HCS SS SB 1359 -- FINANCIAL INSTITUTIONS

This bill modifies provisions relating to financial institutions.

PUBLIC FUNDS (Sections 95.280, 95.285, 95.355, and 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. This bill repeals those sections and enacts a new section to govern the selection of a State-chartered or Federally chartered banking institution by municipalities, 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.

These provisions are the same as provisions in HCS#2 SS SCS SB 835, SB 1292, and HB 2526 (2024).

ESTABLISHMENT OF HOSPITALS (Sections 205.160, 205.165 and 205.190)

Currently, with the exception of counties of the third and fourth classification where there already exists a hospital organized under Chapter 96, 205, or 206, county commissions are authorized to establish, construct, equip, improve, extend, repair, and maintain public hospitals, engage in health care activities, and issue bonds. This bill removes hospitals established under Chapter 96 and 206 from that provision.

Currently, under Section 205.165, the board of trustees of any hospital may invest up to 15% of their funds, that are not required to meet their obligations or for the hospital operations, into any mutual funds in the form of an investment company, a variety of stocks, bonds, and money-market investments. Section 205.165 applies to a hospital located in Boone County that receives less than 1% of its annual revenue from county or state taxes.

This bill removes the requirement that the hospital be located in Boone County, and provides that Section 205.165 applies if the hospital receives less than 3% of its annual revenue from county or state taxes.

Further, this specifies that the board can invest up to 15% of the funds in:

(1) Any mutual funds that invest in stocks, bonds, or real estate, or any combination thereof;

(2) Stocks;

(3) Bonds that have one of the five highest long-term ratings or the highest short-term rating issued by a nationally recognized rating agency and a final maturity of 10 years or less;

(4) Money-market investments; or

(5) Any combination of investments described above

The board can also invest up to 35% of the funds into:

(1) Mutual funds that invest in stocks, bonds, or real estate, or any combination thereof;

(2) Bonds that have one of the five highest long-term ratings or the highest short-term rating issued by a nationally recognized rating agency and a final maturity of 10 years or less;

(3) Money-market investments;

(4) Any combination of investments described above; and

(5) The remaining percentage into any investment in which the state treasurer is allowed to invest.

MO HEALTHNET BENEFITS (Section 208.151)

The bill specifies that persons who receive breast or cervical cancer screening services of a type within the scope of screening services as provided by Title XV of the Public Health Service Act and who otherwise meet eligibility requirements for MO HealthNet medical assistance for treatment of breast or cervical cancer are eligible for medical assistance regardless of whether the screening service was provided by a provider who receives or uses funds under that title.

These provisions are the same as HB 2875 (2024).

MOTOR VEHICLES (Sections 303.425, 303.430 and 303.440)

This bill repeals the requirement that certain notices provided under the Motor Vehicle Financial Responsibility Enforcement and Compliance Incentive Program specify that the minimum penalty for a violation includes four license points.

The bill limits, to five years after implementation, the Department of Revenue's obligation to provide the legislature with annual reports regarding the Motor Vehicle Financial Responsibility Enforcement and Compliance Incentive Program.

This bill specifies that an advisory council for the Department of Revenue's Motor Vehicle Financial Responsibility Verification System will serve in an advisory capacity as the Department may request, and expires one year after implementation of the Program.

The bill provides that the Department of Revenue's Motor Vehicle Financial Responsibility Verification System will be implemented no later than December 31, 2027 or as soon as technologically possible following development and maintenance of the Department's electronic titling and registration system, rather than January 1, 2025.

This is the same as HCS HB 2453 (2024).

MONEY TRANSMISSION MODERNIZATION ACT (Chapter 361)

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 (Sections 361.900, 361.903 and 361.1032).

The MTMA contains several definitions, including "money", "outstanding money transmission obligations", "control", "average daily money transmission liability", "multistate licensing process", "passive investor", "payment instrument", and "payroll processing services". The bill sets forth exemptions from money transmitter licensing including, 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 that 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 (Sections 361.906 and 361.909).

This 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, accepting from other federal and state government agencies licensing, examination or investigative reports and audit reports. The bill specifies what information can be disclosed by the Director and to whom. 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 (Sections 361.912, 361.915, 361.918, 361.921, and 361.924).

The bill addresses how inconsistencies between the provisions of MTMA and federal law governing money transmission whould be handled. 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 (Sections 361.927 and 361.1035).

As specified in the bill, a person cannot 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. This 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 their forms, processes, and functionalities accordingly. The Director is required to develop the form and provide a medium for applicants to apply for a license. The contents of the application form are specified 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 that seeks 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 must approve or deny a license which is 120 days after the application is determined to be complete. This bill 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 that adds or replaces any key individual must follow the requirements set forth in the bill. A licensee is prohibited from conducting business of money transmission with an unlicensed or nonexempt person (Sections 361.930 to 361.954, 361.978 and 361.1011).

A licensee is required to submit a report of condition within 40 days of the end of the calendar quarter or within any extended time prescribed by the Director that includes information set forth in the bill. 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 also 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 described in the bill for at least 3 years evidencing compliance with the MTMA (Sections 361.957 361.960, 361.963, 361.966, 361.969 and 361.972).

Various provisions that apply to a licensee conducting business through an authorized delegate are contained in Section 361.975. Further the bill references civil actions that a licensee can bring against an authorized delegate for failure to remit money. A circuit court can grant equitable or legal relief to a licensee, 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. This section also includes misdemeanor and felony actions against a delegate who knowingly fails to remit moneys as mentioned in the bill (Section 361.975 and 361.981).

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 specified in the

bill. Every licensee must 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 specified 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 (Sections 361.984, 361.987, and 361.990).

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 (Section 361.996).

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. 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 (Sections 361.999, 361.1002, 361.1005, and 361.1008).

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

(1) The Director's order relating to suspension or revocation of an authorized delegate's designation based upon certain findings (Section 361.1014);

(2) The Director's order for a licensee or authorized delegate to cease and desist based upon violations of the MTMA that cause immediate and irreparable harm (Section 361.1017); and

(3) The Director may resolve matters through a consent order (Section 361.1020); and

(4) The Director may issue an order to show cause (Sections 361.1029).

The bill outlines the penalties associated with intentional making of 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 (Sections 361.1023 and 361.1026).

This is the same as HB 1478.

PRIVATE TRUST COMPANY (Sections 362.245)

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

These provisions are the same as provisions in HCS#2 SS SCS SB 835, and HCS HB 1725 and the same as HB 1938,(2024).

FAMILY TRUST COMPANIES (Sections 362.1010 to 362.117)

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,RSMo, to requirements for foreign family trust companies.

These provisions are the same as provisions in HCS#2 SS SCS SB 835, and HCS SB 736 (2024) and the same as HB 2798 (2024).

INSURANCE DOCUMENTS (Sections 374.190 and 374.192)

This bill specifies that certain confidentiality provisions will also apply to records used in market conduct investigations and actions from the Department of Commerce and Insurance (DCI). The bill states that the regulated entities will have at least 30 calendar days to submit any record or material requested by the DCI, except for the Division of Consumer Affairs. Records maintained beyond the required retention period will not be required to be produced unless the Director has substantial and competent evidence the regulated entity committed a level 4 or 5 violation of the insurance laws of this state or a felony related to the business of insurance.

A regulated entity may establish its own internal standards, practices, methods, or procedures that are the same as or exceed the requirements set forth by law or rule. The Department shall not impose any civil penalty, forfeiture, or order on a regulated entity solely for failing to comply with its own internal standards, practices, methods, or procedures unless such failure also violates a law or rule.

LIFE INSURANCE (Section 375.020)

Currently, life insurance producers are exempt from continued education requirements if they are limited by an insurer to transact only specific life insurance policies having an initial face amount of $15,000 or less, or annuities having an initial face value of $15,000 or less, that are designated by the purchaser for the payment of funeral or burial expenses. This bill raises the amount for the life insurance policies and annuities to $20,000.

LIFE INSURANCE PRODUCERS AND DISPOSITION OF CERTAIN REINSURANCE CONTRACTS (Section 375.1183)

This bill enacts provisions relating to the disposition of reinsurance contracts reinsuring policies of life or health insurance or annuities issued by insurers that have been placed into conservation, rehabilitation, or liquidation as provided in the Insurers Supervision, Rehabilitation and Liquidation Act.

Reinsurance contracts held by the insurers placed in conservation or rehabilitation proceedings or liquidation will be continued or terminated as provided in the contract and as specified in the bill. Reinsurance contracts terminated pursuant to an order of liquidation will be subject to mandatory negotiation and arbitration procedures specified in the bill.

A guaranty association may elect to assume the liquidated insurer's rights and obligations under reinsurance contracts within 180 days of the order of liquidation as specified in the bill. To facilitate this decision, the receiver and each affected reinsurer must make available copies of reinsurance contracts and related files and records, as well as notices of any defaults under the contracts or any known event or condition which could become a default.

This billfurther specifies rights and duties of the guaranty association and reinsurers under the reinsurance contracts assumed by the guaranty association, including with regard to premium payments, payment of claims, resolution of disputes over amounts due, and termination or continuation of the contracts.

If a receiver continues policies of life or health insurance or annuities issued by an insolvent insurer, and the policies are not covered in whole or in part by a guaranty association, the receiver may elect to assume the liquidated insurer's rights and obligations under reinsurance contracts relating to the policies or annuities within 180 days of the order of liquidation as specified in the bill, provided the contracts have not been terminated. In this event, premiums for the applicable reinsurance will be chargeable against the estate of the insolvent insurer.

Between the order of liquidation and the time a guaranty association elects to assume the insolvent insurer's rights and obligations under a reinsurance contract as specified in the bill, a guaranty association, receiver, or reinsurer will not have any right or obligation under any reinsurance contract eligible for assumption in the bill.

If the guaranty association or receiver does not timely elect to assume a reinsurance contract as provided in the bill, the reinsurance contract will be terminated retroactively, effective as of the date of the order of liquidation, and shall be subject to mandatory negotiation and arbitration procedures specified in the bill.

When policies or annuities, or the obligations of the guaranty association under the policies or annuities, are transferred to an assuming insurer, associated reinsurance may be transferred to the assuming insurer as well, subject to certain limitations specified in the bill.

These provisions shall supersede provisions of law or any affected reinsurance contract with regard to payment of reinsurance proceeds for losses or events occurring after an order of liquidation.

When a reinsurance contract is terminated pursuant to the Insurers Supervision, Rehabilitation and Liquidation Act, the reinsurer and the receiver must commence mandatory negotiation and arbitration procedures specified in the bill.

PAYMENTS FROM HEALTH CARRIES AND DENTAL PLANS (Section 376.427 AND 376.1345)

This bill requires health carriers and prepaid dental plan corporations to be subject to the provisions on Section 376.383, which specifies the time frames and notices that must follow when submitting, acknowledging, requesting, and paying claims. It also outlines the penalties and interest for late or unpaid claims.

Health carriers and prepaid dental plan corporations must communicate the reasons for denying a claim and how claimants can appeal a denial. The Department of Commerce and Insurance must monitor denials and handle fraudulent claims.

Entities that are not currently subject to the provisions of Section 376.383 will have a delayed effective date of January 1, 2026 to be subject to such provisions.

These provisions are similar to HB 2400 (2024) and the same as provisions in HB 2075 (2024).

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.

These provisions are the same as provisions in HCS#2 SS SCS SB 835, HCS SB 736 (2024), and HCS HB 2087 (2024).

SELF-SERVICE STORAGE (Section 379.1640)

This increases, from $5,000 to $15,000, the maximum insurance coverage that may be offered by limited lines self-service storage insurance producers and their associates.

MUTUAL INSURANCE COMPANIES (Sections 380.621 and 380.631)

This bill creates the "Protecting Missouri's Mutual Insurance Companies Act", which states that no Missouri mutual insurance company (Missouri mutual company) will be required to acquire or carry reinsurance greater than adequate reinsurance, and that unlimited aggregate reinsurance will be optional.

The authority granted in Section 380.621 will be the sole authority granted to the Department over any Missouri company operating under Chapter 380, Missouri mutual company, with a provision that premium taxation under Chapter 148 remains applicable and that Chapter 382 also remains applicable to a Missouri mutual company which is a member of or seeking membership in an insurance holding company system. The extent of the Department's authority to require a Missouri mutual company to waive benefits and its ability to confer favorable treatment is similarly limited, with the effectiveness of certain agreements as specified in the bill.

The Director of the DCI can not hold a hearing regarding a proposed merger of Missouri mutual companies unless there is substantial and competent evidence to believe the merger will prejudice the policyholders of the companies. The Director must provide a written notice of hearing with the reasons and the date of the hearing within 15 days of receiving the petition of merger. The hearing regarding the merger must be no earlier than 30 days and no later then 60 days after the notice of hearing is received by the involved companies.

The bill states that the DCI must not charge a rate exceeding a reasonable fee for the examination of a Missouri mutual company, and that the company may request a scheduling conference with the DCI to discuss the examination that includes the purpose, scope, and estimated costs of the examination. The DCI must provide the company with a detailed budget estimate with 30 days of the conference. This bill also states that the working papers, documents, and information obtained or disclosed during the examination will be confidential and not subject to subpoena or public disclosure.

The bill also defines the word "insolvent" for Missouri mutual companies that operate under Chapter 380. Currently, the Insurers Supervision, Rehabilitation, and Liquidation Act in Sections 375.1150 to 375.1246 exempts Missouri mutual companies operating under Chapter 380. This bill adds Missouri mutual companies to the Act and states that Sections 375.570 to 375.750 will apply to those proceedings.

These provisions are similar to HB 2524 (2024)

REAL ESTATE TRANSACTIONS (Sections 408.035, 408.140 and 442.210)

This removes the ability of 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 for the cost of the credit report as indicated in Section 408.140, RSMo.

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. This bill repeals this provision.

This is the same as HCS HB 2086 (2024)

COMMERCIAL FINANCING DISCLOSURE (Section 427.300)

This bill creates 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. The provider will be 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.

This bill contains various exemptions and includes provisions requiring all persons 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 within the Department of Commerce and Insurance. Brokers must renew their registration on or before January 31st of each year.

Violations of these provisions 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 shall be 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 these provisions.

Violation of any provision of this bill does not affect the enforceability or validity of the underlying agreement. This 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.

This is the same as HB 2063 (2024)

QUALIFIED SPOUSAL TRUSTS (Section 456.950)

This bill modifies provisions related to qualified spousal trusts that currently apply to the joint lives of the settlors, to instead 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.

These provisions are the same as provisions in HCS#2 SS SCS SB 835 and HCS HB 1886 (2024) and the same as HB 1782 (2024).