of said
25 corporation (or association), and that said instrument was signed and sealed in behalf of said
26 corporation (or association) by authority of its board of directors (or trustees), and said A B
27 acknowledged said instrument to be the free act and deed of said corporation (or association).

28 2. In case the corporation or association has no corporate seal, omit the words "the
29 seal affixed to said instrument is the corporate seal of said corporation (or association), and
30 that", and add at the end of the affidavit clause the words "and that said corporation (or
31 association) has no corporate seal".

32 3. (In all cases add signature and title of the officer taking the acknowledgment.)

33 ~~[4. When a married woman unites with her husband in the execution of any such~~
34 ~~instrument, and acknowledges the same in one of the forms above sanctioned, she shall be~~
35 ~~described in the acknowledgment as his wife, but in all other respects her acknowledgment~~

36 ~~shall be taken and certified as if she were sole; and no separate examination of a married~~
37 ~~woman in respect to the execution of any release or dower, or other instrument affecting real~~
38 ~~estate, shall be required.]~~

456.950. 1. As used in this section, "qualified spousal trust" means a trust:

2 (1) The settlors of which are married to each other at the time of the creation of the
3 trust; and

4 (2) The terms of which provide that during the joint lives of the settlors **or the life of**
5 **the sole surviving settlor** all property transferred to, or held by, the trustee are:

6 (a) Held and administered in one trust for the benefit of both settlors, **which may be**
7 revocable by either settlor or both settlors while either or both are alive, **and by one settlor**
8 **after the death or incapacity of the other**, and each settlor having the right to receive
9 distributions of income or principal, whether mandatory or within the discretion of the trustee,
10 from the entire trust for the joint lives of the settlors and for the survivor's life; or

11 (b) Held and administered in two **or more** separate shares of one trust for the benefit
12 of each **or both** of the settlors, with the trust revocable by each settlor with respect to that
13 settlor's separate share of that trust without the participation or consent of the other settlor,
14 and each settlor having the right to receive distributions of income or principal, whether
15 mandatory or within the discretion of the trustee, from that settlor's separate share for that
16 settlor's life; or

17 (c) Held and administered under the terms and conditions contained in paragraphs (a)
18 and (b) of this subdivision.

19 2. A qualified spousal trust may contain any other trust terms that are not inconsistent
20 with the provisions of this section, including, without limitation, a discretionary power to
21 distribute trust property to a person in addition to a settlor.

22 3. All property at any time held in a qualified spousal trust, without regard to how
23 such property was titled prior to it being so held[;]:

24 (1) Shall have the same immunity from the claims of a separate creditor of either
25 settlor as if such property were held outside the trust by the settlors as tenants by the entirety,
26 unless otherwise provided in writing by the settlor or settlors who transferred such property to
27 the trust, and such property shall be treated for that purpose, including without limitation,
28 federal and state bankruptcy laws, as tenants by entirety property[. ~~Property held in a~~
29 ~~qualified spousal trust~~];

30 (2) **With the exception of any written financial obligations, written guarantees,**
31 **or secured or unsecured transactions executed by the settlors and held in a qualified**
32 **spousal trust, shall continue to be immune and exempt from attachment during the life**
33 **of the surviving settlor to the extent the property was held in a qualified spousal trust**

34 **prior to the death of the first settlor and remains in a qualified spousal trust. This**
35 **includes any property appreciation; and**

36 **(3)** Shall cease to receive immunity from the claims of creditors upon the dissolution
37 of marriage of the settlors by a court.

38 4. As used in this section, "property" means any interest in any type of property held
39 in a qualified spousal trust, the income thereon, and any property into which such interest,
40 proceeds, or income may be converted.

41 5. Upon the death of each settlor, all property held by the trustee of the qualified
42 spousal trust shall be distributed as directed by the then current terms of the governing
43 instrument of such trust. Upon the death of the first settlor to die, if immediately prior to
44 death the predeceased settlor's interest in the qualified spousal trust was then held **or deemed**
45 **to be held** in such settlor's separate share, the property held in such settlor's separate share
46 may pass into an irrevocable trust for the benefit of the surviving settlor **or other beneficiary**
47 upon such terms as the governing instrument shall direct, including without limitation a
48 spendthrift provision as provided in section 456.5-502. **Property may be held in or**
49 **transferred to a settlor's joint or separate share of a trust:**

50 **(1) By designation under the current terms of the governing instrument of such**
51 **trust;**

52 **(2) According to the specific titling of property or other designation that refers**
53 **to such joint or separate share of such trust; or**

54 **(3) By designation to the trustee as the owner as provided in section 456.1-113.**

55 6. The respective rights of settlors who are married to each other in any property for
56 purposes of a dissolution of the settlors' marriage shall not be affected or changed by reason
57 of the transfer of that property to, or its subsequent administration as an asset of, a qualified
58 spousal trust during the marriage of the settlors, unless both settlors expressly agree otherwise
59 in writing.

60 7. No transfer to a qualified spousal trust shall avoid or defeat the Missouri uniform
61 fraudulent transfer act in chapter 428.

62 8. This section shall apply to all trusts which fulfill the criteria set forth in this section
63 for a qualified spousal trust regardless of whether such trust was created before, on, or after
64 August 28, 2011.

469.399. Sections 469.399 to 469.487 shall be known and may be cited as the
2 **"Missouri Uniform Fiduciary Income and Principal Act".**

469.401. As used in sections [469.401] **469.399 to [469.467] 469.487**, the following
2 terms mean:

3 (1) "Accounting period", a calendar year unless [another twelve-month period is
4 ~~selected by~~] a fiduciary **selects another period of twelve calendar months or**

5 **approximately twelve calendar months.** The term includes a ~~[portion]~~ **part** of a calendar
6 year or ~~[other twelve-month]~~ **another** period ~~[that]~~ **of twelve calendar months or**
7 **approximately twelve calendar months** that begins when an income interest begins or ends
8 when an income interest ends;

9 (2) **"Asset-backed security", a security that is serviced primarily by the cash**
10 **flows of a discrete pool of fixed or revolving receivables or other financial assets that by**
11 **their terms convert into cash within a finite time. The term includes rights or other**
12 **assets that ensure the servicing or timely distribution of proceeds to the holder of the**
13 **asset-backed security. The term does not include an asset to which section 469.423,**
14 **469.437, or 469.447 applies;**

15 (3) **"Beneficiary"[] includes:**

16 (a) **For a trust:**

17 a. **A current beneficiary, including a current income beneficiary and a**
18 **beneficiary that may receive only principal;**

19 b. **A remainder beneficiary; and**

20 c. **Any other successor beneficiary;**

21 (b) **For an estate, an heir, legatee, and devisee** ~~[of a decedent's estate, and an income~~
22 ~~beneficiary and a remainder beneficiary of a trust, including any type of entity that has a~~
23 ~~beneficial interest in either an estate or a trust]; and~~

24 (c) **For a life estate or term interest, a person that holds a life estate, term**
25 **interest, or remainder or other interest following a life estate or term interest;**

26 (4) **"Court", any court in this state having jurisdiction relating to a trust, estate,**
27 **life estate, or other term interest described in subdivision (2) of subsection 1 of section**
28 **469.402;**

29 (5) **"Current income beneficiary", a beneficiary to which a fiduciary may**
30 **distribute net income, whether or not the fiduciary also may distribute principal to the**
31 **beneficiary;**

32 (6) **"Distribution", a payment or transfer by a fiduciary to a beneficiary in the**
33 **beneficiary's capacity as a beneficiary, made under the terms of the trust, without**
34 **consideration other than the beneficiary's right to receive the payment or transfer**
35 **under the terms of the trust. "Distribute", "distributed", and "distributee" have**
36 **corresponding meanings;**

37 (7) **"Estate", a decedent's estate. The term includes the property of the decedent**
38 **as the estate is originally constituted and the property of the estate as it exists at any**
39 **time during administration;**

40 ~~[(3)]~~ (8) **"Fiduciary"[] includes a trustee, trust protector determined under**
41 **section 456.8-808, personal representative,** ~~[trustee, executor, administrator, successor~~

42 ~~personal representative, special administrator and any other person performing substantially~~
43 ~~the same function]~~ **life tenant, holder of a term interest, and person acting under a**
44 **delegation from a fiduciary. The term includes a person that holds property for a**
45 **successor beneficiary whose interest may be affected by an allocation of receipts and**
46 **expenditures between income and principal. If there are two or more co-fiduciaries, the**
47 **term includes all co-fiduciaries acting under the terms of the trust and applicable law;**

48 ~~[(4)]~~ **(9) "Income", money or other property [that] a fiduciary receives as current**
49 **return from [a] principal [asset, including a portion]. The term includes a part of receipts**
50 **from a sale, exchange, or liquidation of a principal asset, [as] to the extent provided in**
51 **sections 469.423 to [469.449] 469.450;**

52 ~~[(5)] "Income beneficiary", a person to whom net income of a trust is or may be~~
53 ~~payable;~~

54 ~~[(6)]~~ **(10) "Income interest", the right of [an] a current income beneficiary to receive**
55 **all or part of net income, whether the terms of the trust require [it] the net income to be**
56 **distributed or authorize [it] the net income to be distributed in the [trustee's] fiduciary's**
57 **discretion. The term includes the right of a current beneficiary to use property held by a**
58 **fiduciary;**

59 **(11) "Independent person", a person that is not:**

60 **(a) For a trust:**

61 **a. A qualified beneficiary as defined under section 456.1-103;**

62 **b. A settlor of the trust; or**

63 **c. An individual whose legal obligation to support a beneficiary may be satisfied**
64 **by a distribution from the trust;**

65 **(b) For an estate, a beneficiary;**

66 **(c) A spouse, parent, brother, sister, or issue of an individual described in**
67 **paragraph (a) or (b) of this subdivision;**

68 **(d) A corporation, partnership, limited liability company, or other entity in**
69 **which persons described in paragraphs (a) to (c) of this subdivision, in the aggregate,**
70 **have voting control; or**

71 **(e) An employee of a person described in paragraph (a), (b), (c), or (d) of this**
72 **subdivision;**

73 ~~[(7)]~~ **(12) "Mandatory income interest", the right of [an] a current income**
74 **beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;**

75 ~~[(8)]~~ **(13) "Net income", [if section 469.411 applies to the trust, the unitrust amount,**
76 **or if section 469.411 does not apply to the trust,] the total [receipts allocated to income]**
77 **allocations during an accounting period to income under the terms of a trust and sections**
78 **469.399 to 469.487 minus the disbursements [made from income during the same period, plus**

79 ~~or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same~~
80 ~~period]~~ **during the period, other than distributions, allocated to income under the terms**
81 **of the trust and sections 469.399 to 469.487. To the extent the trust is a unitrust under**
82 **sections 469.471 to 469.487, "net income" means the unitrust amount determined**
83 **thereunder. "Net income" includes an adjustment from principal to income under**
84 **section 469.405. The term does not include an adjustment from income to principal**
85 **under section 469.405;**

86 ~~[(9)]~~ **(14) "Person", an individual, [corporation, business trust,] estate, trust,**
87 **[partnership, limited liability company, association, joint venture] business or nonprofit**
88 **entity, public corporation, government[;] or governmental subdivision, agency, or**
89 **instrumentality, [public corporation] or [any] other legal [or commercial] entity;**

90 **(15) "Personal representative", an executor, administrator, successor personal**
91 **representative, special administrator, or person that performs substantially the same**
92 **function with respect to an estate under the law governing the person's status;**

93 ~~[(10)]~~ **(16) "Principal", property held in trust for distribution to [a remainder],**
94 **production of income for, or use by a current or successor beneficiary [when the trust**
95 **terminates];**

96 ~~[(11)]~~ **"Qualified beneficiary", a beneficiary defined in section 456.1-103;**

97 ~~(12)~~ **"Remainder beneficiary", a person entitled to receive principal when an income**
98 **interest ends;**

99 ~~(13)]~~ **(17) "Record", information that is inscribed on a tangible medium or that**
100 **is stored in an electronic or other medium and is retrievable in perceivable form;**

101 **(18) "Settlor", a person, including a testator, that creates or contributes**
102 **property to a trust. If more than one person creates or contributes property to a trust,**
103 **the term includes each person, to the extent of the trust property attributable to that**
104 **person's contribution, except to the extent another person has the power to revoke or**
105 **withdraw that portion;**

106 **(19) "Special tax benefit":**

107 **(a) Exclusion of a transfer to a trust from gifts described in 26 U.S.C. Section**
108 **2503(b), as amended, because of the qualification of an income interest in the trust as a**
109 **present interest in property;**

110 **(b) Status as a qualified subchapter S trust described in 26 U.S.C. Section 1361**
111 **(d)(3), as amended, at a time the trust holds stock of an S corporation described in 26**
112 **U.S.C. Section 1361(a)(1), as amended;**

113 **(c) An estate or gift tax marital deduction for a transfer to a trust under 26**
114 **U.S.C. Section 2056 or 2523, as amended, which depends or depended in whole or in**
115 **part on the right of the settlor's spouse to receive the net income of the trust;**

(d) Exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by 26 U.S.C. Section 2601, as amended, because the trust was irrevocable on September 25, 1985, if there is any possibility that:

a. A taxable distribution, as defined in 26 U.S.C. Section 2612(b), as amended, could be made from the trust; or

b. A taxable termination, as defined in 26 U.S.C. Section 2612(a), as amended, could occur with respect to the trust; or

(e) An inclusion ratio, as defined in 26 U.S.C. Section 2642(a), as amended, of the trust which is less than one, if there is any possibility that:

a. A taxable distribution, as defined in 26 U.S.C. Section 2612(b), as amended, could be made from the trust; or

b. A taxable termination, as defined in 26 U.S.C. Section 2612(a), as amended, could occur with respect to the trust;

(20) "Successive interest", the interest of a successor beneficiary;

(21) "Successor beneficiary", a person entitled to receive income or principal or to use property when an income interest or other current interest ends;

(22) "Terms of a trust":

(a) Except as otherwise provided in paragraph (b) of this subdivision, the manifestation of the settlor's ~~[or decedent's]~~ intent regarding a trust's provisions as:

a. Expressed in ~~[a manner which is]~~ the trust instrument; or

b. Established by other evidence that would be admissible ~~[as proof]~~ in a judicial proceeding~~[- whether by written or spoken words or by conduct]~~;

(b) The trust's provisions as established, determined, or amended by:

a. A trustee or trust director in accordance with applicable law;

b. Court order; or

c. A nonjudicial settlement agreement under section 456.1-111;

(c) For an estate, a will; or

(d) For a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries;

(23) "Trust":

(a) Includes:

a. An express trust, private or charitable, with additions to the trust, wherever and however created; and

b. A trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; and

(b) Does not include:

a. A constructive trust;

153 **b. A resulting trust, conservatorship, guardianship, multi-party account,**
154 **custodial arrangement for a minor, business trust, voting trust, security arrangement,**
155 **liquidation trust, or trust for the primary purpose of paying debts, dividends, interest,**
156 **salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind;**
157 **or**

158 **c. An arrangement under which a person is a nominee, escrowee, or agent for**
159 **another;**

160 ~~[(14)]~~ **(24) "Trustee", a person, other than a personal representative, that owns or**
161 **holds property for the benefit of a beneficiary. The term includes an original, additional,**
162 **or successor trustee, whether or not appointed or confirmed by a court;**

163 ~~[(15) "Unitrust amount", net income as defined by section 469.411]~~ **(25) "Will", any**
164 **testamentary instrument recognized by applicable law that makes a legally effective**
165 **disposition of an individual's property, effective at the individual's death. The term**
166 **includes a codicil or other amendment to a testamentary instrument.**

469.402. ~~[The provisions of sections 456.3-301 to 456.3-305 shall apply to sections~~
2 ~~469.401 to 469.467 for all purposes.]~~ **1. Except as otherwise provided in the terms of a**
3 **trust or sections 469.399 to 469.487, sections 469.399 to 469.487 apply to:**

4 **(1) A trust or estate; and**

5 **(2) A life estate or other term interest in which the interest of one or more**
6 **persons will be succeeded by the interest of one or more other persons.**

7 **2. Except as otherwise provided in the terms of a trust or sections 469.399 to**
8 **469.487, sections 469.399 to 469.487 apply when this state is the principal place of**
9 **administration of a trust or estate or the situs of property that is not held in a trust or**
10 **estate and is subject to a life estate or other term interest described in subdivision (2) of**
11 **subsection 1 of this section. By accepting the trusteeship of a trust having its principal**
12 **place of administration in this state or by moving the principal place of administration**
13 **of a trust to this state, the trustee submits to the application of sections 469.399 to**
14 **469.487 to any matter within the scope of sections 469.399 to 469.487 involving the trust.**

469.403. 1. ~~[In allocating receipts and disbursements to or between principal and~~
2 ~~income, and with respect to any matter within the scope of]~~ **In making an allocation or**
3 **determination or exercising discretion under sections 469.413 to 469.421, a fiduciary**
4 **shall:**

5 **(1) [Shall] Act in good faith, based on what is fair and reasonable to all**
6 **beneficiaries;**

7 **(2) Administer a trust or estate [under] impartially, except to the extent the terms of**
8 **the trust manifest an intent that the fiduciary shall or [the will] may favor one or more**
9 **beneficiaries;**

10 **(3) Administer the trust or estate in accordance with the terms of the trust**, even
11 if there is a different provision in sections ~~[469.401]~~ **469.399** to ~~[469.467]~~ **469.487**; and
12 ~~[(2) May]~~ **(4) Administer [a] the trust or estate [by exercising] in accordance with**
13 **sections 469.399 to 469.487, except to the extent the terms of the trust provide otherwise**
14 **or authorize the fiduciary to determine otherwise.**

15 **2. A fiduciary's allocation, determination, or exercise of discretion under**
16 **sections 469.399 to 409.487 is presumed to be fair and reasonable to all beneficiaries. A**
17 **fiduciary may exercise** a discretionary power of administration given to the fiduciary by the
18 terms of the trust ~~[or the will, even if the]~~ , **and an** exercise of the power **that** produces a
19 result different from a result required or permitted by sections ~~[469.401]~~ **469.399** to
20 ~~[469.467;]~~ **469.487 does not create an inference that the fiduciary abused the fiduciary's**
21 **discretion.**

22 ~~[(3) Shall administer a trust or estate pursuant]~~ **3. A fiduciary shall:**

23 **(1) Add a receipt to [sections 469.401 to 469.467 if] principal, to the extent neither**
24 the terms of the trust ~~[or the will do not contain a different provision or do not give]~~ **nor**
25 **sections 469.399 to 469.487 allocate the [fiduciary a discretionary power of administration]**
26 **receipt between income and principal; and**

27 ~~[(4) Shall add a receipt or]~~ **(2) Charge a disbursement to principal, to the extent [that**
28 **the terms of the trust and sections 469.401 to 469.467 do not provide a rule for allocating the**
29 **receipt or disbursement to or between principal and income.**

30 ~~2. In exercising the power to adjust pursuant to section 469.405 or a discretionary~~
31 ~~power of administration regarding a matter within the scope of sections 469.401 to 469.467,~~
32 ~~whether granted by the terms of a trust, a will, or sections 469.401 to 469.467, a fiduciary~~
33 ~~shall administer a trust or estate impartially, based on what is fair and reasonable to all of the~~
34 ~~beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an~~
35 ~~intent that the fiduciary shall or may favor one or more of the beneficiaries. A determination~~
36 ~~in accordance with sections 469.401 to 469.467 is presumed to be fair and reasonable to all of~~
37 ~~the beneficiaries]~~ **neither the terms of the trust nor sections 469.399 to 469.487 allocate**
38 **the disbursement between income and principal.**

39 **4. A fiduciary may exercise the power to adjust under section 469.405, convert**
40 **an income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475,**
41 **change the percentage or method used to calculate a unitrust amount under subdivision**
42 **(2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under**
43 **subdivision (3) of subsection 1 of section 469.475, if the fiduciary determines the exercise**
44 **of the power will assist the fiduciary to administer the trust or estate impartially.**

45 **5. Factors the fiduciary shall consider in making the determination under**
46 **subsection 4 of this section include:**

- 47 (1) The terms of the trust;
48 (2) The nature, distribution standards, and expected duration of the trust;
49 (3) The effect of the allocation rules, including specific adjustments between
50 income and principal, under sections 407.413 to 407.461;
51 (4) The desirability of liquidity and regularity of income;
52 (5) The desirability of the preservation and appreciation of principal;
53 (6) The extent to which an asset is used or may be used by a beneficiary;
54 (7) The increase or decrease in the value of principal assets, reasonably
55 determined by the fiduciary;
56 (8) Whether and to what extent the terms of the trust give the fiduciary power to
57 accumulate income or invade principal or prohibit the fiduciary from accumulating
58 income or invading principal;
59 (9) The extent to which the fiduciary has accumulated income or invaded
60 principal in preceding accounting periods;
61 (10) The effect of current and reasonably expected economic conditions; and
62 (11) The reasonably expected tax consequences of the exercise of the power.

469.404. 1. In this section, "fiduciary decision" means:

- 2 (1) A fiduciary's allocation between income and principal or other
3 determination regarding income and principal required or authorized by the terms of
4 the trust or sections 469.399 to 469.487;
5 (2) The fiduciary's exercise or nonexercise of a discretionary power regarding
6 income and principal granted by the terms of the trust or sections 469.399 to 469.487,
7 including the power to adjust under section 469.405, convert an income trust to a
8 unitrust under subdivision (1) of subsection 1 of section 469.475, change the percentage
9 or method used to calculate a unitrust amount under subdivision (2) of subsection 1 of
10 section 469.475, or convert a unitrust to an income trust under subdivision (3) of
11 subsection 1 section 469.475; or
12 (3) The fiduciary's implementation of a decision described in subdivision (1) or
13 (2) of this subsection.
14 2. The court shall not order a fiduciary to change a fiduciary decision unless the
15 court determines that the fiduciary decision was an abuse of the fiduciary's discretion.
16 3. If the court determines that a fiduciary decision was an abuse of the
17 fiduciary's discretion, the court may order a remedy authorized by law, including under
18 section 456.10-1001. To place the beneficiaries in the positions the beneficiaries would
19 have occupied if there had not been an abuse of the fiduciary's discretion, the court may
20 order:

21 **(1) The fiduciary to exercise or refrain from exercising the power to adjust**
22 **under section 469.405;**

23 **(2) The fiduciary to exercise or refrain from exercising the power to convert an**
24 **income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475,**
25 **change the percentage or method used to calculate a unitrust amount under subdivision**
26 **(2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under**
27 **subdivision (3) of subsection 1 of section 469.475;**

28 **(3) The fiduciary to distribute an amount to a beneficiary;**

29 **(4) A beneficiary to return some or all of a distribution; or**

30 **(5) The fiduciary to withhold an amount from one or more future distributions**
31 **to a beneficiary.**

32 **4. On petition by a fiduciary for instruction, the court may determine whether a**
33 **proposed fiduciary decision will result in an abuse of the fiduciary's discretion. If the**
34 **petition describes the proposed decision, contains sufficient information to inform the**
35 **beneficiary of the reasons for making the proposed decision and the facts on which the**
36 **fiduciary relies, and explains how the beneficiary will be affected by the proposed**
37 **decision, a beneficiary that opposes the proposed decision has the burden to establish**
38 **that it will result in an abuse of the fiduciary's discretion.**

 469.405. 1. ~~[A trustee may adjust between principal and income to the extent the~~
2 ~~trustee considers necessary if the trustee invests and manages trust assets as a prudent~~
3 ~~investor, the terms of the trust describe the amount that may or shall be distributed to a~~
4 ~~beneficiary by referring to the trust's income, and the trustee determines, after applying~~
5 ~~subsection 1 of section 469.403, that the trustee is unable to comply with subsection 2 of~~
6 ~~section 469.403.] Except as otherwise provided in the terms of a trust or this section, a~~
7 **fiduciary, in a record, without court approval, may adjust between income and principal**
8 **if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to**
9 **administer the trust or estate impartially.**

10 **2. This section does not create a duty to exercise or consider the power to adjust**
11 **under subsection 1 of this section or to inform a beneficiary about the applicability of**
12 **this section.**

13 **3. A fiduciary that in good faith exercises or fails to exercise the power to adjust**
14 **under subsection 1 of this section is not liable to a person affected by the exercise or**
15 **failure to exercise.**

16 ~~[2.]~~ 4. In deciding whether and to what extent to exercise the power ~~[conferred by]~~ to
17 **adjust under subsection 1** ~~[of this section, a trustee]~~ **, a fiduciary shall consider all factors**
18 **the fiduciary considers relevant** ~~[to the trust and its beneficiaries]~~, including ~~[the following]~~

19 **relevant factors [to the extent relevant:] in subsection 5 of section 469.403 and the**
20 **application of sections 469.423, 469.435, and 469.445.**

21 ~~[(1) The nature, purpose and expected duration of the trust;~~

22 ~~(2) The intent of the settlor;~~

23 ~~(3) The identity and circumstances of the beneficiaries;~~

24 ~~(4) The needs for liquidity, regularity of income, and preservation and appreciation of~~
25 ~~capital;~~

26 ~~(5) The assets held in the trust, including the extent to which such assets consist of~~
27 ~~financial assets, interests in closely held enterprises, tangible and intangible personal~~
28 ~~property, or real property, and the extent to which such assets are used by a beneficiary, and~~
29 ~~whether such assets were purchased by the trustee or received from the settlor;~~

30 ~~(6) The net amount allocated to income pursuant to sections 469.401 to 469.467,~~
31 ~~other than this section, and the increase or decrease in the value of the principal assets, which~~
32 ~~the trustee may estimate as to assets for which market values are not readily available;~~

33 ~~(7) Whether and to what extent the terms of the trust give the trustee the power to~~
34 ~~invade principal or accumulate income, or prohibit the trustee from invading principal or~~
35 ~~accumulating income, and the extent to which the trustee has exercised a power from time to~~
36 ~~time to invade principal or accumulate income;~~

37 ~~(8) The actual and anticipated effect of economic conditions on principal and income~~
38 ~~and effects of inflation and deflation; and~~

39 ~~(9) The anticipated tax consequences of an adjustment.~~

40 **3.] 5. A [trustee may] fiduciary shall not exercise the power under subsection 1 of**
41 **this section to make an adjustment or under section 469.435 to make a determination that**
42 **an allocation is insubstantial if:**

43 ~~(1) [That diminishes the income interest in a trust which requires all of the income to~~
44 ~~be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction~~
45 ~~would be allowed, in whole or in part, if the trustee did not have the power to make the~~
46 ~~adjustment;~~

47 ~~(2) That reduces the actuarial value of the income interest in a trust to which a person~~
48 ~~transfers property with the intent to qualify for a gift tax exclusion;~~

49 ~~(3) That changes]~~ **The adjustment or determination would reduce the amount**
50 **payable to a [beneficiary] current income beneficiary from a trust that qualifies for a**
51 **special tax benefit, except to the extent the adjustment is made to provide for a**
52 **reasonable apportionment of the total return of the trust between the current income**
53 **beneficiary and successor beneficiaries;**

54 **(2) The adjustment or determination would change the amount payable to a**
55 **beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the**
56 **terms of the trust;**

57 ~~[(4) From any]~~ **(3) The adjustment or determination would reduce an amount that**
58 **is permanently set aside for a charitable [purposes] purpose under [a will or] the terms of [a]**
59 **the trust [to the extent that the existence of the power to adjust would change the character of**
60 **the amount] , unless both income and principal are set aside for [federal income, gift or**
61 **estate tax purposes] the charitable purpose;**

62 ~~[(5) If]~~ **(4) Possessing or exercising the power [to make an adjustment causes an**
63 **individual] would cause a person to be treated as the owner of all or part of the trust for**
64 **[income tax purposes, and the individual would not be treated as the owner if the trustee did**
65 **not possess the power to make an adjustment] federal income tax purposes;**

66 ~~[(6) If]~~ **(5) Possessing or exercising the power [to make an adjustment causes] would**
67 **cause all or part of the value of the trust assets to be included [for estate tax purposes] in the**
68 **gross estate of an individual [who has] for federal estate tax purposes;**

69 **(6) Possessing or exercising the power [to remove or appoint a trustee, or both,]**
70 **would cause an individual to be treated as making a gift for federal gift tax purposes;**

71 **(7) The fiduciary is not an independent person;**

72 **(8) The trust is irrevocable and [the assets would not be included in the estate of the**
73 **individual if the trustee did not possess] provides for income to be paid to the settlor and**
74 **possessing or exercising the power [to make an adjustment] would cause the adjusted**
75 **principal or income to be considered an available resource or available income under a**
76 **public-benefit program; or**

77 ~~[(7) If the trustee is a beneficiary of the trust; or~~

78 ~~(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee~~
79 ~~directly or indirectly]~~ **(9) The trust is a unitrust under sections 469.471 to 469.487.**

80 ~~[4.] 6. If [subdivision (5), (6), (7) or (8) of] subsection [3] 5 of this section applies to a~~
81 ~~[trustee and there is more than one trustee, a cotrustee to whom the provision does] fiduciary:~~

82 **(1) A co-fiduciary to which subdivisions (4) to (7) of subsection 5 of this section**
83 **do not apply may [make] exercise the [adjustment] power to adjust unless the exercise of the**
84 **power by the remaining [trustee or trustees] co-fiduciary or co-fiduciaries is not permitted**
85 **by the terms of the trust or law other than sections 469.399 to 469.487; and**

86 **(2) If there is no co-fiduciary to which subdivisions (4) to (7) of subsection 5 of**
87 **this section do not apply, the fiduciary may appoint a co-fiduciary to which subdivisions**
88 **(4) to (7) of subsection 5 of this section do not apply, which may be a special fiduciary**
89 **with limited powers, and the appointed co-fiduciary may exercise the power to adjust**
90 **under subsection 1 of this section, unless the appointment of a co-fiduciary or the**

91 **exercise of the power by a co-fiduciary is not permitted by the terms of the trust or law**
92 **other than under sections 469.399 to 469.487.**

93 ~~[5:] 7. A [trustee] fiduciary may release [the entire power conferred by subsection 1~~
94 ~~of this section, or may release only the power to adjust from income to principal or the power~~
95 ~~to adjust from principal to income if the trustee is uncertain about whether possessing or~~
96 ~~exercising the power will]~~ **or delegate to a co-fiduciary the power to adjust under**
97 **subsection 1 of this section if the fiduciary determines that the fiduciary's possession or**
98 **exercise of the power will or may:**

99 **(1) Cause a result described in subdivisions (1) to (6) or subdivision (8) of subsection**
100 **[3] 5 of this section [;]; or [if the trustee determines that possessing or exercising the power**
101 **will or may]**

102 **(2) Deprive the trust of a tax benefit or impose a tax burden not described in**
103 **subdivisions (1) to (6) of subsection [3] 5 of this section.**

104 **8. A fiduciary's release or delegation to a co-fiduciary under subsection 7 of this**
105 **section of the power to adjust under subsection 1 of this section:**

106 **(1) Shall be in a record;**

107 **(2) Applies to the entire power, unless the release or delegation provides a**
108 **limitation, which may be a limitation to the power to adjust:**

109 **(a) From income to principal;**

110 **(b) From principal to income;**

111 **(c) For specified property; or**

112 **(d) In specified circumstances;**

113 **(3) For a delegation, may be modified by a re-delegation under this subsection**
114 **by the co-fiduciary to which the delegation is made; and**

115 **(4) Subject to subdivision (3) of this subsection, is [may be] permanent [or for]**
116 **unless the release or delegation provides a specified period, including a period measured by**
117 **the life of an individual or the lives of more than one individual.**

118 ~~[6:] 9. Terms of a trust that deny or limit the power [of a trustee] to [make an~~
119 ~~adjustment] adjust between income and principal [and income] do not affect the application~~
120 ~~of this section unless [it is clear from] the terms of the trust [that the terms are intended to]~~
121 **expressly deny [the trustee] or limit the power [of adjustment conferred by] to adjust under**
122 **subsection 1 of this section.**

123 **10. The exercise of the power to adjust under subsection 1 of this section in any**
124 **accounting period may apply to the current period, the immediately preceding period,**
125 **and one or more subsequent periods.**

126 **11. A description of the exercise of the power to adjust under subsection 1 of this**
127 **section shall be:**

128 **(1) Included in a report, if any, sent to beneficiaries under subsection 3 of section**
129 **456.8-813; or**

130 **(2) Communicated at least annually to the qualified beneficiaries defined under**
131 **section 456.1-103 other than all beneficiaries that receive or are entitled to receive**
132 **income from the trust or would be entitled to receive a distribution of principal if the**
133 **trust were terminated at the time the notice is sent, assuming no power of appointment**
134 **is exercised.**

469.413. ~~[After a decedent dies, in the case]~~ **1. This section applies when:**

2 **(1) The death of an individual results in the creation of an estate~~[-or after]~~ or**
3 **trust; or**

4 **(2) An income interest in a trust ~~[ends, the following rules apply:]~~ terminates,**
5 **whether the trust continues or is distributed.**

6 ~~[(1)]~~ **2. A fiduciary of an estate or ~~[of a terminating]~~ trust with an income interest**
7 **that terminates shall determine, under subsection 7 of this section and sections 469.417 to**
8 **469.462, the amount of net income and net principal receipts received from property**
9 **specifically given to a beneficiary ~~[pursuant to the rules in sections 469.417 to 469.461 which~~**
10 **~~apply to trustees and the rules in subdivision (5) of this section]~~. The fiduciary shall distribute**
11 **the net income and net principal receipts to the beneficiary ~~[who]~~ that is to receive the**
12 **specific property~~[-]~~.**

13 ~~[(2)]~~ **3. A fiduciary shall determine the ~~[remaining]~~ income and net income of ~~[a~~**
14 **~~decedent's]~~ an estate or ~~[a terminating]~~ income interest ~~[pursuant to the rules in]~~ in a trust**
15 **that terminates, other than the amount of net income determined under subsection 2 of**
16 **this section, under sections 469.417 to ~~[469.461 which apply to trustees]~~ 469.462 and by:**

17 ~~[(a)]~~ **(1) Including in net income all income from property used or sold to discharge**
18 **liabilities;**

19 ~~[(b)]~~ **(2) Paying from income or principal, in the fiduciary's discretion, fees of**
20 **attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and**
21 **interest on ~~[death]~~ estate and inheritance taxes and other taxes imposed because of the**
22 **decedent's death, but the fiduciary may pay ~~[those]~~ the expenses from income of property**
23 **passing to a trust for which the fiduciary claims ~~[an]~~ a federal estate tax marital or charitable**
24 **deduction only to the extent ~~[that]~~:**

25 **(a) The payment of ~~[those]~~ the expenses from income will not cause the reduction or**
26 **loss of the deduction; ~~[and]~~ or**

27 **(b) The fiduciary makes an adjustment under subsection 2 of section 469.462;**
28 **and**

29 ~~[(e)]~~ **(3)** Paying from principal ~~[a]]~~ other disbursements made or incurred in
30 connection with the settlement of ~~[a decedent's]~~ **the** estate or the winding up of ~~[a~~
31 ~~terminating]~~ **an** income interest~~;~~ **that terminates**, including:

32 **(a) To the extent authorized by the decedent's will, the terms of the trust, or**
33 **applicable law**, debts, funeral expenses, disposition of remains, family allowances, ~~[and~~
34 ~~death taxes]~~ **estate and inheritance taxes, and other taxes imposed because of the**
35 **decedent's death; and**

36 **(b) Related penalties that are apportioned, by the decedent's will, the terms of the**
37 **trust, or applicable law**, to the estate or ~~[terminating]~~ income interest ~~[by the will, the terms~~
38 ~~of the trust, or applicable law;]~~ **that terminates.**

39 ~~[(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount~~
40 ~~outright the interest or any other amount provided by the will, the terms of the trust, or in the~~
41 ~~absence of any such provisions, the provisions of section 473.633, from net income~~
42 ~~determined pursuant to subdivision (2) of this section or from principal to the extent that net~~
43 ~~income is insufficient.]~~ **4. If a decedent's will, the terms of a trust, or applicable law**
44 **provides for the payment of interest or the equivalent of interest to a beneficiary that**
45 **receives a pecuniary amount outright, the fiduciary shall make the payment from net**
46 **income determined under subsection 3 of this section or from principal to the extent net**
47 **income is insufficient.**

48 **5. If a beneficiary is to receive a pecuniary amount outright from a trust after an**
49 **income interest ends because of an income beneficiary's death, and no payment of interest**
50 **or** ~~[other amount]~~ **the equivalent of interest** is provided for by the terms of the trust or
51 applicable law, the fiduciary shall ~~[distribute]~~ **pay** the interest or ~~[other amount]~~ **the**
52 **equivalent of interest** to which the beneficiary would be entitled under applicable law if the
53 pecuniary amount were required to be paid under a will~~;~~.

54 ~~[(4)]~~ **6.** A fiduciary shall distribute ~~[the]~~ net income remaining after ~~[distributions]~~
55 **payments** required by ~~[subdivision (3)]~~ **subsections 4 and 5** of this section in the manner
56 described in section 469.415 to all other beneficiaries, including a beneficiary ~~[who]~~ **that**
57 receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to
58 withdraw assets from the trust or other presently exercisable general power of appointment
59 over the trust~~;~~.

60 ~~[(5)]~~ **7.** A fiduciary ~~[may]~~ **shall** not reduce principal or income receipts from property
61 described in ~~[subdivision (1)]~~ **subsection 2** of this section because of a payment described in
62 sections 469.451 and 469.453 to the extent ~~[that]~~ **the decedent's will, the terms of the trust, or**
63 **applicable law** requires the fiduciary to make the payment from assets other than the property
64 or to the extent ~~[that]~~ the fiduciary recovers or expects to recover the payment from a third
65 party. The net income and principal receipts from the property ~~[are]~~ **shall be** determined by

66 including ~~[all of]~~ the amounts the fiduciary receives or pays ~~[with respect to]~~ **regarding** the
67 property, whether ~~[those amounts]~~ **the amount** accrued or became due before, on, or after the
68 date of ~~[a decedent's]~~ **the decedent's** death or an income interest's terminating event, and ~~[by]~~
69 making a reasonable provision for ~~[amounts that the fiduciary believes]~~ **an amount** the estate
70 or ~~[terminating]~~ income interest may become obligated to pay after the property is distributed.

469.415. 1. ~~[Each]~~ **Except to the extent sections 469.471 to 469.487 apply for a**
2 beneficiary **that is a trust, each beneficiary** described in subdivision ~~[(4)]~~ **(6)** of section
3 469.413 is entitled to receive a ~~[portion]~~ **share** of the net income equal to the beneficiary's
4 fractional interest in undistributed principal assets, using values as of the distribution date. If
5 a fiduciary makes more than one distribution of assets to beneficiaries to ~~[whom]~~ **which** this
6 section applies, each beneficiary, including ~~[one who]~~ **a beneficiary that** does not receive
7 part of the distribution, is entitled, as of each distribution date, to **a share of** the net income
8 the fiduciary ~~[has]~~ received after the ~~[date of]~~ **decedent's** death ~~[or]~~ **, an income interest's**
9 **other** terminating event, or ~~[earlier]~~ **the preceding** distribution ~~[date but has not distributed~~
10 ~~as of the current distribution date]~~ **by the fiduciary.**

11 2. In determining a beneficiary's share of net income **under subsection 1 of this**
12 **section**, the following rules apply:

13 (1) The beneficiary is entitled to receive a ~~[portion]~~ **share** of the net income equal to
14 the beneficiary's fractional interest in the undistributed principal assets immediately before
15 the distribution date~~], including assets that later may be sold to meet principal obligations];~~

16 (2) The beneficiary's fractional interest ~~[in the undistributed principal assets shall]~~
17 **under subdivision (1) shall** be calculated ~~[without regard to property specifically given to a~~
18 ~~beneficiary and property required to pay pecuniary amounts not in trust;~~

19 ~~(3) The beneficiary's fractional interest in the undistributed principal assets shall be~~
20 ~~calculated] :~~

21 (a) On the ~~[basis of the]~~ aggregate value of ~~[those]~~ **the** assets as of the distribution
22 date without reducing the value by any unpaid principal obligation; **and**

23 (b) **Without regard to:**

24 a. **Property specifically given to a beneficiary under the decedent's will or the**
25 **terms of the trust; and**

26 b. **Property required to pay pecuniary amounts not in trust; and**

27 ~~[(4)]~~ **(3)** The distribution date ~~[for purposes of this section]~~ **under subdivision (1) of**
28 **this subsection** may be the date as of which the fiduciary calculates the value of the assets if
29 that date is reasonably near the date on which **the** assets are ~~[actually]~~ distributed.

30 3. ~~[(4)]~~ **To the extent** a fiduciary does not distribute **under this section** all ~~[of]~~ the
31 collected but undistributed net income to each ~~[person]~~ **beneficiary** as of a distribution date,

32 the fiduciary shall maintain ~~[appropriate]~~ records showing the interest of each beneficiary in
33 ~~[that]~~ the net income.

34 4. **If this section applies to income from an asset**, a fiduciary may apply the rules in
35 this section~~[-, to the extent that the fiduciary considers it appropriate,]~~ to net gain or loss
36 realized **from the disposition of the asset** after the ~~[date of death or]~~ **decedent's death, an**
37 **income interest's** terminating event, or ~~[earlier]~~ **the preceding** distribution ~~[date from the~~
38 ~~disposition of a principal asset if this section applies to the income from the asset]~~ **by the**
39 **fiduciary.**

469.417. 1. An income beneficiary is entitled to net income **in accordance with the**
2 **terms of the trust** from the date ~~[on which the]~~ **an** income interest begins. ~~[An]~~ The income
3 interest begins on the date specified in the terms of the trust or, if no date is specified, on the
4 date an asset becomes subject to ~~[a trust or successive income interest]~~ :

5 **(1) The trust for the current income beneficiary; or**

6 **(2) A successive interest for a successor beneficiary.**

7 2. An asset becomes subject to a trust **under subdivision (1) of subsection 1 of this**
8 **section:**

9 (1) ~~[On the date it is transferred to the trust in the case of]~~ **For** an asset that is
10 transferred to ~~[a]~~ **the** trust during the ~~[transferor's]~~ **settlor's life, on the date the asset is**
11 **transferred;**

12 (2) ~~[On the date of a testator's death in the case of]~~ **For** an asset that becomes subject
13 to ~~[a]~~ **the** trust ~~[by reason]~~ **because** of a ~~[will]~~ **decedent's death, on the date of the**
14 **decedent's death**, even if there is an intervening period of administration of the ~~[testator's]~~
15 **decedent's estate; or**

16 (3) ~~[On the date of an individual's death in the case of]~~ **For** an asset that is transferred
17 to a fiduciary by a third party because of ~~[the individual's]~~ **a decedent's death, on the date of**
18 **the decedent's death.**

19 3. An asset becomes subject to a successive ~~[income]~~ interest **under subdivision (2)**
20 **of subsection 1 of this section** on the day after the preceding income interest ends, as
21 determined ~~[pursuant to]~~ **under** subsection 4 of this section, even if there is an intervening
22 period of administration to wind up the preceding income interest.

23 4. An income interest ends on the day before an income beneficiary dies or another
24 terminating event occurs~~[-]~~ or on the last day of a period during which there is no beneficiary
25 to ~~[whom]~~ **which** a ~~[trustee]~~ **fiduciary** may **or shall** distribute income.

469.419. 1. A ~~[trustee]~~ **fiduciary** shall allocate an income receipt or disbursement,
2 other than ~~[one]~~ **a receipt** to which ~~[subdivision (1)]~~ **subsection 2** of section 469.413 applies,
3 to principal if its due date occurs before ~~[a decedent dies in the case of]~~ **the date on which:**

4 **(1) For an estate, the decedent died; or [before]**

5 **(2) For a trust or successive interest,** an income interest begins ~~[in the case of a trust~~
6 ~~or successive income interest]~~.

7 2. ~~[A trustee shall allocate an income receipt or disbursement to income if its]~~ **If the**
8 **due date of a periodic income receipt or disbursement** occurs on or after the date on which
9 a decedent ~~[dies]~~ **died** or an income interest ~~[begins and it is a periodic due date. An income]~~
10 **began, a fiduciary shall allocate the receipt or disbursement to income.**

11 3. **If an income receipt or disbursement is not periodic or has no due date, a**
12 **fiduciary shall** ~~[be treated]~~ **treat the receipt or disbursement under this section as**
13 **accruing from day to day** ~~[if its due date is not periodic or it has no due date]~~. The **fiduciary**
14 **shall allocate to principal the** portion of the receipt or disbursement accruing before the date
15 on which a decedent ~~[dies]~~ **died** or an income interest ~~[begins shall be allocated to principal]~~
16 **began, and to income the balance** ~~[shall be allocated to income]~~.

17 ~~[3-]~~ 4. **A receipt or disbursement is periodic under subsections 2 and 3 of this**
18 **section if:**

19 (1) **The receipt or disbursement shall be paid at regular intervals under an**
20 **obligation to make payments; or**

21 (2) **The payer customarily makes payments at regular intervals.**

22 5. An item of income or ~~[an]~~ obligation is due **under this section** on the date ~~[a~~
23 ~~payment]~~ **the payer is required to make a payment.** If a payment date is not stated, there is
24 no due date ~~[for the purposes of sections 469.401 to 469.467]~~.

25 6. Distributions to shareholders or other owners from an entity to which section
26 469.423 applies are ~~[deemed to be]~~ due:

27 (1) On the date fixed by **or on behalf of** the entity for determining ~~[who is]~~ **the**
28 **persons** entitled to receive the distribution ~~[or];~~

29 (2) If no date is fixed, on the ~~[declaration]~~ date ~~[for]~~ **of the decision by or on behalf**
30 **of the entity to make the distribution**~~[- A due date is periodic for receipts or disbursements~~
31 ~~that shall be paid at regular intervals under a lease or an obligation to pay interest or if an~~
32 ~~entity customarily makes distributions at regular intervals]; or~~

33 (3) **If no date is fixed and the fiduciary does not know the date of the decision by**
34 **or on behalf of the entity to make the distribution, on the date the fiduciary learns of the**
35 **decision.**

469.421. 1. ~~[For purposes of]~~ **In this section, [the phrase]** "undistributed income"
2 means net income received **on or** before the date on which an income interest ends. The
3 ~~[phrase]~~ **term** does not include an item of income or expense that is due or accrued~~[-]~~ or net
4 income that has been added or is required to be added to principal under the terms of the trust.

5 2. **Except as otherwise provided in subsection 3 of this section,** when a mandatory
6 income interest **of a beneficiary** ends, the ~~[trustee]~~ **fiduciary** shall pay ~~[to a mandatory]~~

~~7 income beneficiary who survives that date, or the estate of a deceased mandatory income~~
~~8 beneficiary whose death causes the interest to end,]~~ the beneficiary's share of the
9 undistributed income that is not disposed of under the terms of the trust ~~[unless the]~~ **to the**
10 **beneficiary or, if the beneficiary does not survive the date the interest ends, to the**
11 **beneficiary's estate.**

12 **3. If a beneficiary has an unqualified power to ~~[revoke]~~ withdraw** more than five
13 percent of the **value of a** trust immediately before ~~[the]~~ **an** income interest ends~~[- In the latter~~
14 ~~case,];~~

15 **(1) The fiduciary shall allocate to principal** the undistributed income from the
16 portion of the trust that may be ~~[revoked shall be added to principal]~~ **withdrawn; and**

17 **(2) Subsection 2 of this section applies only to the balance of the undistributed**
18 **income.**

19 ~~[3-]~~ **4.** When a ~~[trustee's]~~ **fiduciary's** obligation to pay a fixed annuity or a fixed
20 fraction of the value of ~~[the trust's]~~ assets ends, the ~~[trustee]~~ **fiduciary** shall prorate the final
21 payment ~~[if and to the extent]~~ **as** required ~~[by applicable law to accomplish a purpose of the~~
22 ~~trust or its settlor relating]~~ **to preserve an income tax, gift tax, estate tax, or other tax**
23 ~~[requirements]~~ **benefit.**

469.423. 1. ~~[For purposes of]~~ **In** this section~~[- the term]~~:

2 **(1) "Capital distribution" means an entity distribution of money that is a:**

3 **(a) Return of capital; or**

4 **(b) Distribution in total or partial liquidation of the entity;**

5 **(2) "Entity":**

6 **(a)** Means a corporation, partnership, limited liability company, regulated investment
7 company, real estate investment trust, common trust fund, or any other organization ~~[in which~~
8 ~~a trustee has an interest, other than a trust or estate to which section 469.425 applies, a~~
9 ~~business or activity to which section 469.427 applies, or an asset-backed security to which~~
10 ~~section 469.449 applies.]~~ **or arrangement in which a fiduciary owns or holds an interest,**
11 **whether or not the entity is a taxpayer for federal income tax purposes; and**

12 **(b) Does not include:**

13 **a. A trust or estate to which section 469.425 applies;**

14 **b. A business or other activity to which section 469.427 applies that is not**
15 **conducted by an entity described in paragraph (a) of this subdivision;**

16 **c. An asset-backed security; or**

17 **d. An instrument or arrangement to which section 469.450 applies;**

18 **(3) "Entity distribution" means a payment or transfer by an entity made to a**
19 **person in the person's capacity as an owner or holder of an interest in the entity.**

20 **2. In this section, an attribute or action of an entity includes an attribute or**
21 **action of any other entity in which the entity owns or holds an interest, including an**
22 **interest owned or held indirectly through another entity.**

23 ~~[2-]~~ **3. Except as otherwise provided in [this section] subdivisions (2) to (4) of**
24 **subsection 4 of this section, a [trustee] fiduciary shall allocate to income:**

25 **(1) Money received [from] in an entity[-**

26 ~~3. A trustee shall allocate the following receipts from an entity to principal:~~

27 ~~(1) Property other than money;~~

28 ~~(2) Money received in one distribution or a series of related distributions in exchange~~
29 ~~for part or all of a trust's interest in the entity;~~

30 ~~(3) Money received in total or partial liquidation of the entity; and~~

31 ~~(4) Money received from an entity that is] distribution; and~~

32 **(2) Tangible personal property of nominal value received from the entity.**

33 **4. A fiduciary shall allocate to principal:**

34 **(1) Property received in an entity distribution that is not:**

35 **(a) Money; or**

36 **(b) Tangible personal property of nominal value;**

37 **(2) Money received in an entity distribution in an exchange for part or all of the**
38 **fiduciary's interest in the entity, to the extent the entity distribution reduces the**
39 **fiduciary's interest in the entity relative to the interests of other persons that own or**
40 **hold interests in the entity;**

41 **(3) Money received in an entity distribution that the fiduciary determines or**
42 **estimates is a capital distribution; and**

43 **(4) Money received in an entity distribution from an entity that is:**

44 **(a) A regulated investment company or [a] real estate investment trust if the money**
45 **[distributed] received is a capital gain dividend for federal income tax purposes[-**

46 ~~4. Money is received in partial liquidation:~~

47 ~~(1) To the extent that the entity, at or near the time of a distribution, indicates that~~
48 ~~such money is a distribution in partial liquidation; or~~

49 ~~(2) If]; or~~

50 **(b) Treated for federal income tax purposes comparably to the treatment**
51 **described in paragraph (a) of this subdivision.**

52 **5. A fiduciary may determine or estimate that money received in an entity**
53 **distribution is a capital distribution:**

54 **(1) By relying, without inquiry or investigation, on a characterization of the**
55 **entity distribution provided by or on behalf of the entity unless the fiduciary:**

56 (a) Determines, on the basis of information known to the fiduciary, that the
57 characterization is or may be incorrect; or

58 (b) Owns or holds more than fifty percent of the voting interest in the entity;

59 (2) By determining or estimating, on the basis of information known to the
60 fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount
61 of money and property received by the fiduciary in [a] the entity distribution or a series of
62 related entity distributions is or will be greater than twenty percent of the [entity's gross
63 assets, as shown by the entity's year-end financial statements immediately preceding the
64 initial receipt.

65 ~~5. Money is not received in partial liquidation, nor may it be taken into account~~
66 ~~pursuant to subdivision (2) of subsection 4 of this section, to the extent that such money does~~
67 ~~not exceed the amount of income tax that a trustee or beneficiary shall pay on taxable income~~
68 ~~of the entity that distributes the money.~~

69 ~~6. A trustee may rely upon a statement made by an entity about the source or~~
70 ~~character of a distribution if the statement is made at or near the time of distribution by the~~
71 ~~entity's board of directors or other person or group of persons authorized to exercise powers to~~
72 ~~pay money or transfer property comparable to those of a corporation's board of directors.] fair~~
73 ~~market value of the fiduciary's interest in the entity; or~~

74 (3) If neither subdivision (1) nor (2) of this subsection applies, by considering the
75 factors in subsection 6 of this section and the information known to the fiduciary or
76 provided to the fiduciary by or on behalf of the entity.

77 6. In making a determination or estimate under subdivision (3) of subsection 5 of
78 this section, a fiduciary may consider:

79 (1) A characterization of an entity distribution provided by or on behalf of the
80 entity;

81 (2) The amount of money or property received in:

82 (a) The entity distribution; or

83 (b) What the fiduciary determines is or will be a series of related entity
84 distributions;

85 (3) The amount described in subdivision (2) of this subsection compared to the
86 amount the fiduciary determines or estimates is, during the current or preceding
87 accounting periods:

88 (a) The entity's operating income;

89 (b) The proceeds of the entity's sale or other disposition of:

90 a. All or part of the business or other activity conducted by the entity;

91 b. One or more business assets that are not sold to customers in the ordinary
92 course of the business or other activity conducted by the entity; or

93 c. One or more assets other than business assets, unless the entity's primary
94 activity is to invest in assets to realize gain on the disposition of all or some of the assets;

95 (c) If the entity's primary activity is to invest in assets to realize gain on the
96 disposition of all or some of the assets, the gain realized on the disposition;

97 (d) The entity's regular, periodic entity distributions;

98 (e) The amount of money the entity has accumulated;

99 (f) The amount of money the entity has borrowed;

100 (g) The amount of money the entity has received from the sources described in
101 sections 469.433, 469.439, 469.441, and 469.443; and

102 (h) The amount of money the entity has received from a source not otherwise
103 described in this paragraph; and

104 (4) Any other factor the fiduciary determines is relevant.

105 7. If, after applying subsections 3 to 6 of this section, a fiduciary determines that
106 a part of an entity distribution is a capital distribution but is in doubt about the amount
107 of the entity distribution that is a capital distribution, the fiduciary shall allocate to
108 principal the amount of the entity distribution that is in doubt.

109 8. If a fiduciary receives additional information about the application of this
110 section to an entity distribution before the fiduciary has paid part of the entity
111 distribution to a beneficiary, the fiduciary may consider the additional information
112 before making the payment to the beneficiary and may change a decision to make the
113 payment to the beneficiary.

114 9. If a fiduciary receives additional information about the application of this
115 section to an entity distribution after the fiduciary has paid part of the entity
116 distribution to a beneficiary, the fiduciary is not required to change or recover the
117 payment to the beneficiary but may consider that information in determining whether
118 to exercise the power to adjust under section 469.405.

 469.425. A ~~[trustee]~~ fiduciary shall allocate to income an amount received as a
2 distribution of income, including a unitrust distribution under sections 469.471 to
3 469.487, from a trust or ~~[an]~~ estate in which the ~~[trust]~~ fiduciary has an interest, other than ~~[a]~~
4 an interest the fiduciary purchased ~~[interest]~~ in a trust that is an investment entity, and
5 shall allocate to principal an amount received as a distribution of principal from ~~[such a]~~ the
6 trust or estate. If a ~~[trustee]~~ fiduciary purchases, or receives from a settlor, an interest in a
7 trust that is an investment entity, ~~[or a decedent or donor transfers an interest in such a trust to~~
8 ~~a trustee,]~~ section 469.423 ~~[or,]~~ 469.449 ~~[shall apply],~~ or 469.450 applies to a receipt from
9 the trust.

 469.427. 1. ~~[If a trustee who conducts]~~ This section applies to a business or other
2 activity conducted by a fiduciary if the fiduciary determines that it is in the ~~[best interest]~~

3 **interests** of ~~[all]~~ the beneficiaries to account separately for the business or **other** activity
4 instead of:

5 (1) Accounting for ~~[#]~~ **the business or other activity** as part of the ~~[trust's]~~
6 **fiduciary's** general accounting records~~[-]~~; or

7 (2) **Conducting** the ~~[trustee]~~ **business or other activity through an entity described**
8 **in paragraph (a) of subdivision (2) of subsection 1 of section 469.423.**

9 2. A **fiduciary** may ~~[maintain separate accounting records]~~ **account separately**
10 **under this section** for ~~[its]~~ **the transactions of a business or other activity**, whether or not
11 ~~[its]~~ **assets of the business or other activity** are segregated from other ~~[trust]~~ **assets held by**
12 **the fiduciary.**

13 ~~[2-]~~ 3. A ~~[trustee who]~~ **fiduciary that** accounts separately **under this section** for a
14 business or other activity:

15 (1) May determine:

16 (a) The extent to which **the** net cash receipts ~~[shall]~~ **of the business or other activity**
17 **shall** be retained for:

18 a. Working capital~~[-]~~;

19 b. The acquisition or replacement of fixed assets~~[-]~~; and

20 c. Other reasonably foreseeable needs of the business or **other** activity~~[-]~~; and

21 (b) The extent to which the remaining net cash receipts are accounted for as principal
22 or income in the ~~[trust's]~~ **fiduciary's** general accounting records~~[-]~~. ~~If a trustee sells assets of~~
23 ~~the business or other activity, other than in the ordinary course of the business or activity, the~~
24 ~~trustee]~~ **for the trust;**

25 (2) **May make a determination under subdivision (1) of this subsection**
26 **separately and differently from the fiduciary's decisions concerning distributions of**
27 **income or principal; and**

28 (3) **Shall account for the net amount received from the sale of an asset of the**
29 **business or other activity, other than a sale in the ordinary course of the business or**
30 **other activity**, as principal in the ~~[trust's]~~ **fiduciary's** general accounting records **for the**
31 **trust**, to the extent the ~~[trustee]~~ **fiduciary** determines that the **net** amount received is no
32 longer required in the conduct of the business **or other activity.**

33 ~~[3-]~~ 4. Activities for which a ~~[trustee may maintain separate accounting records]~~
34 **fiduciary may account separately under this section** include:

35 (1) Retail, manufacturing, service, and other traditional business activities;

36 (2) Farming;

37 (3) Raising and selling livestock and other animals;

38 (4) ~~[Management of]~~ **Managing** rental properties;

39 (5) ~~[Extraction of]~~ **Extracting** minerals, **water**, and other natural resources;

- 40 (6) **Growing and cutting** timber ~~[operations]; [and]~~
 41 (7) ~~[Activities]~~ **An activity** to which section 469.447, **469.449, or 469.450** applies~~[-];~~
 42 **and**
 43 (8) **Any other business conducted by the fiduciary.**
 469.429. A ~~[trustee]~~ **fiduciary** shall allocate to principal:
 2 (1) To the extent not allocated to income ~~[pursuant to]~~ **under** sections ~~[469.401]~~
 3 **469.399 to [469.467] 469.487, [assets] an asset** received from ~~[a transferor]:~~
 4 (a) **An individual** during the ~~[transferor's]~~ **individual's** lifetime~~[-; a decedent's];~~
 5 (b) **An estate[-];**
 6 (c) A trust ~~[with a terminating]~~ **on termination of an** income interest~~[-];~~ or
 7 (d) A payer under a contract naming the ~~[trust or its trustee]~~ **fiduciary** as beneficiary;
 8 (2) **Except as otherwise provided in sections 469.423 to 469.450,** money or other
 9 property received from the sale, exchange, liquidation, or change in form of a principal asset~~[-~~
 10 ~~including realized profit, subject to sections 469.423 to 469.467];~~
 11 (3) ~~[Amounts]~~ **An amount** recovered from a third ~~[parties]~~ **party** to reimburse the
 12 ~~[trust]~~ **fiduciary** because of ~~[disbursements]~~ **a disbursement** described in ~~[subdivision (7) of]~~
 13 subsection 1 of section 469.453 or for ~~[other reasons]~~ **another reason** to the extent not based
 14 on ~~[the]~~ loss of income;
 15 (4) Proceeds of property taken by eminent domain, ~~[but a separate award made]~~
 16 **except that proceeds awarded** for ~~[the]~~ loss of income ~~[with respect to]~~ **in** an accounting
 17 period ~~[during which]~~ **are income** if a current income beneficiary had a mandatory income
 18 interest ~~[is income]~~ **during the period;**
 19 (5) Net income received in an accounting period during which there is no beneficiary
 20 to ~~[whom]~~ **which** a ~~[trustee]~~ **fiduciary** may or shall distribute income; and
 21 (6) Other receipts as provided in sections 469.435 to ~~[469.449]~~ **469.450.**
 469.431. To the extent ~~[that a trustee accounts]~~ **a fiduciary does not account** for
 2 ~~[receipts from]~~ **the management of** rental property ~~[pursuant to this section]~~ **as a business**
 3 **under section 469.427,** the ~~[trustee]~~ **fiduciary** shall allocate to income an amount received as
 4 rent of real or personal property, including an amount received for cancellation or renewal of
 5 a lease. An amount received as a refundable deposit, including a security deposit or a deposit
 6 that is to be applied as rent for future periods~~[-, shall be added to principal and held subject to~~
 7 ~~the terms of the lease and is not available for distribution to a beneficiary until the trustee's~~
 8 ~~contractual obligations have been satisfied with respect to that amount.];~~
 9 (1) **Shall be added to principal and held subject to the terms of the lease, except**
 10 **as otherwise provided by law other than sections 469.399 to 469.487; and**
 11 (2) **Is not allocated to income or available for distribution to a beneficiary until**
 12 **the fiduciary's contractual obligations have been satisfied with respect to that amount.**

469.432. 1. **This section does not apply to an obligation to which section 469.437, 469.439, 469.441, 469.443, 469.447, 469.449, or 469.450 applies.**

2. **A fiduciary shall allocate to income, without provision for amortization of premium,** an amount received as interest~~[, whether determined at a fixed, variable or floating rate,]~~ on an obligation to pay money to the ~~[trustee]~~ **fiduciary**, including an amount received as consideration for prepaying principal~~[, shall be allocated to income without any provision for amortization of premium].~~

~~[2.]~~ 3. A ~~[trustee]~~ **fiduciary** shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the ~~[trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income]~~ **fiduciary**. **A fiduciary shall allocate to income the increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable, at maturity or another future time, in an amount that exceeds the amount in consideration of which it was issued.**

~~[3. This section does not apply to an obligation to which section 469.437, 469.439, 469.441, 469.443, 469.447 or 469.449 applies.]~~

469.433. 1. **This section does not apply to a contract to which section 469.437 applies.**

2. Except as otherwise provided in subsection ~~[2]~~ **3** of this section, a ~~[trustee]~~ **fiduciary** shall allocate to principal the proceeds of a life insurance policy or other contract ~~[in which the trust or its trustee is named]~~ **received by the fiduciary** as beneficiary, including a contract that insures ~~[the trust or its trustee]~~ against ~~[loss for]~~ damage to, destruction of, or loss of title to ~~[a trust]~~ **an** asset. The ~~[trustee]~~ **fiduciary** shall allocate dividends on an insurance policy to income ~~[if]~~ **to the extent** premiums on the policy are paid from income~~;~~ and to principal ~~[if]~~ **to the extent** premiums **on the policy** are paid from principal.

~~[2.]~~ 3. A ~~[trustee]~~ **fiduciary** shall allocate to income proceeds of a contract that insures the ~~[trustee]~~ **fiduciary** against loss of:

(1) Occupancy or other use by ~~[an income beneficiary, loss of]~~ **a current income;** **beneficiary;**

(2) **Income;** or~~;~~

(3) Subject to section 469.427, ~~[loss of]~~ profits from a business.

~~[3. This section does not apply to a contract to which section 469.437 applies.]~~

469.435. 1. If a ~~[trustee]~~ **fiduciary** determines that an allocation between **income and principal** ~~[and income]~~ required by section 469.437, 469.439, 469.441, 469.443 or

3 469.449 is insubstantial, the ~~[trustee]~~ **fiduciary** may allocate the entire amount to principal,
4 unless ~~[one of the circumstances described in]~~ subsection ~~[3]~~ **5** of section 469.405 applies to
5 the allocation. ~~[This power]~~

6 **2. A fiduciary** may ~~[be exercised by a cotrustee in the circumstances described in~~
7 ~~subsection 4 of section 469.405 and may be released for the reasons and in the manner~~
8 ~~described in subsection 5 of section 469.405.]~~ **presume** an allocation is ~~[presumed to be]~~
9 insubstantial **under subsection 1 of this section** if:

10 (1) The amount of the allocation would increase or decrease net income in an
11 accounting period, as determined before the allocation, by less than ten percent; ~~[or]~~ **and**

12 (2) ~~[The value of]~~ The asset producing the receipt ~~[for which the allocation would]~~ **to**
13 ~~be [made is]~~ **allocated has a fair market value** less than ten percent of the total **fair market**
14 value of the ~~[trust's]~~ **assets owned or held by the fiduciary** at the beginning of the
15 accounting period.

16 **3. The power to make a determination under subsection 1 of this section may be:**

17 (1) **Exercised by a co-fiduciary in the manner described in subsection 6 of section**
18 **469.405; or**

19 (2) **Released or delegated for a reason described in subsection 7 of section**
20 **469.405 and in the manner described in subsection 8 of section 469.405.**

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

2 (1) ~~["Payment", an amount that is:~~

3 (a) ~~Received or withdrawn from a plan; or~~

4 (b) ~~One of a series of distributions that have been or will be received over a fixed~~
5 ~~number of years or during the life of one or more individuals under any contractual or other~~
6 ~~arrangement, or is a single payment from a plan that the trustee could have received over a~~
7 ~~fixed number of years or during the life of one or more individuals;~~

8 (2) ~~"Plan", a contractual, custodial, trust or other arrangement that provides for~~
9 ~~distributions to the trust, including, but not limited to, qualified retirement plans, Individual~~
10 ~~Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and~~
11 ~~deferred compensation, including payments received directly from an entity as defined in~~
12 ~~section 469.423 regardless of whether or not such distributions are made from a specific fund~~
13 ~~or account.~~

14 ~~2. If any portion of a payment is characterized as a distribution to the trustee of~~
15 ~~interest, dividends or a dividend equivalent, the trustee shall allocate the portion so~~
16 ~~characterized to income. The trustee shall allocate the balance of that payment to principal.~~

17 ~~3. If no part of a payment is allocated to income pursuant to subsection 2 of this~~
18 ~~section, then for each accounting period of the trust that any payment is received by the trust~~
19 ~~with respect to the trust's interest in a plan, the trustee shall allocate to income that portion of~~

20 the aggregate value of all payments received by the trustee in that accounting period equal to
21 the amount of plan income attributable to the trust's interest in the plan for that calendar year.
22 ~~The trustee shall allocate the balance of that payment to principal.~~

23 4. ~~For purposes of this section, if a payment is received from a plan that maintains a~~
24 ~~separate account or fund for its participants or account holders, including, but not limited to,~~
25 ~~defined contribution retirement plans, Individual Retirement Accounts, Roth Individual~~
26 ~~Retirement Accounts, and some types of deferred compensation plans, the phrase "plan~~
27 ~~income" shall mean either the amount of the plan account or fund held for the benefit of the~~
28 ~~trust that, if the plan account or fund were a trust, would be allocated to income pursuant to~~
29 ~~sections 469.401 to 469.467 for that accounting period, or four percent of the value of the~~
30 ~~plan account or fund on the first day of that accounting period. The method of determining~~
31 ~~plan income pursuant to this subsection shall be chosen by the trustee in the trustee's~~
32 ~~discretion. The trustees may change the method of determining plan income pursuant to this~~
33 ~~subsection for any future accounting period.~~

34 5. ~~For purposes of this section if the payment is received from a plan that does not~~
35 ~~maintain a separate account or fund for its participants or account holders, including by way~~
36 ~~of example and not limitation defined benefit retirement plans and some types of deferred~~
37 ~~compensation plans, the term "plan income" shall mean four percent of the total present value~~
38 ~~of the trust's interest in the plan as of the first day of the accounting period, based on~~
39 ~~reasonable actuarial assumptions as determined by the trustee.~~

40 6. ~~Notwithstanding subsections 1 to 5 of this section, with respect to a trust where an~~
41 ~~election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f) of the~~
42 ~~Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified for the~~
43 ~~marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal Revenue~~
44 ~~Code of 1986, as amended, a trustee shall determine the plan income for the accounting~~
45 ~~period as if the plan were a trust subject to sections 469.401 to 469.467. Upon request of the~~
46 ~~surviving spouse, the trustee shall demand that the person administering the plan distribute~~
47 ~~the plan income to the trust. The trustee shall allocate a payment from the plan to income to~~
48 ~~the extent of the plan income and distribute that amount to the surviving spouse. The trustee~~
49 ~~shall allocate the balance of the payment to principal. Upon request of the surviving spouse,~~
50 ~~the trustee shall allocate principal to income to the extent the plan income exceeds payments~~
51 ~~made from the plan to the trust during the accounting period.~~

52 7. ~~If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate~~
53 ~~more of a payment to income than provided for by this section, the trustee shall allocate to~~
54 ~~income the additional amount necessary to obtain the marital deduction.] "Internal income~~
55 ~~of a separate fund", the amount determined under subsection 2 of this section;~~

56 (2) "Marital trust", a trust:

57 (a) Of which the settlor's surviving spouse is the only current income beneficiary
58 and is entitled to a distribution of all the current net income of the trust; and

59 (b) That qualifies for a marital deduction with respect to the settlor's estate
60 under 26 U.S.C. Section 2056, as amended, because:

61 a. An election to qualify for a marital deduction under 26 U.S.C. Section 2056(b)
62 (7), as amended, has been made; or

63 b. The trust qualifies for a marital deduction under 26 U.S.C. Section 2056(b)(5),
64 as amended;

65 (3) "Payment", an amount a fiduciary may receive over a fixed number of years
66 or during the life of one or more individuals because of services rendered or property
67 transferred to the payer in exchange for future amounts the fiduciary may receive. The
68 term includes an amount received in money or property from the payer's general assets
69 or from a separate fund created by the payer;

70 (4) "Separate fund" includes a private or commercial annuity, an individual
71 retirement account, and a pension, profit-sharing, stock bonus, or stock ownership plan.

72 2. For each accounting period, the following rules apply to a separate fund:

73 (1) The fiduciary shall determine the internal income of the separate fund as if
74 the separate fund was a trust subject to sections 469.399 to 469.487;

75 (2) If the fiduciary cannot determine the internal income of the separate fund
76 under subdivision (1) of this subsection, the internal income of the separate fund is
77 deemed to equal three percent of the value of the separate fund, according to the most
78 recent statement of value preceding the beginning of the accounting period; and

79 (3) If the fiduciary cannot determine the value of the separate fund under
80 subdivision (2) of this subsection, the value of the separate fund is deemed to equal the
81 present value of the expected future payments, as determined under 26 U.S.C. Section
82 7520, as amended, for the month preceding the beginning of the accounting period for
83 which the computation is made.

84 3. A fiduciary shall allocate a payment received from a separate fund during an
85 accounting period to income, to the extent of the internal income of the separate fund
86 during the period, and the balance to principal.

87 4. The fiduciary of a marital trust shall:

88 (1) Withdraw from a separate fund the amount the current income beneficiary
89 of the trust requests the fiduciary to withdraw, not greater than the amount by which
90 the internal income of the separate fund during the accounting period exceeds the
91 amount the fiduciary otherwise receives from the separate fund during the period;

92 (2) Transfer from principal to income the amount the current income
93 beneficiary requests the fiduciary to transfer, not greater than the amount by which

94 the internal income of the separate fund during the period exceeds the amount the
95 fiduciary receives from the separate fund during the period after the application of
96 subdivision (1) of this subsection; and

97 (3) Distribute to the current income beneficiary as income:

98 (a) The amount of the internal income of the separate fund received or
99 withdrawn during the period; and

100 (b) The amount transferred from principal to income under subdivision (2) of
101 this subsection.

102 5. For a trust, other than a marital trust, of which one or more current income
103 beneficiaries are entitled to a distribution of all the current net income, the fiduciary
104 shall transfer from principal to income the amount by which the internal income of a
105 separate fund during the accounting period exceeds the amount the fiduciary receives
106 from the separate fund during the period.

469.439. 1. ~~[As used]~~ In this section, ~~[the phrase]~~ "liquidating asset" means an asset
2 whose value will diminish or terminate because the asset is expected to produce receipts for a
3 ~~[period of]~~ limited ~~[duration]~~ time. The ~~[phrase]~~ term includes a leasehold, patent,
4 copyright, royalty right, and right to receive payments during a period of more than one year
5 under an arrangement that does not provide for the payment of interest on the unpaid balance.
6 ~~[The phrase]~~

7 2. This section does not ~~[include a payment]~~ apply to a receipt subject to section
8 469.423, 469.437, ~~[resources subject to section]~~ 469.441, ~~[timber subject to section]~~ 469.443,
9 ~~[an activity subject to section]~~ 469.447, ~~[an asset subject to section]~~ 469.449, 469.450, or ~~[any~~
10 ~~asset for which the trustee establishes a reserve for depreciation pursuant to section]~~ 469.455.

11 ~~[2:]~~ 3. A ~~[trustee]~~ fiduciary shall allocate:

12 (1) To income ~~[ten percent of the receipts from]~~:

13 (a) A receipt produced by a liquidating asset ~~[and the balance]~~, to the extent the
14 receipt does not exceed three percent of the value of the asset; or

15 (b) If the fiduciary cannot determine the value of the asset, ten percent of the
16 receipt; and

17 (2) To principal, the balance of the receipt.

469.441. 1. To the extent ~~[that a trustee accounts for receipts]~~ a fiduciary does not
2 account for a receipt from an interest in minerals, water, or other natural resources ~~[pursuant~~
3 ~~to this section]~~ as a business under section 469.427, the ~~[trustee]~~ fiduciary shall allocate
4 ~~[them as follows]~~ the receipt:

5 (1) ~~[If]~~ To income, to the extent received:

6 (a) As ~~[nominal]~~ delay rental or ~~[nominal]~~ annual rent on a lease~~[-a receipt shall be~~
7 ~~allocated to income]~~;

8 (b) As a factor for interest or the equivalent of interest under an agreement
9 creating a production payment; or

10 (c) On account of an interest in renewable water;

11 (2) To principal, if received from a production payment, ~~[a receipt shall be allocated~~
12 ~~to income if and to the extent that the agreement creating the production payment provides a~~
13 ~~factor for interest or its equivalent. The balance shall be allocated to principal;]~~ to the extent
14 paragraph (b) of subdivision (1) of this subsection does not apply; or

15 (3) ~~[If an amount received]~~ Between income and principal equitably, to the extent
16 received:

17 (a) On account of an interest in nonrenewable water;

18 (b) As a royalty, shut-in-well payment, take-or-pay payment, or bonus ~~[or delay~~
19 ~~rental is more than nominal, ninety percent shall be allocated to principal and the balance to~~
20 ~~income]; or~~

21 ~~[(4) If an amount is received]~~ (c) From a working interest or any other interest not
22 provided for in subdivision (1)[;] or (2) ~~[or (3)]~~ of this subsection~~[, ninety percent of the net~~
23 ~~amount received shall be allocated to principal and the balance to income]~~ or paragraph (a)
24 or (b) of this subdivision.

25 2. ~~[An amount received on account of]~~ This section applies to an interest ~~[in water~~
26 ~~that is renewable shall be allocated to income. If the water is not renewable, ninety percent of~~
27 ~~the amount shall be allocated to principal and the balance to income.]~~

28 3. ~~Sections 469.401 to 469.467 apply]~~ owned or held by a fiduciary whether or not a
29 ~~[decedent or donor]~~ settlor was extracting minerals, water, or other natural resources before
30 the fiduciary owned or held the interest ~~[became subject to the trust].~~

31 3. An allocation of a receipt under subdivision (3) of subsection 1 of this section
32 is presumed to be equitable if the amount allocated to principal is equal to the amount
33 allowed by 26 U.S.C., as amended, as a deduction for depletion of the interest.

34 4. If a ~~[trust]~~ fiduciary owns or holds an interest in minerals, water, or other natural
35 resources ~~[on]~~ before August 28, ~~[2001]~~ 2024, the ~~[trustee]~~ fiduciary may allocate receipts
36 from the interest as provided in ~~[sections 469.401 to 469.467]~~ this section or in the manner
37 used by the ~~[trustee]~~ fiduciary before August 28, ~~[2001]~~ 2024. If the ~~[trust]~~ fiduciary
38 acquires an interest in minerals, water, or other natural resources on or after August 28,
39 ~~[2001]~~ 2024, the ~~[trustee]~~ fiduciary shall allocate receipts from the interest as provided in
40 ~~[sections 469.401 to 469.467]~~ this section.

469.443. 1. To the extent ~~[that a trustee accounts]~~ a fiduciary does not account for
2 receipts from the sale of timber and related products ~~[pursuant to this section]~~ as a business
3 under section 469.427, the ~~[trustee]~~ fiduciary shall allocate the net receipts:

4 (1) To income, to the extent ~~[that]~~ the amount of timber ~~[removed]~~ **cut** from the land
5 does not exceed the rate of growth of the timber ~~[during the accounting periods in which a~~
6 ~~beneficiary has a mandatory income interest]~~;

7 (2) To principal, to the extent ~~[that]~~ the amount of timber ~~[removed]~~ **cut** from the land
8 exceeds the rate of growth of the timber or the net receipts are from the sale of standing
9 timber;

10 (3) ~~[To or]~~ Between income and principal if the net receipts are from the lease of
11 ~~[timberland]~~ **land used for growing and cutting timber** or from a contract to cut timber
12 from land ~~[owned by a trust]~~, by determining the amount of timber ~~[removed]~~ **cut** from the
13 land under the lease or contract and applying the rules in subdivisions (1) and (2) of this
14 subsection; or

15 (4) To principal, to the extent ~~[that]~~ advance payments, bonuses, and other payments
16 are not allocated ~~[pursuant to either]~~ **under** subdivision (1), (2), or (3) of this subsection.

17 2. In determining net receipts to be allocated ~~[pursuant to]~~ **under** subsection 1 of this
18 section, a ~~[trustee]~~ **fiduciary** shall deduct and transfer to principal a reasonable amount for
19 depletion.

20 3. ~~[Sections 469.401 to 469.467 apply]~~ **This section applies to land owned or held**
21 **by a fiduciary** whether or not a ~~[decedent or transferor]~~ **settlor** was ~~[harvesting]~~ **cutting**
22 timber from the **land before the fiduciary owned or held the property** ~~[before it became~~
23 ~~subject to the trust]~~.

24 4. If a ~~[trust]~~ **fiduciary** owns or holds an interest in ~~[timberland on]~~ **land used for**
25 **growing and cutting timber before** August 28, ~~[2001]~~ **2024**, the ~~[trustee]~~ **fiduciary** may
26 allocate net receipts from the sale of timber and related products as provided in ~~[sections~~
27 ~~469.401 to 469.467]~~ **this section** or in the manner used by the ~~[trustee]~~ **fiduciary** before
28 August 28, ~~[2001]~~ **2024**. If the ~~[trust]~~ **fiduciary** acquires an interest in ~~[timberland]~~ **land**
29 **used for growing and cutting timber on or after** August 28, ~~[2001]~~ **2024**, the ~~[trustee]~~
30 **fiduciary** shall allocate net receipts from the sale of timber and related products as provided
31 in ~~[sections 469.401 to 469.467]~~ **this section**.

469.445. 1. If a **trust received property for which a gift or estate tax marital**
2 **deduction** ~~[is allowed for all or part of a trust whose]~~ **was allowed and the settlor's spouse**
3 **holds a mandatory income interest in the trust, the spouse may require the trustee, to**
4 **the extent the trust assets** ~~[consist substantially of property that does]~~ **otherwise do not**
5 provide the spouse with sufficient income from or use of the trust assets~~], and if the amounts~~
6 ~~that the trustee transfers from principal to income pursuant to section 469.405 and distributes~~
7 ~~to the spouse from principal pursuant to the terms of the trust are insufficient to provide the~~
8 ~~spouse with the beneficial enjoyment required to obtain the marital]~~ **to qualify for the**
9 deduction, ~~[the spouse may require the trustee]~~ to:

- 10 (1) Make property productive of income^[5];
- 11 (2) Convert property **to property productive of income** within a reasonable time^[5];
- 12 or
- 13 (3) Exercise the power ~~[conferred by subsection 1 of]~~ **to adjust under** section
- 14 469.405.

15 2. The trustee may decide which action or combination of actions **in subsection 1 of**

16 **this section** to take.

17 ~~[2. In cases not governed by subsection 1 of this section, proceeds from the sale or~~

18 ~~other disposition of an asset are principal without regard to the amount of income the asset~~

19 ~~produces during any accounting period.]~~

 469.447. 1. ~~[As used]~~ In this section, ~~[the term]~~ "derivative" means a contract ~~[or~~

2 ~~financial]~~, instrument, **other arrangement**, or a combination of contracts ~~[and financial]~~,

3 instruments, **or other arrangements, the value, rights, and obligations of** which ~~[gives a~~

4 ~~trust the right or obligation to participate in some or all changes in the price of a]~~ **are, in**

5 **whole or in part, dependent on or derived from an underlying** tangible or intangible asset

6 ~~[or group of assets, or changes in a rate, an index of prices or]~~, **group of tangible or**

7 **intangible assets, index, or occurrence of an event. The term includes stocks, fixed**

8 **income securities, and financial instruments and arrangements based on indices,**

9 **commodities, interest rates,** ~~[or other market indicator for an asset or a group of assets]~~

10 **weather-related events, and credit default events.**

11 2. To the extent ~~[that a trustee]~~ a fiduciary does not account ~~[pursuant to section~~

12 ~~469.427 for transactions]~~ **for a transaction** in derivatives^[5], ~~the trustee]~~ **as a business under**

13 **section 469.427, the fiduciary shall allocate** ~~[to principal]~~ **ten percent of** receipts from **the**

14 **transaction and ten percent of** disbursements made in connection with ~~[those transactions]~~

15 **the transaction to income and the balance to principal.**

16 3. Subsection 4 of this section applies if:

17 (1) A ~~[trustee]~~ fiduciary:

18 (a) Grants an option to buy property from ~~[the]~~ a trust, whether or not the trust owns

19 the property when the option is granted^[5];

20 (b) Grants an option that permits another person to sell property to the trust^[5]; or

21 (c) Acquires an option to buy property for the trust or an option to sell an asset owned

22 by the trust^[5]; and

23 (2) The ~~[trustee]~~ fiduciary or other owner of the asset is required to deliver the asset

24 if the option is exercised^[5].

25 4. **If this subsection applies, the fiduciary shall allocate ten percent to income**

26 **and the balance to principal of the following amounts:**

27 (1) An amount received for granting the option ~~[shall be allocated to principal.]~~;

28 (2) An amount paid to acquire the option ~~[shall be paid from principal. A]; and~~

29 (3) Gain or loss realized ~~[upon]~~ **on** the exercise ~~[of an option, including an option~~
30 ~~granted to a settlor], exchange, settlement, offset, closing, or expiration of the [trust for~~
31 ~~services rendered, shall be allocated to principal] option.~~

 469.449. 1. ~~[As used in this section, the phrase "asset-backed security" means an~~
2 ~~asset whose value is based upon the right it gives the owner to receive distributions from the~~
3 ~~proceeds of financial assets that provide collateral for the security. The phrase includes an~~
4 ~~asset that gives the owner the right to receive from the collateral financial assets only the~~
5 ~~interest or other current return or only the proceeds other than interest or current return. The~~
6 ~~phrase does not include an asset to which section 469.423 or 469.437 applies.~~

7 2. ~~If a trust receives a payment from interest or other current return and from other~~
8 ~~proceeds of the collateral financial assets, the trustee]~~ **Except as otherwise provided in**
9 **subsection 2 of this section, a fiduciary shall allocate to income [the portion of] a receipt**
10 **from or related to an asset-backed security, to the extent the [payment which the] payer**
11 **identifies the payment as being from interest or other current return, and [shall allocate] to**
12 **principal the balance of the [payment to principal] receipt.**

13 ~~[3-]~~ 2. If a ~~[trust]~~ **fiduciary** receives one or more payments in exchange for **part or**
14 **all of** the ~~[trust's entire]~~ **fiduciary's** interest in an asset-backed security ~~[in one accounting~~
15 ~~period, the trustee shall allocate the payments to principal. If a payment is one of a series of~~
16 ~~payments that will result in the-], including a liquidation or redemption of the [trust's]~~
17 **fiduciary's** interest in the security ~~[over more than one accounting period,]~~ the ~~[trustee]~~
18 **fiduciary** shall allocate ~~[ten]~~ **to income ten percent of receipts from the [payment to**
19 **income] transaction and [the balance to principal] ten percent of disbursements made in**
20 **connection with the transaction, and to principal the balance of the receipts and**
21 **disbursements.**

 469.450. A fiduciary shall allocate receipts from or related to a financial
2 **instrument or arrangement not otherwise addressed by sections 469.399 to 469.487. The**
3 **allocation shall be consistent with sections 469.447 and 469.449.**

 469.451. ~~[A trustee shall make the following disbursements from income to the extent~~
2 ~~that they are not disbursements to which paragraph (b) or (c) of]~~ **Subject to section 469.456,**
3 **and except as otherwise provided in subdivision (2) or (3) of subsection 3 of section**
4 **469.413 [applies], a fiduciary shall disburse from income:**

5 (1) One-half of:

6 (a) The regular compensation of the ~~[trustee]~~ **fiduciary** and ~~[of]~~ any person providing
7 investment advisory ~~[or]~~, custodial, **or other** services to the ~~[trustee]~~ **fiduciary, to the extent**
8 **income is sufficient; and**

9 ~~[(2) One-half of all expenses]~~ (b) An expense for ~~[accountings]~~ an accounting,
10 judicial ~~[proceedings]~~ or nonjudicial proceeding, or other ~~[matters]~~ matter that ~~[involve]~~
11 involves both ~~[the]~~ income and ~~[remainder]~~ successive interests, to the extent income is
12 sufficient;

13 ~~[(3) All of the other]~~ (2) The balance of the disbursements described in
14 subdivision (1) of this section, to the extent a fiduciary that is an independent person
15 determines that making those disbursements from income would be in the interests of
16 the beneficiaries;

17 (3) Another ordinary ~~[expenses]~~ expense incurred in connection with ~~[the]~~
18 administration, management, or preservation of ~~[trust]~~ property and ~~[the]~~ distribution of
19 income, including interest, an ordinary ~~[repairs]~~ repair, regularly recurring ~~[taxes]~~ tax
20 assessed against principal, and ~~[expenses]~~ an expense of ~~[a]~~ an accounting, judicial or
21 nonjudicial proceeding, or other matter that ~~[concerns]~~ involves primarily ~~[the]~~ an income
22 interest, to the extent income is sufficient; and

23 (4) ~~[Recurring premiums]~~ A premium on insurance covering ~~[the]~~ loss of a principal
24 asset or ~~[the loss of]~~ income from or use of the asset.

469.453. 1. ~~[A trustee shall make the following disbursements]~~ Subject to section
2 469.457, and except as otherwise provided in subdivision (2) of subsection 3 of section
3 469.413, a fiduciary shall disburse from principal:

4 (1) The ~~[remaining one-half]~~ balance of the disbursements described in ~~[subdivisions~~
5 ~~(1) and (2)]~~ subsections 1 and 3 of section 469.451, after application of subsection 2 of
6 section 469.451;

7 (2) ~~[All of]~~ The ~~[trustee's]~~ fiduciary's compensation calculated on principal as a fee
8 for acceptance, distribution, or termination~~], and disbursements made to prepare property for~~
9 ~~sale];~~

10 (3) ~~[Payments]~~ A payment of an expense to prepare for or execute a sale or other
11 disposition of property;

12 (4) A payment on the principal of a trust debt;

13 ~~[(4) Expenses of a]~~ (5) A payment of an expense of an accounting, judicial or
14 nonjudicial proceeding, or other matter that ~~[concerns]~~ involves primarily ~~[an interest in]~~
15 principal, including a proceeding to construe the terms of the trust or protect property;

16 ~~[(5) Premiums paid on a policy of]~~ (6) A payment of a premium for insurance,
17 including title insurance, not described in subdivision (4) of section 469.451 of which the
18 ~~[trust]~~ fiduciary is the owner and beneficiary;

19 ~~[(6)]~~ (7) A payment of an estate~~], or inheritance [and other transfer taxes]~~ tax or
20 other tax imposed because of the death of a decedent, including penalties, apportioned to
21 the trust; and

22 ~~[(7) Extraordinary expenses incurred in connection with the management and~~
23 ~~preservation of trust property;~~

24 ~~(8) Expenses for a capital improvement to a principal asset, whether in the form of~~
25 ~~changes to an existing asset or the construction of a new asset, including special assessments;~~
26 ~~and~~

27 ~~(9) Disbursements]~~ **(8) A payment:**

28 **(a) Related to environmental matters, including:**

29 **a. Reclamation[;];**

30 **b. Assessing environmental conditions[;];**

31 **c. Remedying and removing environmental contamination[;];**

32 **d. Monitoring remedial activities and the release of substances[;];**

33 **e. Preventing future releases of substances[;];**

34 **f. Collecting amounts from persons liable or potentially liable for the costs of [those]**
35 **activities[;] described in subparagraphs a. to e. of this paragraph;**

36 **g. Penalties imposed under environmental laws or regulations [and];**

37 **h. Other [payments made] actions to comply with [those] environmental laws or**
38 **regulations[;];**

39 **i. Statutory or common law claims by third parties[;]; and**

40 **j. Defending claims based on environmental matters[-]; and**

41 **(b) For a premium for insurance for matters described in paragraph (a) of this**
42 **subdivision.**

43 2. If a principal asset is encumbered with an obligation that requires income from
44 ~~[that] the~~ asset to be paid directly to ~~[the]~~ a creditor, the ~~[trustee]~~ **fiduciary** shall transfer from
45 principal to income an amount equal to the income paid to the creditor in reduction of the
46 principal balance of the obligation.

469.455. 1. ~~[As used]~~ In this section, ~~[the term]~~ "depreciation" means a reduction in
2 value due to wear, tear, decay, corrosion, or gradual obsolescence of a ~~[fixed]~~ **tangible** asset
3 having a useful life of more than one year.

4 2. A ~~[trustee]~~ **fiduciary** may transfer to principal a reasonable amount of the net cash
5 receipts from a principal asset that is subject to depreciation, but ~~[may]~~ **shall** not transfer any
6 amount for depreciation:

7 (1) Of ~~[that portion]~~ **the part** of real property used or available for use by a
8 beneficiary as a residence ~~[or];~~

9 (2) Of tangible personal property held or made available for the personal use or
10 enjoyment of a beneficiary; **or**

11 ~~[(2) During the administration of a decedent's estate; or]~~

12 (3) ~~[Pursuant to]~~ **Under** this section ~~[if the trustee is accounting pursuant to section~~
13 ~~469.427]~~, **to the extent the fiduciary accounts:**

14 (a) **Under section 469.439 for the asset; or**

15 (b) **Under section 469.427 for the business or other activity in which the asset is**
16 **used.**

17 3. An amount transferred to principal **under this section** need not be **separately** held
18 ~~[as a separate fund].~~

469.456. 1. If a fiduciary makes or expects to make an income disbursement
2 **described in subsection 2 of this section, the fiduciary may transfer an appropriate**
3 **amount from principal to income in one or more accounting periods to reimburse**
4 **income.**

5 **2. To the extent the fiduciary has not been and does not expect to be reimbursed**
6 **by a third party, income disbursements to which subsection 1 of this section applies**
7 **include:**

8 (1) **An amount chargeable to principal but paid from income because principal**
9 **is illiquid;**

10 (2) **A disbursement made to prepare property for sale, including improvements**
11 **and commissions; and**

12 (3) **A disbursement described in subsection 1 of section 469.453.**

13 **3. If an asset whose ownership gives rise to an income disbursement becomes**
14 **subject to a successive interest after an income interest ends, the fiduciary may continue**
15 **to make transfers under subsection 1 of this section.**

469.457. 1. If a [trustee] fiduciary makes or expects to make a principal
2 **disbursement described in subsection 2 of this section, the [trustee] fiduciary may transfer an**
3 **appropriate amount from income to principal in one or more accounting periods to reimburse**
4 **principal or [to] provide a reserve for future principal disbursements.**

5 **2. To the extent a fiduciary has not been and does not expect to be reimbursed by**
6 **a third party, principal disbursements to which subsection 1 of this section applies include**
7 ~~[the following, but only to the extent that the trustee has not been and does not expect to be~~
8 ~~reimbursed by a third party]:~~

9 (1) **An amount chargeable to income but paid from principal because [it] income is**
10 **[unusually large, including extraordinary repairs] not sufficient;**

11 (2) ~~[Disbursements]~~ **The cost of an improvement to principal, whether a change**
12 **to an existing asset or the construction of a new asset, including a special assessment;**

13 (3) **A disbursement made to prepare property for rental, including tenant allowances,**
14 **leasehold improvements, and [broker's] commissions;**

15 ~~[(3)]~~ **(4)** A periodic ~~[payments]~~ **payment** on an obligation secured by a principal
16 asset, to the extent ~~[that]~~ the amount transferred from income to principal for depreciation is
17 less than the periodic ~~[payments]~~ **payment**; and

18 ~~[(4) Disbursements]~~ **(5)** A **disbursement** described in ~~[subdivision (7) of]~~ subsection
19 1 of section 469.453.

20 3. If ~~[the]~~ **an** asset whose ownership gives rise to ~~[the disbursements]~~ **a principal**
21 **disbursement** becomes subject to a successive ~~[income]~~ interest after an income interest
22 ends, ~~[a trustee]~~ **the fiduciary** may continue to ~~[transfer amounts from income to principal as~~
23 ~~provided in]~~ **make transfers under** subsection 1 of this section.

469.459. 1. A tax required to be paid by a ~~[trustee]~~ **fiduciary that is** based on
2 receipts allocated to income shall be paid from income.

3 2. A tax required to be paid by a ~~[trustee]~~ **fiduciary that is** based on receipts allocated
4 to principal shall be paid from principal, even if the tax is called an income tax by the taxing
5 authority.

6 3. **Subject to subsection 4 of this section and sections 469.456, 469.457, and**
7 **469.462**, a tax required to be paid by a ~~[trustee]~~ **fiduciary** on ~~[the trust's]~~ **a share of an entity's**
8 **taxable income in an accounting period** shall be paid from:

9 (1) ~~[From]~~ **Income and principal proportionately** to the ~~[extent that]~~ **allocation**
10 **between income and principal of** receipts from the entity ~~[are allocated to income]~~ **in the**
11 **period**; and

12 (2) ~~[From]~~ **Principal** to the extent ~~[that]~~ **the tax exceeds the** receipts from the entity
13 ~~[are allocated only to principal]~~ **in the period**.

14 4. After applying subsections 1 to 3 of this section, ~~[the trustee]~~ **a fiduciary** shall
15 adjust income or principal receipts, to the extent ~~[that]~~ the ~~[trust's]~~ **taxes the fiduciary pays**
16 are reduced because ~~[the trust receives]~~ **of** a deduction for a payment made to a beneficiary.

469.462. 1. A fiduciary may make an adjustment between income and principal
2 to offset the shifting of economic interests or tax benefits between current income
3 beneficiaries and successor beneficiaries that arises from:

4 (1) An election or decision the fiduciary makes regarding a tax matter, other
5 than a decision to claim an income tax deduction to which subsection 2 of this section
6 applies;

7 (2) An income tax or other tax imposed on the fiduciary or a beneficiary as a
8 result of a transaction involving the fiduciary or a distribution by the fiduciary; or

9 (3) Ownership by the fiduciary of an interest in an entity, a part of whose taxable
10 income, whether or not distributed, is includable in the taxable income of the fiduciary
11 or a beneficiary.

12 **2. If the amount of an estate tax marital or charitable deduction is reduced**
13 **because a fiduciary deducts an amount paid from principal for income tax purposes**
14 **instead of deducting it for estate tax purposes and, as a result, estate taxes paid from**
15 **principal are increased and income taxes paid by the fiduciary or a beneficiary are**
16 **decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in**
17 **income tax to reimburse the principal from which the increase in estate tax is paid. The**
18 **total reimbursement shall equal the increase in the estate tax, to the extent the principal**
19 **used to pay the increase would have qualified for a marital or charitable deduction but**
20 **for the payment. The share of the reimbursement for each fiduciary or beneficiary**
21 **whose income taxes are reduced shall be the same as its share of the total decrease in**
22 **income tax.**

23 **3. A fiduciary that charges a beneficiary under subsection 2 of this section may**
24 **offset the charge by obtaining payment from the beneficiary, withholding an amount**
25 **from future distributions to the beneficiary, or adopting another method or combination**
26 **of methods.**

 469.463. In applying and construing sections ~~[469.401]~~ **469.399** to ~~[469.467]~~
2 **469.487**, consideration shall be given to the need to promote uniformity of the law with
3 respect to its subject matter among states that enact it.

 469.464. Sections **469.399** to **469.487** modify, limit, or supersede the Electronic
2 **Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but do**
3 **not modify, limit, or supersede 15 U.S.C. Section 7001(c) or authorize electronic delivery**
4 **of any of the notices described in 15 U.S.C. Section 7003(b).**

 469.465. If any provision of sections ~~[469.401]~~ **469.399** to ~~[469.467]~~ **469.487** or ~~[the]~~
2 **its application [of these sections]** to any person or circumstance is held invalid, the invalidity
3 does not affect other provisions or applications of sections ~~[469.401]~~ **469.399** to ~~[469.467]~~
4 **469.487** which can be given effect without the invalid provision or application **and to this**
5 **end, the provisions of sections 469.399 to 469.487 are severable.**

 469.467. Sections ~~[469.401]~~ **469.399** to ~~[469.467]~~ **469.487** apply to ~~[every]~~ a trust or
2 ~~[decedent's]~~ estate existing **or created** on or after August 28, ~~[2001]~~ **2024**, except as
3 otherwise expressly provided in the ~~[will or]~~ terms of the trust or ~~[in]~~ sections ~~[469.401]~~
4 **469.399** to ~~[469.467]~~ **469.487.**

 469.471. As used in sections 469.471 to 469.487, the following terms mean:

2 (1) "Applicable value", the amount of the net fair market value of a trust taken
3 into account under section 469.483;

4 (2) "Express unitrust", a trust for which, under the terms of the trust without
5 regard to sections 469.471 to 469.487, income or net income shall or may be calculated
6 as a unitrust amount;

7 (3) "Income trust", a trust that is not a unitrust;

8 (4) "Net fair market value of a trust", the fair market value of the assets of the
9 trust, less the noncontingent liabilities of the trust;

10 (5) "Unitrust", a trust for which net income is a unitrust amount. The term
11 includes an express unitrust;

12 (6) "Unitrust amount", an amount computed by multiplying a determined value
13 of a trust by a determined percentage. For a unitrust administered under a unitrust
14 policy, the term means the applicable value multiplied by the unitrust rate;

15 (7) "Unitrust policy", a policy described in sections 469.479 to 469.487 and
16 adopted under section 469.475;

17 (8) "Unitrust rate", the rate used to compute the unitrust amount for a unitrust
18 administered under a unitrust policy.

 469.473. 1. Except as otherwise provided in subsection 2 of this section, sections
2 469.471 to 469.487 apply to:

3 (1) An income trust, unless the terms of the trust expressly prohibit use of
4 sections 469.471 to 469.487 by a specific reference to these sections or an explicit
5 expression of intent that net income not be calculated as a unitrust amount; and

6 (2) An express unitrust, except to the extent the terms of the trust explicitly:

7 (a) Prohibit use of sections 469.471 to 469.487 by a specific reference to such
8 sections;

9 (b) Prohibit conversion to an income trust; or

10 (c) Limit changes to the method of calculating the unitrust amount.

11 2. Sections 469.471 to 469.487 do not apply to a trust described in 26 U.S.C.
12 Section 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b), as amended.

13 3. An income trust to which sections 469.471 to 469.487 apply under subdivision
14 (1) of subsection 1 of this section may be converted to a unitrust under sections 469.471
15 to 469.487 regardless of the terms of the trust concerning distributions. Conversion to a
16 unitrust under sections 469.471 to 469.487 does not affect other terms of the trust
17 concerning distributions of income or principal.

18 4. Sections 469.471 to 469.487 apply to an estate only to the extent a trust is a
19 beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may
20 be administered as a unitrust, the administration of the estate as a unitrust may be
21 discontinued, or the percentage or method used to calculate the unitrust amount may be
22 changed, in the same manner as for a trust under sections 469.471 to 469.487.

23 5. Sections 469.471 to 469.487 do not create a duty to take or consider action
24 under sections 469.471 to 469.487 or to inform a beneficiary about the applicability of
25 sections 469.471 to 469.487.

26 **6. A fiduciary that in good faith takes or fails to take an action under sections**
27 **469.471 to 469.487 is not liable to a person affected by the action or inaction.**

469.475. 1. A fiduciary, without court approval, by complying with subsections 2
2 **and 6 of this section, may:**

3 **(1) Convert an income trust to a unitrust if the fiduciary adopts in a record a**
4 **unitrust policy for the trust providing:**

5 **(a) That in administering the trust the net income of the trust will be a unitrust**
6 **amount rather than net income determined without regard to sections 469.471 to**
7 **469.487; and**

8 **(b) The percentage and method used to calculate the unitrust amount;**

9 **(2) Change the percentage or method used to calculate a unitrust amount for a**
10 **unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or**
11 **replacement of a unitrust policy providing changes in the percentage or method used to**
12 **calculate the unitrust amount; or**

13 **(3) Convert a unitrust to an income trust if the fiduciary adopts in a record a**
14 **determination that, in administering the trust, the net income of the trust will be net**
15 **income determined without regard to sections 469.471 to 469.487 rather than a unitrust**
16 **amount.**

17 **2. A fiduciary may take an action under subsection 1 of this section if:**

18 **(1) The fiduciary determines that the action will assist the fiduciary to**
19 **administer a trust impartially;**

20 **(2) The fiduciary sends a notice in a record, in the manner required by section**
21 **469.477, describing and proposing to take the action;**

22 **(3) The fiduciary sends a copy of the notice under subdivision (2) of this**
23 **subsection to each settlor of the trust that is:**

24 **(a) If an individual, living; or**

25 **(b) If not an individual, in existence;**

26 **(4) At least one member of each class of the qualified beneficiaries described**
27 **under section 456.1-103 receiving the notice under subdivision (2) of this subsection is:**

28 **(a) If an individual, legally competent;**

29 **(b) If not an individual, in existence; or**

30 **(c) Represented in the manner provided in subsection 2 of section 469.477; and**

31 **(5) The fiduciary does not receive, by the date specified in the notice under**
32 **subdivision (5) of subsection 4 of section 469.477, an objection in a record to the action**
33 **proposed under subdivision (2) of this subsection from a person to which the notice**
34 **under subdivision (2) of this subsection is sent.**

35 **3. If a fiduciary receives, not later than the date stated in the notice under**
36 **subdivision (5) of subsection 4 of section 469.477, an objection in a record described in**
37 **subdivision (4) of subsection 4 of section 469.477 to a proposed action, the fiduciary or a**
38 **beneficiary may request the court to have the proposed action taken as proposed, taken**
39 **with modifications, or prevented. A person described in subsection 1 of section 469.477**
40 **may oppose the proposed action in the proceeding under this subsection, whether or not**
41 **the person:**

42 **(1) Consented under subsection 3 of section 469.477; or**

43 **(2) Objected under subdivision (4) of subsection 4 of section 469.477.**

44 **4. If, after sending a notice under subdivision (2) of subsection 2 of this section, a**
45 **fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify**
46 **in a record each person described in subsection 1 of section 469.477 of the decision not to**
47 **take the action and the reasons for the decision.**

48 **5. If a beneficiary requests in a record that a fiduciary take an action described**
49 **in subsection 1 of this section and the fiduciary declines to act or does not act within**
50 **ninety days after receiving the request, the beneficiary may request the court to direct**
51 **the fiduciary to take the action requested.**

52 **6. In deciding whether and how to take an action authorized by subsection 1 of**
53 **this section, or whether and how to respond to a request by a beneficiary under**
54 **subsection 5 of this section, a fiduciary shall consider all factors relevant to the trust and**
55 **the beneficiaries, including relevant factors in subsection 5 of section 469.403.**

56 **7. A fiduciary may release or delegate the power to convert an income trust to a**
57 **unitrust under subdivision (1) of subsection 1 of this section, change the percentage or**
58 **method used to calculate a unitrust amount under subdivision (2) of subsection 1 of this**
59 **section, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of**
60 **this section, for a reason described in subsection 7 of section 469.405 and in the manner**
61 **described in subsection 8 of section 469.405.**

2 **469.477. 1. A notice required by subdivision (3) of subsection 2 of section**
3 **469.475 shall be sent in a manner authorized under section 456.1-109 to:**

4 **(1) The qualified beneficiaries defined under section 456.1-103;**

5 **(2) Each person acting as trust protector under section 456.8-808; and**

6 **(3) Each person that is granted a power over the trust by the terms of the trust,**
7 **to the extent the power is exercisable when the person is not then serving as a trustee:**

8 **(a) Including a:**

9 **a. Power over the investment, management, or distribution of trust property or**
10 **other matters of trust administration; and**

10 **b. Power to appoint or remove a trustee or person described in this paragraph;**
11 **and**

12 **(b) Excluding a:**

13 **a. Power of appointment;**

14 **b. Power of a beneficiary over the trust, to the extent the exercise or nonexercise**
15 **of the power affects the beneficial interest of the beneficiary or another beneficiary**
16 **represented by the beneficiary under sections 456.3-301 to 456.3-305 with respect to the**
17 **exercise or nonexercise of the power; and**

18 **c. Power over the trust if the terms of the trust provide that the power is held in**
19 **a nonfiduciary capacity and the power shall be held in a nonfiduciary capacity to**
20 **achieve a tax objective under 26 U.S.C., as amended.**

21 **2. The representation provisions of sections 456.3-301 to 456.3-305 apply to**
22 **notice under this section.**

23 **3. A person may consent in a record at any time to action proposed under**
24 **subdivision (2) of subsection 2 of section 469.475. A notice required by subdivision (2) of**
25 **subsection 2 of section 469.475 need not be sent to a person that consents under this**
26 **subsection.**

27 **4. A notice required by subdivision (2) of subsection 2 of section 469.475 shall**
28 **include:**

29 **(1) The action proposed under subdivision (2) of subsection 2 of section 469.475;**

30 **(2) For a conversion of an income trust to a unitrust, a copy of the unitrust policy**
31 **adopted under subdivision (1) of subsection 1 of section 469.475;**

32 **(3) For a change in the percentage or method used to calculate the unitrust**
33 **amount, a copy of the unitrust policy or amendment or replacement of the unitrust**
34 **policy adopted under subdivision (2) of subsection 1 of section 469.475;**

35 **(4) A statement that the person to which the notice is sent may object to the**
36 **proposed action by stating in a record the basis for the objection and sending or**
37 **delivering the record to the fiduciary;**

38 **(5) The date by which an objection under subdivision (4) shall be received by the**
39 **fiduciary, which shall be at least thirty days after the date the notice is sent;**

40 **(6) The date on which the action is proposed to be taken and the date on which**
41 **the action is proposed to take effect;**

42 **(7) The name and contact information of the fiduciary; and**

43 **(8) The name and contact information of a person that may be contacted for**
44 **additional information.**

469.479. 1. In administering a unitrust under sections 469.471 to 469.487, a
2 **fiduciary shall follow a unitrust policy adopted under subdivision (1) or (2) of subsection**

3 1 of section 469.475 or amended or replaced under subdivision (2) of section 1 of section
4 469.475.

5 2. A unitrust policy shall provide:

6 (1) The unitrust rate or the method for determining the unitrust rate under
7 section 469.481;

8 (2) The method for determining the applicable value under section 469.483; and

9 (3) The rules described in sections 469.481 to 469.487 that apply in the
10 administration of the unitrust, whether the rules are:

11 (a) Mandatory, as provided in subsection 1 of section 469.483 and subsection 1 of
12 section 469.485; or

13 (b) Optional, as provided in section 469.481, subsection 2 of section 469.483,
14 subsection 2 of section 469.485, and subsection 1 of section 469.487, to the extent the
15 fiduciary elects to adopt such rules.

469.481. 1. Except as otherwise provided in subdivision (1) of subsection 2 of
2 section 469.487, a unitrust rate may be:

3 (1) A fixed unitrust rate; or

4 (2) A unitrust rate that is determined for each period using:

5 (a) A market index or other published data; or

6 (b) A mathematical blend of market indices or other published data over a
7 stated number of preceding periods.

8 2. Except as otherwise provided in subdivision (1) of subsection 2 of section
9 469.487, a unitrust policy may provide:

10 (1) A limit on how high the unitrust rate determined under subdivision (2) of
11 subsection 1 of this section may rise;

12 (2) A limit on how low the unitrust rate determined under subdivision (2) of
13 subsection 1 of this section may fall;

14 (3) A limit on how much the unitrust rate determined under subdivision (2) of
15 subsection 1 of this section may increase over the unitrust rate for the preceding period
16 or a mathematical blend of unitrust rates over a stated number of preceding periods;

17 (4) A limit on how much the unitrust rate determined under subdivision (2) of
18 subsection 1 of this section may decrease below the unitrust rate for the preceding
19 period or a mathematical blend of unitrust rates over a stated number of preceding
20 periods; or

21 (5) A mathematical blend of any of the unitrust rates determined under
22 subdivision (2) of subsection 1 of this section and subdivisions (1) to (4) of this
23 subsection.

469.483. 1. A unitrust policy shall provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

- (1) The frequency of valuing the asset, which need not require a valuation in every period; and
- (2) The date for valuing the asset in each period in which the asset is valued.

2. Except as otherwise provided in subdivision (2) of subsection 2 of section 469.487, a unitrust policy may provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

- (1) Obtaining an appraisal of an asset for which fair market value is not readily available;
- (2) Exclusion of specific assets or groups or types of assets;
- (3) Other exceptions or modifications of the treatment of specific assets or groups or types of assets;
- (4) Identification and treatment of cash or property held for distribution;
- (5) Use of:
 - (a) An average of fair market values over a stated number of preceding periods;
- or
- (b) Another mathematical blend of fair market values over a stated number of preceding periods;
- (6) A limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:
 - (a) The corresponding applicable value for the preceding period; or
 - (b) A mathematical blend of applicable values over a stated number of preceding periods;
- (7) A limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:
 - (a) The corresponding applicable value for the preceding period; or
 - (b) A mathematical blend of applicable values over a stated number of preceding periods;
- (8) The treatment of accrued income and other features of an asset that affect value; and
- (9) Determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under subdivisions (1) to (8) of this subsection.

469.485. 1. A unitrust policy shall provide the period used under sections 469.481 and 469.483. Except as otherwise provided in subdivision (3) of subsection 2 of section 469.481, the period may be:

- 4 (1) A calendar year;
- 5 (2) A twelve-month period other than a calendar year;
- 6 (3) A calendar quarter;
- 7 (4) A three-month period other than a calendar quarter; or
- 8 (5) Another period.

9 2. Except as otherwise provided in subsection 2 of section 469.487, a unitrust
10 policy may provide standards for:

11 (1) Using fewer preceding periods under paragraph (b) of subdivision (2) of
12 subsection 1 of section 469.481 or subdivision (3) or (4) of subsection 2 of section 469.481
13 if:

- 14 (a) The trust was not in existence in a preceding period; or
- 15 (b) Market indices or other published data are not available for a preceding
16 period;

17 (2) Using fewer preceding periods under paragraph (a) or (b) of subdivision (5)
18 of subsection 2 of section 469.483, paragraph (b) of subdivision (6) of subsection 2 of
19 section 469.483, or paragraph (b) of subdivision (7) of subsection 2 of section 469.483 if:

- 20 (a) The trust was not in existence in a preceding period; or
- 21 (b) Fair market values are not available for a preceding period; and
- 22 (3) Prorating the unitrust amount on a daily basis for a part of a period in which
23 the trust or the administration of the trust as a unitrust or the interest of any beneficiary
24 commences or terminates.

 469.487. 1. A unitrust policy may:

2 (1) Provide methods and standards for:

- 3 (a) Determining the timing of distributions;
- 4 (b) Making distributions in cash or in kind or partly in cash and partly in kind;

5 or

6 (c) Correcting an underpayment or overpayment to a beneficiary based on the
7 unitrust amount if there is an error in calculating the unitrust amount;

8 (2) Specify sources and the order of sources, including categories of income for
9 federal income tax purposes, from which distributions of a unitrust amount are paid; or

10 (3) Provide other standards and rules the fiduciary determines serve the
11 interests of the beneficiaries.

12 2. If a trust qualifies for a special tax benefit or a fiduciary is not an independent
13 person:

14 (1) The unitrust rate established under section 469.481 shall not be less than
15 three percent or more than five percent;

16 (2) The only provisions of section 469.483 that apply are subsection 1 of section
17 469.483; subdivisions (1), (4), and (9) of subsection 2 of section 469.483; and paragraph
18 (a) of subdivision (5) of subsection 2 of section 469.483;

19 (3) The only period that may be used under section 469.485 is a calendar year
20 under subdivision (1) of subsection 1 of section 469.485; and

21 (4) The only other provisions of section 469.485 that apply are paragraph (a) of
22 subdivision (2) of subsection 2 of section 469.485 and subdivision (3) of subsection 2 of
23 section 469.485.

2 ~~[95.280. 1. Subject to the provisions of section 110.030, the city~~
3 ~~council, at its regular meetings in July of each year, may receive sealed~~
4 ~~proposals for the deposit of the city funds from banking institutions doing~~
5 ~~business within the city that desire to be selected as the depository of the funds~~
6 ~~of the city. Notice that bids will be received shall be published by the city~~
7 ~~clerk not less than one nor more than four weeks before the meeting, in some~~
8 ~~newspaper published in the city. Any banking institution doing business in the~~
9 ~~city, desiring to bid, shall deliver to the city clerk, on or before the day of the~~
10 ~~meeting, a sealed proposal stating the rate percent upon daily balances that the~~
11 ~~banking institution offers to pay to the city for the privilege of being the~~
12 ~~depository of the funds of the city for the year next ensuing the date of the~~
13 ~~meeting; or, in the event that the selection is made for a less term than one~~
14 ~~year, as herein provided, then for the time between the date of the bid and the~~
15 ~~next regular time for the selection of a depository. It is a misdemeanor for the~~
16 ~~city clerk or other person to disclose directly or indirectly the amount of any~~
17 ~~bid to any person before the selection of the depository.~~

18 ~~2. Notwithstanding the provisions of subsection 1 of this section to the~~
19 ~~contrary, the city council of any third class city with a population of more than~~
20 ~~fifteen thousand and less than nineteen thousand that is located in any county~~
21 ~~of the fourth classification with a population of more than forty thousand and~~
22 ~~less than forty eight thousand three hundred, or of any city of the third~~
23 ~~classification with more than ten thousand five hundred but less than ten~~
24 ~~thousand six hundred inhabitants may receive sealed proposals for the deposit~~
25 ~~of city funds from banking institutions doing business within the city at any of~~
26 ~~the regular meetings of such city. The city shall send notice of bids to each~~
27 ~~banking institution in the city by regular mail at the time the notice is~~
28 ~~published in the newspaper in subsection 1 of this section. The banking~~
29 ~~institution selected as the depository shall be offered a depository contract for a~~
30 ~~maximum of two years. Any such city shall follow the bid procedure~~
31 ~~established in subsection 1 of this section, except as otherwise provided in this~~
~~subsection.]~~

2 ~~[95.285. 1. Except as provided in subsection 2 of this section, upon~~
3 ~~the opening of the sealed proposals submitted, the city council shall select as~~
4 ~~the depository of the funds of the city the banking institution offering to pay to~~
5 ~~the city the largest amount for the privilege; except that the council may reject~~
~~any or all bids. Within five days after the selection of the depository, the~~

6 banking institution selected shall deposit the securities as required by sections
7 110.010 and 110.020. The rights and duties of the parties to the depositary
8 contract are as provided in section 110.010.

9 2. Notwithstanding any provision of section 95.280 or this section to
10 the contrary, the contract term for any city of the third classification with more
11 than ten thousand five hundred but less than ten thousand six hundred
12 inhabitants shall begin on the first day of August following the receipt of the
13 bid proposals.]

2 [95.355. Boards of aldermen in cities of the fourth class, at their first
3 regular meetings in the months of January, April, July and October of each
4 year, may select a depositary for the funds of their respective cities, for the
5 length of time and under the rules and regulations that are provided and
6 prescribed by ordinance therefor. The rights and duties of the parties to the
7 depositary contract are as provided in section 110.010. The deposits shall be
8 secured by deposit of securities as required by sections 110.010 and 110.020.
9 The depositary shall be a banking institution doing business within the city. If
10 such depositary cannot be selected, or such satisfactory arrangements made,
11 the boards of aldermen may invest the moneys upon the terms and under the
conditions provided by law for the loaning of county and school moneys.]

2 [361.700. 1. Sections 361.700 to 361.727 shall be known and may be
cited as the "Sale of Checks Law".

3 2. For the purposes of sections 361.700 to 361.727, the following
4 terms mean:-

5 (1) "Check", any instrument for the transmission or payment of money
6 and shall also include any electronic means of transmitting or paying money;

7 (2) "Director", the director of the division of finance;-

8 (3) "Licensee", any person duly licensed by the director pursuant to
9 sections 361.700 to 361.727;-

10 (4) "Person", any individual, partnership, association, trust or
11 corporation.]

2 [361.705. 1. No person shall issue checks in this state for a
3 consideration without first obtaining a license from the director; provided,
4 however, that sections 361.700 to 361.727 shall not apply to the receipt of
5 money by an incorporated telegraph company at any office or agency of such
6 company for immediate transmission by telegraph nor to any bank, trust
7 company, savings and loan association, credit union, or agency of the United
8 States government.

9 2. Any person who violates any of the provisions of sections 361.700
10 to 361.727 or attempts to sell or issue checks without having first obtained a
license from the director shall be deemed guilty of a class A misdemeanor.]

2 [361.707. 1. Each application for a license pursuant to sections
3 361.700 to 361.727 shall be in writing and under oath to the director in such
4 form as he may prescribe. The application shall state the full name and
business address of:

5 (1) ~~The proprietor, if the applicant is an individual;~~
6 (2) ~~Every member, if the applicant is a partnership or association;~~
7 (3) ~~The corporation and each officer and director thereof, if the~~
8 ~~applicant is a corporation.~~

9 2. ~~Each application for a license shall be accompanied by an~~
10 ~~investigation fee of three hundred dollars. If the license is granted the~~
11 ~~investigation fee shall be applied to the license fee for the first year. No~~
12 ~~investigation fee shall be refunded.]~~

2 ~~[361.711. Each application for a license shall be accompanied by a~~
3 ~~corporate surety bond in the principal sum of one hundred thousand dollars.~~
4 ~~The bond shall be in form satisfactory to the director and shall be issued by a~~
5 ~~bonding company or insurance company authorized to do business in this~~
6 ~~state, to secure the faithful performance of the obligations of the applicant and~~
7 ~~the agents and subagents of the applicant with respect to the receipt,~~
8 ~~transmission, and payment of money in connection with the sale or issuance of~~
9 ~~checks and also to pay the costs incurred by the division to remedy any breach~~
10 ~~of the obligations of the applicant subject to the bond or to pay examination~~
11 ~~costs of the division owed and not paid by the applicant. Upon license~~
12 ~~renewal, the required amount of bond shall be as follows:~~

13 ~~(1) For all licensees selling payment instruments or stored value cards,~~
14 ~~five times the high outstanding balance from the previous year with a~~
15 ~~minimum of one hundred thousand dollars and a maximum of one million~~
16 ~~dollars;~~

17 ~~(2) For all licensees receiving money for transmission, five times the~~
18 ~~greatest amount transmitted in a single day during the previous year with a~~
19 ~~minimum of one hundred thousand dollars and a maximum of one million~~
20 ~~dollars.—~~

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

2 ~~[361.715. 1. Upon the filing of the application, the filing of a certified~~
3 ~~audit, the payment of the investigation fee and the approval by the director of~~
4 ~~the necessary bond, the director shall cause, investigate, and determine~~
5 ~~whether the character, responsibility, and general fitness of the principals of~~
6 ~~the applicant or any affiliates are such as to command confidence and warrant~~
7 ~~belief that the business of the applicant will be conducted honestly and~~

7 efficiently and that the applicant is in compliance with all other applicable
8 state and federal laws. If satisfied, the director shall issue to the applicant a
9 license pursuant to the provisions of sections 361.700 to 361.727. In
10 processing a renewal license, the director shall require the same information
11 and follow the same procedures described in this subsection.

12 2. Each licensee shall pay to the director before the issuance of the
13 license, and annually thereafter on or before April fifteenth of each year, a
14 license fee of four hundred dollars.

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

2 [361.718. Every licensee shall at all times have on demand deposit in a
3 federally insured depository institution or in the form of cash on hand or in the
4 hands of his agents or in readily marketable securities an amount equal to all
5 outstanding unpaid checks sold by him or his agents in Missouri, in addition to
6 the amount of his bond. Upon demand by the director, licensees must
7 immediately provide proof of such funds or securities. The director may make
8 such demand as often as reasonably necessary and shall make such demand to
each licensee, without prior notice, at least twice each license year.]

2 [361.720. Each licensee may conduct business at one or more
3 locations within this state and by means of employees, agents, subagents or
4 representatives as such licensee may designate. No license under sections
5 361.700 to 361.727 shall be required of any such employee, agent, subagent or
6 representative who sells checks in behalf of a licensee. Each such agent,
7 subagent or representative shall upon demand transfer and deliver to the
8 licensee the proceeds of the sale of licensee's checks less the fees, if any, due
such agent, subagent or representative.]

2 [361.723. Each licensee shall file with the director annually on or
3 before April fifteenth of each year a statement listing the locations of the
4 offices of the licensee and the names and locations of the agents or subagents
5 authorized by the licensee to engage in the sale of checks of which the licensee
is the issuer.]

2 [361.725. The director may at any time suspend or revoke a license,
3 for any reason he might refuse to grant a license, for failure to pay an annual
4 fee or for a violation of any provision of sections 361.700 to 361.727. No
5 license shall be denied, revoked or suspended except on ten days' notice to the
6 applicant or licensee. Upon receipt of such notice the applicant or licensee
7 may, within five days of such receipt, make written demand for a hearing. The
8 director shall thereafter hear and determine the matter in accordance with the
provisions of chapter 536.]

2 [361.727. The director shall issue regulations necessary to carry out
3 the intent and purposes of sections 361.700 to 361.727, pursuant to the
provisions of section 361.105 and chapter 536.]

2 ~~[469.409. 1. Any claim for breach of a trustee's duty to impartially~~
3 ~~administer a trust related, directly or indirectly, to an adjustment made by a~~
4 ~~fiduciary to the allocation between principal and income pursuant to~~
5 ~~subsection 1 of section 469.405 or any allocation made by the fiduciary~~
6 ~~pursuant to any authority or discretion specified in subsection 1 of section~~
7 ~~469.403, unless previously barred by adjudication, consent or other limitation,~~
8 ~~shall be barred as provided in this section.~~

9 ~~(1) Any such claim brought by a qualified beneficiary is barred if not~~
10 ~~asserted in a judicial proceeding commenced within two years after the trustee~~
11 ~~has sent a report to that qualified beneficiary that adequately discloses the facts~~
12 ~~constituting the claim.~~

13 ~~(2) Any such claim brought by a beneficiary (other than a qualified~~
14 ~~beneficiary) with any interest whatsoever in the trust, no matter how remote or~~
15 ~~contingent, or whether or not the beneficiary is ascertainable or has the~~
16 ~~capacity to contract, is barred if not asserted in a judicial proceeding~~
17 ~~commenced within two years after the first to occur of:~~

18 ~~(a) The date the trustee sent a report to all qualified beneficiaries that~~
19 ~~adequately discloses the facts constituting the claim; or~~

20 ~~(b) The date the trustee sent a report to a person that represents the~~
21 ~~beneficiary under the provisions of subdivision (2) of subsection 2 of this~~
22 ~~section.~~

23 ~~2. For purposes of this section the following rules shall apply:~~

24 ~~(1) A report adequately discloses the facts constituting a claim if it~~
25 ~~provides sufficient information so that the beneficiary should know of the~~
26 ~~claim or reasonably should have inquired into its existence;~~

27 ~~(2) Section 469.402 shall apply in determining whether a beneficiary~~
28 ~~(including a qualified beneficiary) has received notice for purposes of this~~
29 ~~section;~~

30 ~~(3) The determination of the identity of all qualified beneficiaries shall~~
31 ~~be made on the date the report is deemed to have been sent; and~~

32 ~~(4) This section does not preclude an action to recover for fraud or~~
 ~~misrepresentation related to the report.]~~

2 ~~[469.411. 1. (1) If the provisions of this section apply to a trust, the~~
3 ~~unitrust amount determined for each accounting year of the trust shall be a~~
4 ~~percentage between three and five percent of the average net fair market value~~
5 ~~of the trust, as of the first day of the trust's current accounting year. The~~
6 ~~percentage applicable to a trust shall be that percentage specified by the terms~~
7 ~~of the governing instrument or by the election made in accordance with~~
8 ~~subdivision (2) of subsection 5 of this section.~~

9 ~~(2) The unitrust amount for the current accounting year computed~~
10 ~~pursuant to this section shall be proportionately reduced for any distributions,~~
11 ~~in whole or in part, other than distributions of the unitrust amount, and for any~~
12 ~~payments of expenses, including debts, disbursements and taxes, from the trust~~
13 ~~within a current accounting year that the trustee determines to be material and~~
14 ~~substantial, and shall be proportionately increased for the receipt, other than a~~
15 ~~receipt that represents a return on investment, of any additional property into~~
 ~~the trust within a current accounting year.~~

16 (3) For purposes of this section, the net fair market values of the assets
17 ~~held in the trust on the first business day of a prior accounting quarter shall be~~
18 ~~adjusted to reflect any reduction, in the case of a distribution or payment, or~~
19 ~~increase, in the case of a receipt, for the prior accounting year pursuant to~~
20 ~~subdivision (1) of this subsection, as if the distribution, payment or receipt had~~
21 ~~occurred on the first day of the prior accounting year.~~

22 (4) In the case of a short accounting period, the trustee shall prorate
23 ~~the unitrust amount on a daily basis.~~

24 (5) In the case where the net fair market value of an asset held in the
25 trust has been incorrectly determined in any quarter, the unitrust amount shall
26 be increased in the case of an undervaluation, or be decreased in the case of an
27 overvaluation, by an amount equal to the difference between the unitrust
28 amount determined based on the correct valuation of the asset and the unitrust
29 amount originally determined.

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

31 (1) ~~"Average net fair market value", a rolling average of the fair~~
32 ~~market value of the assets held in the trust on the first business day of the~~
33 ~~lessor of the number of accounting quarters of the trust from the date of~~
34 ~~inception of the trust to the determination of the trust's average net fair market~~
35 ~~value, or twelve accounting quarters of the trust, regardless of whether this~~
36 ~~section applied to the ascertainment of net income for all valuation quarters;~~

37 (2) ~~"Current accounting year", the accounting period of the trust for~~
38 ~~which the unitrust amount is being determined.~~

39 3. In determining the average net fair market value of the assets held in
40 the trust, there shall not be included the value of:

41 (1) Any residential property or any tangible personal property that, as
42 of the first business day of the current valuation year, one or more income
43 beneficiaries of the trust have or had the right to occupy, or have or had the
44 right to possess or control, other than in a capacity as trustee, and instead the
45 right of occupancy or the right to possession or control shall be deemed to be
46 the unitrust amount with respect to the residential property or the tangible
47 personal property; or

48 (2) Any asset specifically given to a beneficiary under the terms of the
49 trust and the return on investment on that asset, which return on investment
50 shall be distributable to the beneficiary.

51 4. In determining the average net fair market value of the assets held in
52 the trust pursuant to subsection 1 of this section, the trustee shall, not less often
53 ~~than annually, determine the fair market value of each asset of the trust that~~
54 ~~consists primarily of real property or other property that is not traded on a~~
55 ~~regular basis in an active market by appraisal or other reasonable method or~~
56 ~~estimate, and that determination, if made reasonably and in good faith, shall be~~
57 ~~conclusive as to all persons interested in the trust. Any claim based on a~~
58 ~~determination made pursuant to this subsection shall be barred if not asserted~~
59 ~~in a judicial proceeding brought by any beneficiary with any interest~~
60 ~~whatsoever in the trust within two years after the trustee has sent a report to all~~
61 ~~qualified beneficiaries that adequately discloses the facts constituting the~~
62 ~~claim. The rules set forth in subsection 2 of section 469.409 shall apply to the~~
63 ~~barring of claims pursuant to this subsection.~~

64 5. This section shall apply to the following trusts:
65 ~~(1) Any trust created after August 28, 2001, with respect to which the~~
66 ~~terms of the trust clearly manifest an intent that this section apply;~~
67 ~~(2) Any trust created under an instrument that became irrevocable on,~~
68 ~~before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects~~
69 ~~to have this section apply unless the instrument creating the trust specifically~~
70 ~~prohibits an election under this subdivision. The trustee shall deliver notice to~~
71 ~~all qualified beneficiaries and the settlor of the trust, if he or she is then living,~~
72 ~~of the trustee's intent to make such an election at least sixty days before~~
73 ~~making that election. The trustee shall have sole authority to make the~~
74 ~~election. Section 469.402 shall apply for all purposes of this subdivision. An~~
75 ~~action or order by any court shall not be required. The election shall be made~~
76 ~~by a signed writing delivered to the settlor of the trust, if he or she is then~~
77 ~~living, and to all qualified beneficiaries. The election is irrevocable, unless~~
78 ~~revoked by order of the court having jurisdiction of the trust. The election~~
79 ~~may specify the percentage used to determine the unitrust amount pursuant to~~
80 ~~this section, provided that such percentage is between three and five percent,~~
81 ~~or if no percentage is specified, then that percentage shall be three percent. In~~
82 ~~making an election pursuant to this subsection, the trustee shall be subject to~~
83 ~~the same limitations and conditions as apply to an adjustment between income~~
84 ~~and principal pursuant to subsections 3 and 4 of section 469.405; and~~
85 ~~(3) No action of any kind based on an election made by a trustee~~
86 ~~pursuant to subdivision (2) of this subsection shall be brought against the~~
87 ~~trustee by any beneficiary of that trust three years from the effective date of~~
88 ~~that election.~~
89 6. ~~(1) Once the provisions of this section become applicable to a trust,~~
90 ~~the net income of the trust shall be the unitrust amount.~~
91 ~~(2) Unless otherwise provided by the governing instrument, the~~
92 ~~unitrust amount distributed each year shall be paid from the following sources~~
93 ~~for that year up to the full value of the unitrust amount in the following order:~~
94 ~~(a) Net income as determined if the trust were not a unitrust;~~
95 ~~(b) Other ordinary income as determined for federal income tax~~
96 ~~purposes;~~
97 ~~(c) Assets of the trust principal for which there is a readily available~~
98 ~~market value; and~~
99 ~~(d) Other trust principal.~~
100 ~~(3) Additionally, the trustee may allocate to trust income for each~~
101 ~~taxable year of the trust, or portion thereof:~~
102 ~~(a) Net short-term capital gain described in the Internal Revenue Code,~~
103 ~~26 U.S.C. Section 1222(5), for such year, or portion thereof, but only to the~~
104 ~~extent that the amount so allocated together with all other amounts to trust~~
105 ~~income, as determined under the provisions of this chapter without regard to~~
106 ~~this section, for such year, or portion thereof, does not exceed the unitrust~~
107 ~~amount for such year, or portion thereof;~~
108 ~~(b) Net long-term capital gain described in the Internal Revenue Code,~~
109 ~~26 U.S.C. Section 1222(7), for such year, or portion thereof, but only to the~~
110 ~~extent that the amount so allocated together with all other amounts, including~~
111 ~~amounts described in paragraph (a) of this subdivision, allocated to trust~~

income for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof.

7. A trust with respect to which this section applies on August 28, 2011, may calculate the unitrust amount in accordance with the provisions of this section, as it existed either before or after such date, as the trustee of such trust shall determine in a writing kept with the records of the trust in the trustee's discretion.]

[469.461. 1. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(1) Elections and decisions, other than those described in subsection 2 of this section, that the fiduciary makes from time to time regarding tax matters;

(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust or a beneficiary.

2. If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust or beneficiary are decreased, each estate, trust or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust or beneficiary whose income taxes are reduced shall be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.]

Section B. If any provision of Section A or the application thereof to anyone or to any circumstance is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

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