

HCS#2 SS SCS SB 835 -- FINANCIAL TRANSACTIONS

SPONSOR: Crawford (O'Donnell)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Financial Institutions by a vote of 9 to 4. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 7 to 2. Voted "To Reconsider" by the Standing Committee on Rules- Legislative Oversight by a vote of 7 to 0. Voted "To Return to the Committee of Origin" by the Standing Committee on Rules- Legislative Oversight by a vote of 7 to 0. Voted "Do Pass with HCS #2" by the Standing Committee on Financial Institutions by a vote of 9 to 0. Voted "Do Pass" by the Standing Committee on Rules-Administrative Oversight by a vote of 6 to 2 and 1 present

The following is a summary of the House Committee Substitute #2 for SS SCS SB 835.

TASK FORCE ON GOLD AND SILVER (Section 30.267)

The bill establishes, as of July 1, 2025, the "Task Force on Gold and Silver", a nine-member task force consisting of:

(1) Three members of the Senate including two from the majority party and one from the minority party which are appointed by the President Pro Tem;

(2) Three members of the House of Representatives including two members from the majority party and one member of the minority party which are appointed by the Speaker of the House;

(3) The State Treasurer;

(4) The Commissioner of the Division of Finance within the Department of Commerce and Insurance; and

(5) The Director of the Department of Revenue.

The Task Force will examine the practicality of issuing gold and silver coinage in a manner consistent with Article I, Section 10 of the United State Constitution and the possibility of the State accepting gold and silver in payment of obligations to the State. The Task Force will produce a preliminary report for the General Assembly by December 31, 2025 and a final report by June 30, 2026. The section expires on July 1, 2027.

PROPERTY ASSESSMENT CLEAN ENERGY ACT (Sections 67.2800 to 67.2840)

The Property Assessment Clean Energy Act is revised by making it inapplicable to residential property. The bill provides guidance for any residential properties approved for the program between January 1, 2022, and August 28, 2024. The bill clarifies that a clean energy development board can acquire loans or assessment contracts from other states and their municipalities and political subdivisions to serve a common purpose of providing financing support for credit enhancement for any project. The bill also changes the maximum financing duration on commercial property assessment clean energy loans from 20 years to 30 years.

#### DEPOSITORY SELECTION (Section 110.075)

Currently, the selection of a banking institution by cities of the third and fourth class is covered under Sections 95.280, 95.285, and 95.355, RSMo. Those sections are repealed and a new section enacted to govern the selection of a "Municipal Depository" or State-chartered or Federally chartered banking institution by municipality, as defined in the bill. The bill specifies a competitive selection process that addresses due diligence, safe custody of funds, interest rates, services, compliance with State and Federal regulations, and convenience and efficiency of treasury functions. The bill also covers the financial institution's response to a municipality's request for proposals, evaluation of proposals, the contents of contracts, and the required retention period for records of the selection process.

#### ELECTRONIC PAYMENT OF ELECTION EXPENSES AND FEES (Sections 130.011 to 130.041)

This bill allows for payment by "electronic means", such as credit and debit cards, by specified election-related committees, provided that expenditures are paid through the official depository account. Credit card statements and records that provide a written record of all transactions must be maintained by the treasurer or person responsible for record keeping for the committee. Records are made available for inspection by the Missouri Ethics Commission. Expenditure reports under Section 130.041 must include the total of expenditures made by electronic methods. A few technical changes to internal references are included.

#### TREATMENT OF CERTAIN CAPITAL GAINS (Section 143.121)

The bill details the handling of capital gains on municipal bonds under specified circumstances.

#### MODERN MONEY TRANSFER (Sections 361.900, 361.903 and 361.1032)

This bill establishes the "Money Transmission Modernization Act of 2024" (MTMA) which replaces existing money transmission laws and ensures that states coordinate in areas of regulation and licensing to eliminate unnecessary regulatory burden, protect the public from financial crime, and protect customer funds. The bill provides for uniformity with respect to the subject matter with other states that have enacted the MTMA.

#### DEFINITIONS AND EXEMPTIONS (Sections 361.906 and 361.909)

The MTMA defines several terms, including "money", "outstanding money transmission obligations", "control", "average daily money transmission liability", "multistate licensing process", "passive investor", "payment instrument", and "payroll processing services". The exemptions include but are not limited to an operator of a payment system that provides processing, clearing, or settlement services between persons who are exempted under the bill; a person appointed as an agent of a payee to collect and process a payment from a payer to the payee for goods and services, other than money transmission itself; a person who acts as an intermediary between an entity and sender; the United States government; State, county, city or governmental agency of subdivision; Federally insured depository financial institution; and person registered as a securities broker-dealer under Federal or State securities laws.

#### DIRECTOR'S POWERS AND AUTHORITY (Sections 361.912, 361.915, 361.918 and 361.921)

The bill tasks the Director of the Division of Finance within the Missouri Department of Commerce and Insurance with overseeing the claimed exemptions; entering into agreements with government officials; adopting analytical software systems; and accepting from other Federal and State government agencies licensing, examination, or investigative reports and audit reports. The Director also has broad administrative authority as specified in the bill. Further, the bill protects the confidentiality of the information and explains the requirements on what information is regarded as protected and confidential. The Director is authorized to administer and enforce the provisions of the MTMA. The Director is also authorized to participate in multistate supervisory processes between the states and coordinated through the Conference of State Bank Supervisors and Money Transmitter Regulators Association.

#### CONFLICT OF LAWS (Sections 361.927 and 361.1035)

Inconsistencies between the provisions of MTMA and Federal law governing money transmission is governed by Federal law. A person

licensed in Missouri to engage in the business of money transmission is not subject to the requirements of MTMA to the extent that they conflict with current law or establish new requirements not imposed under current law, until such time as the licensee renews the licensee's current license.

#### LICENSING (Sections 361.930 to 361.954, 361.978 and 361.1011)

As specified in the bill, a person must not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person is licensed. A license is not transferable or assignable. The bill enables multistate licensing, and the Director is encouraged to establish relationships and contracts with the Nationwide Multistate Licensing System and Registry (NMLS) for all aspects of licensing, and utilize its forms, processes, and functionalities accordingly. The Director is required to develop the form and provide a medium for the applicants to apply for a license. The contents of the application form are detailed in the bill. A nonrefundable application fee and license fee should accompany the license application. The Director is authorized to waive the licensing requirements or allow an applicant to submit other information in lieu of the required information. The bill details the items that any individual in control of a licensee, any individual seeking to acquire control of a licensee, and each key individual is required to supply to the Director through NMLS. The bill contains time periods for when the Director approves or denies a license. The bill also provides for the term and expiration time period of the license. A license is renewed annually as specified in the bill. The bill also addresses the suspension or revocation of the license. Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Director prior to acquiring control as fully detailed and explained in the bill. A licensee adding or replacing any key individual shall follow the requirements set forth in the bill. A licensee is prohibited from conducting the business of money transmission with an unlicensed or nonexempt person. A licensee and an authorized delegate shall file all reports required by Federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other Federal and State laws pertaining to money laundering.

#### REPORTS FILED BY THE LICENSEE (Sections 361.957, 361.960, 361.963, 361.966, 361.969 and 361.972)

A licensee is required to submit a report of condition, which includes information as specified in the bill, within 40 days of the end of the calendar quarter or within any extended time

prescribed by the Director. Further, the licensee is required to submit within 90 days after the end of each fiscal year an audited financial statement prepared by an independent certified public accountant as specified in the bill. The licensee must submit a report of authorized delegate within 45 days of the end of the calendar quarter. A licensee is also required to file a report with the Director within one business day after the licensee has knowledge of petitions filed for bankruptcy or reorganization, receivership, revocation, or suspension of license. A licensee and an authorized delegate must file all reports required by Federal currency reporting, record-keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other Federal and State laws pertaining to money laundering. A licensee is required to maintain records for at least three years evidencing compliance with the MTMA.

#### CONDUCTING BUSINESS THROUGH AN AUTHORIZED DELEGATE (Sections 361.975 and 361.981)

Various provisions that apply to a licensee conducting business through an authorized delegate are contained in the bill. Further, the bill references civil actions that a licensee can bring against an authorized delegate for failure to "remit" money, as defined in the bill. A cause of action filed by a licensee in circuit court allows the court to grant equitable or legal relief, including prohibiting the authorized delegate to act as an authorized delegate for any licensee in the State and the payment of restitution, damages, or other monetary relief if the court finds that the delegate failed to remit money as specified in Section 361.981. The bill also includes misdemeanor and felony actions against a delegate who knowingly fails to remit moneys as mentioned in the bill.

#### MONEY RECEIVED FOR TRANSMISSION (Sections 361.984, 361.987 and 361.990)

Every licensee must forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless certain conditions apply as detailed in the bill. Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund any and all money received for transmission unless certain conditions occur as indicated in the bill. Every licensee or its authorized delegate must provide the sender a "receipt", as defined in the bill, for money received for transmission that contains certain information specified in the bill.

#### LICENSEE PROVIDING PAYROLL PROCESSING SERVICES (Section 361.996)

The bill provides for the issuance of reports to clients detailing client payroll obligations in advance of the funds being deducted and making worker payroll stubs available. The bill specifies when the requirements are inapplicable to a licensee providing payroll processing services.

FINANCIAL MATTERS (Sections 361.999, 361.1002, 361.1005 and 361.1008)

A licensee is required to maintain tangible net worth of the greater of \$100,000 or 3% of total assets for the first \$100 million; 2% of additional assets for \$100 million to \$1 billion; and .05% of additional assets for over \$1 billion; the Director has the authority to exempt the applicant or licensee from this requirement. Further, a licensee is required to provide a surety bond in the form satisfactory to the Director. A licensee is also required to maintain permissible investments that have a market value computed under the generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations. The bill includes several detailed provisions relating to permissible investments.

DIRECTOR'S ORDERS (Sections 361.1014, 361.1017, 361.1020 and 361.1029)

The bill specifies several instances when the Director may issue an order including but not limited to:

- (1) Relating to suspension or revocation of an authorized delegate's designation based upon certain findings (Section 361.1014);
- (2) A licensee or authorized delegate to cease and desist based upon violations of the MTMA that cause immediate and irreparable harm (Section 361.1017);
- (3) Resolve matters through a consent order (Section 361.1020); and
- (4) Show cause (Section 361.1029).

FINES AND PENALTIES (Sections 361.1023 and 361.1026)

The bill outlines the penalties associated with intentionally making a false statement, misrepresentation, or false certification of a record or false entry in the record. The Director may assess a civil penalty for violations under MTMA in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus costs, expenses, and attorney's fees.

#### PRIVATE TRUST COMPANIES (Section 362.245)

This bill exempts private trust companies described under Section 361.160, from certain residency requirements governing board of directors of a corporation as indicated in the bill.

#### FAMILY TRUST COMPANIES (Sections 362.1010 to 362.1117)

This bill revises the statutes on family trust companies to transfer administration and enforcement from the Secretary of State's office to the Division of Finance within the Department of Commerce and Insurance. The bill also:

- (1) Describes the process for the initial registration of a family trust and validates those family trust companies and foreign family trust companies that are in good standing as of August 28, 2024; and
- (2) Adds compliance with Section 362.1030, to requirements for foreign family trust companies.

#### METHODS OF REIMBURSEMENT TO HEALTH CARE PROVIDERS (Section 376.1345)

Currently, if a health carrier initiates or changes the method used to reimburse a health care provider to a method that requires the provider to pay a fee or remit some other form of remuneration, the carrier must notify the provider of the cost, provide clear instructions as to how to select an alternative payment method, and use that alternative method if requested by the provider. This bill requires the health carrier or entity acting on its behalf to first receive approval from the health care provider before reimbursing the health care provider with such payment method. If a health carrier is currently reimbursing a health care provider with a payment method, the health care provider can send one notice to the health carrier for all the health care provider's patients covered by such health carrier stating that the health care provider declines to be reimbursed with a payment method. The notice will remain in effect for the duration of the contract unless the health care provider requests otherwise. All payments made by the health carrier to the health care provider after receipt of the notice declining to be reimbursed with a payment method cannot require the health care provider to pay a fee, discount the amount of the provider's claim for reimbursement, or remit any other form of remuneration in order to redeem the amount of the provider's claim for reimbursement.

#### SELF-STORAGE INSURANCE (Section 379.1640)

The maximum insurance coverage that may be offered by limited lines self-service storage insurance producers and their associates is increased from \$5,000 to \$15,000.

#### FUNDS USED FOR REAL ESTATE (Section 381.410)

Funds received by settlement agents or their depositories and funds conveyed by specified real-time payment systems are added to the definition of "certified funds" for real estate settlement agents and title insurance agents in closing real estate transactions.

#### LOAN FEES AND REAL ESTATE TRANSACTIONS (Sections 408.035, 408.140, 442.210)

This bill repeals the ability of the parties to agree in writing to any rate of interest, fees, and other terms and conditions relating to loans of less than \$5,000 secured by real estate used for an agricultural activity. The bill also authorizes a charge equal to the cost of the credit report as indicated in Section 408.140. Currently, if a married woman joins her husband in the execution of an instrument of acknowledgment relating to conveyances or written instruments of real estate, in the approved forms she is described in the acknowledgment as his wife, and no separate examination of a married woman in respect to the execution of a release or dower affecting real property is required. The section repeals this provision.

#### SELF-STORAGE LIEN (Section 415.415)

If an owner of personal property stored in self-service storage defaults on a lien, the operator of the self-service storage facility may enforce the lien by selling the personal property by advertising the sale in the classified section of a newspaper or in any other commercially reasonable manner. The manner of advertisement is commercially reasonable if at least three independent bidders attend or view the sale at the time and place advertised.

#### COMMERCIAL FINANCING DISCLOSURE (Section 427.300)

This bill establishes the "Commercial Financing Disclosure Law". The bill defines a "provider" as a person who consummates more than five commercial financing products to a business located in Missouri in a calendar year. As specified in the bill, the provider is required to make certain disclosures to the business with regard to the product. The disclosures are required at or

before the consummation of the transaction. Specifically, the provider is required to disclose the following:

- (1) The total amount of funds provided to the business under the terms of the commercial financing product;
- (2) The total amount of funds disbursed to the business under the terms of the commercial financing product, if less than the total amount of funds provided, as a result of any fees deducted or withheld at disbursement and any amount paid to a third party on behalf of the business;
- (3) The total amount to be paid to the provider pursuant to the commercial financing product agreement;
- (4) The total dollar cost of the commercial financing product under the terms of the agreement, obtained by subtracting the total amount of funds provided from the total of payments;
- (5) The manner, frequency and amount of each payment; and
- (6) A statement of whether there are any costs or discounts associated with prepayment of the commercial financing product.

The bill contains various exemptions and includes provisions requiring every person engaged in business as a commercial financing broker within the State to file a registration and post a surety bond in the amount of \$10,000 with the Division of Finance. Brokers must renew their registration on or before January 31st of each year. Violations of this bill are punishable by a fine of \$500 per incident, not to exceed \$20,000 for all aggregated violations. Any person who violates any provision of this bill after receiving written notice of a prior violation from the Attorney General is subject to a fine of \$1,000 per incident, not to exceed \$50,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this bill. Violation of any provision of this bill does not affect the enforceability or validity of the underlying agreement. The bill does not create a private cause of action against any person or entity based upon noncompliance with this bill. The Attorney General is given authority to enforce the provisions of this bill. The provisions requiring a provider to file a disclosure regarding a commercial financing transaction and a registration will be effective six months after the Division finalizes promulgating rules or February 28, 2025, if the Division does not intend to promulgate rules.

QUALIFIED SPOUSAL TRUSTS (Section 456.950)

Provisions related to qualified spousal trusts that currently apply to the joint lives of the settlors are revised to apply to the life of the sole surviving settlor after the death of the other settlor. The trust is revocable by the sole surviving settlor after the death or incapacity of the other settlor. Property held in a qualified spousal trust will, subject to exceptions specified in the bill, continue to be exempt from attachment during the life of the sole surviving settlor. The bill specifies the circumstances in which the property may be held in or transferred to a settlor's joint or separate share of a trust.

#### UNIFORM FIDUCIARY INCOME AND PRINCIPAL (Sections 214.330 and 469.399 to 469.487)

This bill specifies that the income and principal of the Endowed Care Trust Fund is determined under the laws applicable to trusts with an exception that the trustee has no power: of adjustment; of conversion; no discretion to determine or modify the unitrust rate or to determine applicable value to compute the unitrust amount beyond that granted by law. A unitrust definition of income will be determined by the cemetery operator in the terms of the Endowed Care Trust Fund Agreement and not by the trustee. Further, no principal from the Trust Fund will be distributed except if a unitrust amount is required under the Agreement. The cemetery operator may instruct by record for the trustee to distribute less than all the income distributable for the year if the cemetery operator determines that the money is not needed (Section 214.330).

This bill establishes the "Missouri Uniform Fiduciary Income and Principal Act" (MUFIPA). Some of the current provisions of the Principal and Income Act (PIA) have been updated to achieve compliance with the MUFIPA. The bill modifies certain definitions and adds terms such as "asset-backed security", "court", "current income beneficiary", "distribution", "estate", "independent person", "personal representative", "record", "settlor", "special tax benefit", "successive interest", "successor beneficiary", "trust", and "will". It repeals reference to current definitions of "income beneficiary", "qualified beneficiary", and "remainder beneficiary". The bill specifies that the MUFIPA applies to a trust or estate and a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons, except as otherwise provided in the terms of a trust or in MUFIPA. In addition, the MUFIPA applies when Missouri is the principal place of administration of a trust or estate or the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest. This bill details the fiduciary's duties including the power to adjust, convert an income trust to a unitrust and vice versa. In addition, the bill specifies the business or other

activity conducted by the fiduciary, the allocation of receipts, the determination of "internal income of a separate fund", "marital trust", interest in minerals, water or other natural resources, interest in land used for growing and cutting timber, "derivative", "asset-backed security", and disbursements from income, all as further explained in the bill. The bill calls for the application of MUFIPA to a trust or estate existing or created on or after August 28, 2024 with exceptions (Sections 469.399 to 469.467).

The bill defines "unitrust" to mean a trust for which net income is a unitrust amount, including an express unitrust. The bill defines terms such as "applicable value", "express unitrust", "income trust", "net fair value of a trust", "unitrust policy", and "unitrust rate". The provisions that apply to unitrusts do not create a duty to take or consider action or to inform a beneficiary about the applicability of the provisions. A fiduciary that in good faith takes or fails to take an action under the unitrust provisions is not liable to a person affected by the action or inaction. The bill details the actions that the fiduciary can take without court approval. The bill specifies determinations, considerations, and procedures required of a fiduciary in taking actions. The requirements include sending a notice in a record, describing and proposing to take the action, to certain persons as specified in the bill. The MUFIPA includes provisions allowing these persons to object to a proposed action, whereupon the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. The bill contains requirements relating to the unitrust policy and unitrust rate. The bill provides for uniformity in the interpretation and application of the MUFIPA; contains a severability clause; and explains MUFIPA's interaction with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et Seq. (Sections 469.471 to 469.487).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the Senate perfected version of the bill.

**PROPONENTS:** Supporters say that the linked deposit loan program is very popular and needs the raised cap in today's lending environment. The changes to depository selection should be very helpful to municipalities.

Testifying in person for the bill were Senator Crawford; Municipal League of Metro St. Louis; Missouri Bankers Association; Vivek Malek, Missouri State Treasurer's Office; Missouri Installment Lenders Association; FCS Financial (Farm Credit Services); Missouri Chamber of Commerce & Industry; Missouri Credit Union Association;

Missouri Municipal League; Revenue Based Finance Coalition; and the Missouri Independent Bankers Association (MIBA).

OPPONENTS: Those who oppose the bill say that the disallowance of the environment, social, and governance provisions could put Missouri residents at risk when governments need to respond to climate-related crises and could potentially cost the state more money.

Testifying in person against the bill was the Sierra Club Missouri Chapter.

OTHERS: Others testifying on the bill say big bills made up of lots of smaller bills are not helpful for consumers.

Testifying in person on the bill was Arnie C. Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.