

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Substitute for Senate Committee Substitute for Senate Bill No. 98, Page 1, Section
2 A, Line 3, by inserting after all of said section and line the following:

3
4 "361.909. Sections 361.900 to 361.1035 shall not apply to:

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

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

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

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

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

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

22 (a) Is properly licensed or exempt from licensing requirements under sections 361.900 to
23 361.1035;

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

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

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

Action Taken _____ Date _____

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

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

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

12 (8) Electronic funds transfer of governmental benefits for a federal, state, county, or
13 governmental agency by a contractor on behalf of the United States or a department, agency, or
14 instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or
15 instrumentality thereof;

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

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

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

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

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

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

33 (b) The exempt entity assumes all risk of loss and all legal responsibility for satisfying the
34 outstanding money transmission obligations owed to purchasers and holders of the outstanding
35 money transmission obligations upon receipt of the purchaser's or holder's money or monetary value
36 by the service provider or agent;

37 (14) A person appointed as an agent of a payor for purposes of providing payroll processing
38 services for which the agent would otherwise need to be licensed, provided all of the following
39 apply:

1 (a) There is a written agreement between the payor and the agent that directs the agent to
 2 provide payroll processing services on the payor's behalf;

3 (b) The payor holds the agent out to employees and other payees as providing payroll
 4 processing services on the payor's behalf;

5 (c) The payor's obligation to a payee, including an employee or any other party entitled to
 6 receive funds via the payroll processing services provided by the agent, shall not be extinguished if
 7 the agent fails to remit the funds to the payee.

8 362.020. 1. The articles of agreement mentioned in this chapter shall set out:

9 (1) The corporate name of the proposed corporation. The corporate name shall not be a
 10 name, or an imitation of a name, used within the preceding fifty years as a corporate title of a bank
 11 or trust company incorporated in this state;

12 (2) The name of the city or town and county in this state in which the corporation is to be
 13 located;

14 (3) The amount of the capital stock of the corporation, the number of shares into which it is
 15 divided, and the par value thereof; that the same has been subscribed in good faith and all thereof
 16 actually paid up in lawful money of the United States and is in the custody of the persons named as
 17 the first board of directors or managers;

18 (4) The names and places of residences of the several shareholders and number of shares
 19 subscribed by each;

20 (5) The number and the names of the first directors;

21 (6) The purposes for which the corporation is formed;

22 (7) Any provisions relating to the preemptive rights of a shareholder as provided in section
 23 351.305.

24
 25 The articles of agreement may provide for the issuance of additional shares of capital stock or other
 26 classes of stock pursuant to the same procedures and conditions as provided under section 351.180,
 27 provided that such terms and procedures are acceptable to the director of finance and, provided that
 28 any notice or other approval required to be given or obtained from the state of Missouri shall be
 29 given or obtained from the director of the division of finance.

30 2. The articles of agreement may designate the number of directors necessary to constitute a
 31 quorum, and may provide for the number of years the corporation is to continue, or may provide that
 32 the existence of the corporation shall continue until the corporation shall be dissolved by consent of
 33 the stockholders or by proceedings instituted by the state under any statute now in force or hereafter
 34 enacted.

35 362.247. 1. A majority of the full board of directors shall constitute a quorum for the
 36 transaction of business unless another number is required by the articles of agreement, the bylaws or
 37 by law. The act of a majority of the directors present at a meeting at which a quorum is present shall
 38 be the act of the board of directors unless the act of a greater number is required by the articles of
 39 agreement, the bylaws or by law.

2. Unless otherwise prohibited by statute or ~~[regulation,]~~ an order or memorandum of understanding entered into with the director of finance related to bank safety and soundness, directors may attend board meetings by telephonic conference call or video conferencing, and the bank or trust company may include in a quorum directors who are not physically present but are allowed to vote~~[-, provided the bank or trust company has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System of the Federal Financial Institution Examination Counsel (FFIEC)].~~

3. Any director remotely attending a board meeting via telephone or video conferencing may be counted toward a quorum for such meeting and, if the director is not otherwise prohibited, may vote on matters before the bank or trust company's board so long as the meeting minutes identify the director appearing remotely and reflect that the remote director:

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

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

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

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

4. The director of the division of finance may promulgate additional regulations, reasonable in scope, to provide for the integrity of the board of directors' operations when directors attend board meetings remotely, the safety and soundness of the bank or trust company's operation, and the bank or trust company's interest in minimizing the cost of compliance with such regulation.

362.275. 1. The board of directors of every bank and trust company organized or doing business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon application to and acceptance by the director of finance, at such other times, not less frequently than once each calendar quarter as the director of finance shall approve, which approval may be rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership, corporation or person whose liability to the bank or trust company has been created, extended, renewed or increased since the cut-off date prior to the regular meeting by more than an amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars; a second list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds five times such minimum amount, except the aggregate indebtedness shall in no case be less than fifty thousand dollars; and a third list showing all paper past due thirty days or more or alternatively, the third list shall report the total past-due ratio for loans thirty days or more past due, nonaccrual loans divided by total loans, and a listing of past-due loans in excess of the minimum amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten

1 thousand dollars[; and a fourth list showing the aggregate of the then-existing indebtedness and
 2 liability to the bank or trust company of each of the directors, officers, and employees thereof]. The
 3 information called for in the second[;] and third[, and fourth] lists shall be submitted as of the date
 4 of the regular meeting or as of a reasonable date prior thereto. No bills payable shall be made, and
 5 no bills shall be rediscounted by the bank or trust company except with the consent or ratification of
 6 the board of directors; provided, however, that if the bank or trust company is a member of the
 7 federal reserve system, rediscounts may be made to it by the officers in accordance with its rules, a
 8 list of all rediscounts to be submitted to the next regular meeting of the board. The director of
 9 finance may require, by order, that the board of directors of a bank or trust company approve or
 10 disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or
 11 other advance including every overdraft over an amount to be specified in the director's order and
 12 may also require that the board of directors review, at each monthly meeting, a list of the aggregate
 13 indebtedness of each borrower whose aggregate indebtedness exceeds an amount to be specified in
 14 the director's order. The minutes of the meeting shall indicate the compliance with the requirements
 15 of this section. Furthermore, the debtor's identity on the information required in this subsection may
 16 be masked by code to conceal the actual debtor's identity only for information mailed to or
 17 otherwise provided directors who are not physically present at the board meeting. The code used
 18 shall be revealed to all directors at the beginning of each board meeting for which this procedure is
 19 used.

20 2. For any issue in need of immediate action, the board of directors or the executive
 21 committee of the board as defined in section 362.253 may enter into a unanimous consent
 22 agreement as permitted by subsection 2 of section 351.340. Such consent may be communicated by
 23 facsimile transmission or by other authenticated record, separately by each director, provided each
 24 consent is signed by the director and the bank has no indication such signature is not the director's
 25 valid consent. When the bank or trust company has received unanimous consent from the board or
 26 executive committee, the action voted on shall be considered approved.

27 362.295. 1. Within ten days after service upon it of the notice provided for by section
 28 361.130, every bank and trust company shall make a written report to the director, which report shall
 29 be in the form and shall contain the matters prescribed by the director and shall specifically state the
 30 items of capital, deposits, specie and cash items, public securities and private securities, real estate
 31 and real estate securities, and such other items as may be necessary to inform the public as to the
 32 financial condition and solvency of the bank or trust company, or which the director may deem
 33 proper to include therein. In lieu of requiring direct filing of reports of condition, the director may
 34 accept reports of condition or their equivalent as filed with federal regulatory agencies and may
 35 require verification and the filing of supplemental information as the director deems necessary.

36 2. Every report shall be verified by the oaths of the president or vice president and cashier or
 37 secretary or assistant cashier or assistant secretary, and the verification shall state that the report is
 38 true and correct in all respects to the best of the knowledge and belief of the persons verifying it,
 39 and the report shall be attested by three directors, and shall be a report of the actual condition of the

1 bank or trust company at the close of business on the day designated and which day shall be prior to
 2 the call. If the director of finance obtains the data pursuant to subsection 3 of section 361.130, the
 3 director may rely on the verification provided to the federal regulatory agency.

4 3. ~~[Every report, exclusive of the verification, shall, within thirty days after it shall have~~
 5 ~~been filed with the director, be published by the bank or trust company in one newspaper of the~~
 6 ~~place where its place of business is located, or if no newspaper is published there, in a newspaper of~~
 7 ~~general circulation in the town and community in which the bank or trust company is located; the~~
 8 ~~newspaper to be designated by the board of directors and a copy of the publication, with the~~
 9 ~~affidavit of the publisher thereto, shall be attached to the report; provided, if the bank or trust~~
 10 ~~company is located in a town or city having a population exceeding ten thousand inhabitants, then~~
 11 ~~the publication must be in a daily newspaper, if published in that city; but if the bank or trust~~
 12 ~~company is located in a town or city having a population of ten thousand inhabitants or less, then the~~
 13 ~~publication may be in either a daily or weekly newspaper published in the town or city as aforesaid;~~
 14 ~~and in all cases a copy of the statement shall be posted in the banking house accessible to all.~~

15 4.] The bank and trust company shall also make such other special reports to the director as
 16 he may from time to time require, in such form and at such date as may be prescribed by him, and
 17 the report shall, if required by him, be verified in such manner as he may prescribe.

18 [5.] 4. If the bank or trust company shall fail to make any report required by this section on
 19 or before the day designated for the making thereof, or shall fail to include therein any matter
 20 required by the director, the bank or trust company shall forfeit to the state the sum of one hundred
 21 dollars for every day that the report shall be delayed or withheld, and for every day that it shall fail
 22 to report any omitted matter, unless the time therefor shall have been extended by the director.
 23 Should any president, cashier or secretary of the bank or trust company or any director thereof fail
 24 to make the statement so required of him or them, or willfully and corruptly make a false statement,
 25 he or they, and each of them, shall be deemed guilty of a misdemeanor, and, upon conviction
 26 thereof, upon information, punished by a fine for each offense not exceeding five hundred dollars
 27 and not less than one hundred dollars, or by imprisonment not less than one or more than twelve
 28 months in the city or county jail, or by both such fine and imprisonment.

29 [6.] 5. A bank or trust company ~~[may provide each written]~~ shall provide a paper or
 30 electronic copy of any regular periodic report required to be ~~[published free of charge to the public;~~
 31 ~~and when each bank or trust company notifies their customers that such information is available;~~
 32 ~~and when one copy of such information is available]~~ filed under section 361.130 to each [person]
 33 customer that requests it, ~~the newspaper publication provisions of this section shall not be enforced~~
 34 ~~against such bank or trust company].~~

35 362.424. 1. For purposes of this section, the following terms mean:

36 (1) "Bank", includes any state or federally chartered bank, savings bank, or savings and loan
 37 association providing banking services to customers;

1 (2) "Trusted contact", any adult person designated by a bank customer that a bank may
2 contact in the event of an emergency or loss of contact with the customer, or suspected third party
3 fraud or financial exploitation targeting the customer.

4 2. Notwithstanding any other provision of law to the contrary, any bank may report
5 suspected fraudulent activity or financial exploitation targeting any of its customers to a federal,
6 state, county, or municipal law enforcement agency or any appropriate public protective agency and
7 shall be immune from civil liability in doing so.

8 3. Notwithstanding any other provision of law to the contrary, any bank, on a voluntary
9 basis, may offer a trusted contact program to customers who may designate one or more trusted
10 contacts for the bank to contact in the event a customer is not responsive to bank communications,
11 the bank is presented with an urgent matter or emergency involving the customer and the bank is
12 unable to locate the customer, or the bank suspects fraudulent activity or financial exploitation
13 targeting the customer or the account has been deemed dormant and the bank is attempting to verify
14 the status and location of the customer. The bank may establish such procedures, requirements, and
15 forms as it deems appropriate and necessary should the bank decide to implement a trusted contact
16 program.

17 4. Notwithstanding any other provision of law to the contrary, any bank may voluntarily
18 offer customers an account with convenience and security features that set transaction limits and
19 permit limited access to view account activity for one or more trusted contacts designated by the
20 customer.

21 5. No bank shall be liable for the actions of a trusted contact.

22 6. No bank shall be liable for declining to interact with a trusted contact when the bank, in
23 good faith and exercising reasonable care, determines that a trusted contact is not acting in the best
24 interests of the customer.

25 7. A person designated by a customer as a trusted contact who acts in good faith and
26 exercises reasonable care shall be immune from liability.

27 8. A customer may withdraw any appointment of a person as a trusted contact at any time
28 and any trusted contact may withdraw from status as a trusted contact at any time. The bank may
29 require such documentation or verification as it deems necessary to establish the withdrawal or
30 termination of a trusted contact.

31 9. No bank shall be civilly liable for implementing or not implementing or for actions or
32 omissions related to providing or administering a trusted contact program.

33 362.490. 1. Notwithstanding any provision of law of this state or of any political
34 subdivision thereof requiring security for deposits in the form of collateral, surety bond or in any
35 other form, security for such deposits shall not be required to the extent said deposits are insured
36 under the provisions of an act of congress creating and establishing the Federal Deposit Insurance
37 Corporation or similar agency created and established by the Congress of the United States.

38 2. (1) As an alternative to the requirements for direct pledging of security for deposit of
39 public funds in excess of the amount that is federally insured or guaranteed pursuant to sections

1 110.010, 110.020, and 110.060, a banking institution authorized as legal depositary for public funds
2 may secure the deposits of any governmental entity by granting a security interest in a single pool of
3 securities to secure the repayment of all public funds deposited in the banking institution by such
4 governmental entities and not otherwise federally insured or secured pursuant to law.

5 (2) A banking institution may secure the deposit of public funds using the direct method as
6 provided in chapter 110, or the single bank pooled method provided in this section, or may elect to
7 offer government entities the choice of either method to secure the deposit of public funds.

8 (3) Under the direct method a banking institution may secure the deposit of public funds of
9 each government entity separately by furnishing securities pursuant to sections 110.010, 110.020,
10 and 110.060.

11 (4) Under the single bank pooled method a banking institution may secure the deposit of
12 public funds of one or more government entities through a pool of eligible securities held in custody
13 and safekeeping with one or more other banking institutions or safe depositaries, to be held subject
14 to the order of the director of the division of finance or the administrator appointed pursuant to
15 subsection 3 of this section for the benefit of the government entities having public funds deposited
16 with such banking institution as set forth in this section.

17 3. (1) The director of the division of finance shall have exclusive authority to appoint a
18 bank, trust company, or association for Missouri banks which is chartered or incorporated in
19 Missouri, to serve as the administrator with respect to a single bank pooled method. The
20 administrator shall act as an agent for banking institutions and as the nominee of the government
21 entities for purposes of administering the pool of securities pledged to secure uninsured public fund
22 deposits. The fees and expenses of such administrator shall be paid by the banking institutions
23 utilizing the single bank pooled method. The single bank pooled method shall not be utilized by any
24 banking institution unless an administrator has been appointed by the director pursuant to this
25 section and is acting as the administrator. The director may require the administrator to post a
26 surety bond or security to the director in an amount up to one hundred thousand dollars to assure the
27 faithful performance of the duties of the administrator.

28 (2) At all times the aggregate market value of the pool of securities so deposited, pledged, or
29 in which a security interest is granted shall be at least equal to one hundred two percent of the
30 amount on deposit which is in excess of the amount so insured.

31 (3) Each banking institution shall carry on its accounting records at all times a general
32 ledger or other appropriate account of the total amount of all public funds to be secured by the pool
33 of securities as determined at the opening of business each day, and the aggregate market value of
34 the pool of securities pledged, or in which a security interest is granted to secure such public funds.

35 (4) If a banking institution elects to secure the deposit of public funds through the use of the
36 single bank pooled method, such banking institution shall notify the administrator in writing that it
37 has elected to utilize the single bank pooled method and the proposed effective date thereof and
38 enter such agreement as the administrator may require.

1 (5) A banking institution may not retain any deposit of public funds which is required to be
2 secured unless it has secured the deposits for the benefit of the government entities having public
3 funds with such banking institution pursuant to this section.

4 (6) Only the securities and collateral described or listed pursuant to section 30.270 for the
5 safekeeping and payment of deposits by the state treasurer may be provided and accepted as security
6 for the deposit of public funds and shall be eligible as collateral. The administrator shall not accept
7 any securities which are not described or listed pursuant to section 30.270.

8 (7) The administrator may establish such procedures and reporting requirements as
9 necessary for depository banking institutions and their safekeeping banks or depositaries to confirm
10 the amount of insured public fund deposits, the pledge of securities to the administrator to secure the
11 deposit of public funds, as agent for each participating banking institution, and to monitor the
12 market value of pledged securities as reported by the custody agents, and to add, substitute, or
13 remove securities held in the single bank pool as directed by the depository banking institution.

14 (8) In the event of the failure and insolvency of a banking institution using the single bank
15 pooled method, subject to any order of the director pursuant to powers vested under chapter 361, the
16 administrator shall direct the safekeeping banks or depositaries to sell the pledged securities and
17 direct proceeds to the payment of the uninsured public fund deposits or to transfer the pledged
18 securities to that banking institution's primary supervisory agency or the duly appointed receiver for
19 the banking institution to be liquidated to pay out the uninsured public fund deposits.

20 370.245. 1. For purposes of this section, the following terms mean:

21 (1) "Credit union", any state or federally chartered credit union providing financial services
22 to members;

23 (2) "Trusted contact", any adult person designated by a credit union member that a credit
24 union may contact in the event of an emergency or loss of contact with the member, or suspected
25 third party fraud or financial exploitation targeting the member.

26 2. Notwithstanding any other provision of law to the contrary, any credit union may report
27 suspected fraudulent activity or financial exploitation targeting any of its members to a federal,
28 state, county, or municipal law enforcement agency or any appropriate public protective agency and
29 shall be immune from civil liability in doing so.

30 3. Notwithstanding any other provision of law to the contrary, any credit union, on a
31 voluntary basis, may offer a trusted contact program to members who may designate one or more
32 trusted contacts for the credit union to contact in the event a member is not responsive to credit
33 union communications, the credit union is presented with an urgent matter or emergency involving
34 the member and the credit union is unable to locate the member, or the credit union suspects
35 fraudulent activity or financial exploitation targeting the member or the account has been deemed
36 dormant and the credit union is attempting to verify the status and location of the member. The
37 credit union may establish such procedures, requirements, and forms as it deems appropriate and
38 necessary should the credit union opt to implement a trusted contact program.

1 4. Notwithstanding any other provision of law to the contrary, any credit union may
 2 voluntarily offer members an account with convenience and security features that set transaction
 3 limits and permit limited access to view account activity for one or more trusted contacts designated
 4 by the member.

5 5. No credit union shall be liable for the actions of a trusted contact.

6 6. No credit union shall be liable for declining to interact with a trusted contact when the
 7 credit union, in good faith and exercising reasonable care, determines that a trusted contact is not
 8 acting in the best interests of the member.

9 7. A person designated by a member as a trusted contact who acts in good faith and
 10 exercises reasonable care shall be immune from liability.

11 8. A member may withdraw any appointment of a person as a trusted contact at any time
 12 and any trusted contact may withdraw from status as a trusted contact at any time. The credit union
 13 may require such documentation or verification as it deems necessary to establish the withdrawal or
 14 termination of a trusted contact.

15 9. No credit union shall be civilly liable for implementing or not implementing or for
 16 actions or omissions related to providing or administering a trusted contact program.

17 381.410. As used in this section and section 381.412, the following terms mean:

18 (1) "Cashier's check", a check, however labeled, drawn on the financial institution, which is
 19 signed only by an officer or employee of such institution, is a direct obligation of such institution,
 20 and is provided to a customer of such institution or acquired from such institution for remittance
 21 purposes;

22 (2) "Certified funds", United States currency, funds conveyed by a cashier's check, certified
 23 check, or teller's check, as defined in Federal Reserve Regulations CC, or funds conveyed by wire
 24 transfers[~~,-including~~] unconditionally received by the settlement agent or the agent's depository, or
 25 funds conveyed by a real-time payment system, including, but not limited to, RTP and Fed Now, for
 26 which a settlement agent receives written advice from a financial institution that collected funds
 27 have been credited to the settlement agent's account;

28 (3) "Director", the director of the department of commerce and insurance, unless the
 29 settlement agent's primary regulator is another department. When the settlement agent is regulated
 30 by such department, that department shall have jurisdiction over this section and section 381.412;

31 (4) "Financial institution":

32 (a) A person or entity doing business under the laws of this state or the United States
 33 relating to banks, trust companies, savings and loan associations, credit unions, commercial and
 34 consumer finance companies, industrial loan companies, insurance companies, small business
 35 investment corporations licensed under the Small Business Investment Act of 1958, 15 U.S.C.
 36 Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section
 37 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act of
 38 1971, 12 U.S.C. Section 2000, et seq., as amended; or

(b) A mortgage loan company or mortgage banker doing business under the laws of this state or the United States which is subject to licensing, supervision, or auditing by the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United States Veterans' Administration, or the Government National Mortgage Association, or the United States Department of Housing and Urban Development, or a successor of any of the foregoing agencies or entities, as an approved seller or servicer, if their principal place of business is in Missouri or a state which is contiguous to Missouri;

(5) "Settlement agent", a person, corporation, partnership, or other business organization which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes of closing a sale of an interest in real estate located within the state of Missouri, and is not a financial institution, or a member in good standing of the Missouri Bar, or a person licensed under chapter 339.

427.300. 1. This section shall be known and may be cited as the "Commercial Financing Disclosure Law".

2. For purposes of this section, the following terms mean:

(1) "Account";

(a) Includes:

a. A right to payment of a monetary obligation, regardless of whether earned by performance, for one of the following:

(i) Property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;

(ii) Services rendered or to be rendered;

(iii) A policy of insurance issued or to be issued;

(iv) A secondary obligation incurred or to be incurred;

(v) Energy provided or to be provided;

(vi) The use or hire of a vessel under a charter or other contract;

(vii) Arising out of the use of a credit or charge card or information contained on or for use with the card; or

(viii) As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state; and

b. Health-care-insurance receivables; and

(b) Does not include:

a. Rights to payment evidenced by chattel paper or an instrument;

b. Commercial tort claims;

c. Deposit accounts;

d. Investment property;

e. Letter-of-credit rights or letters of credit; or

1 f. Rights to payment for moneys or funds advanced or sold, other than rights arising out of
2 the use of a credit or charge card or information contained on or for use with the card;

3 (2) "Accounts receivable purchase transaction", any transaction in which the business
4 forwards or otherwise sells to the provider all or a portion of the business's accounts or payment
5 intangibles at a discount to their expected value. The provider's characterization of an accounts
6 receivable purchase transaction as a purchase is conclusive that the accounts receivable purchase
7 transaction is not a loan or a transaction for the use, forbearance, or detention of money;

8 (3) "Broker", any person who, for compensation or the expectation of compensation, obtains
9 a commercial financing transaction or an offer for a commercial financing transaction from a third
10 party that would, if executed, be binding upon that third party and communicates that offer to a
11 business located in this state. The term broker excludes a provider, or any individual or entity
12 whose compensation is not based or dependent on the terms of the specific commercial financing
13 transaction obtained or offered;

14 (4) "Business", an individual or group of individuals, sole proprietorship, corporation,
15 limited liability company, trust, estate, cooperative, association, or limited or general partnership
16 engaged in a business activity;

17 (5) "Business purpose transaction", any transaction where the proceeds are provided to a
18 business or are intended to be used to carry on a business and not for personal, family, or household
19 purposes. For purposes of determining whether a transaction is a business purpose transaction, the
20 provider may rely on any written statement of intended purpose signed by the business. The
21 statement may be a separate statement or may be contained in an application, agreement, or other
22 document signed by the business or the business owner or owners;

23 (6) "Commercial financing facility", a provider's plan for purchasing multiple accounts
24 receivable from the recipient over a period of time pursuant to an agreement that sets forth the terms
25 and conditions governing the use of the facility;

26 (7) "Commercial financing transaction", any commercial loan, accounts receivable purchase
27 transaction, commercial open-end credit plan or each to the extent the transaction is a business
28 purpose transaction;

29 (8) "Commercial loan", a loan to a business, whether secured or unsecured;

30 (9) "Commercial open-end credit plan", commercial financing extended by any provider
31 under a plan in which:

32 (a) The provider reasonably contemplates repeat transactions; and

33 (b) The amount of financing that may be extended to the business during the term of the
34 plan, up to any limit set by the provider, is generally made available to the extent that any
35 outstanding balance is repaid;

36 (10) "Depository institution", any of the following:

37 (a) A bank, trust company, or industrial loan company doing business under the authority of,
38 or in accordance with, a license, certificate, or charter issued by the United States, this state, or any

1 other state, district, territory, or commonwealth of the United States that is authorized to transact
2 business in this state;

3 (b) A federally chartered savings and loan association, federal savings bank, or federal
4 credit union that is authorized to transact business in this state; or

5 (c) A savings and loan association, savings bank, or credit union organized under the laws
6 of this or any other state that is authorized to transact business in this state;

7 (11) "General intangible", any personal property, including things in action, other than
8 accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments,
9 investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals
10 before extraction. General intangible also includes payment intangibles and software;

11 (12) "Payment intangible", a general intangible under which the account debtor's principal
12 obligation is a monetary obligation;

13 (13) "Provider", a person who consummates more than five commercial financing
14 transactions to a business located in this state in any calendar year. Provider also includes a person
15 that enters into a written agreement with a depository institution to arrange for the extension of a
16 commercial financing transaction by the depository institution to a business via an online lending
17 platform administered by the person. The fact that a provider extends a specific offer for a
18 commercial financing transaction on behalf of a depository institution shall not be construed to
19 mean that the provider engaged in lending or financing or originated that loan or financing.

20 3. (1) A provider that consummates a commercial financing transaction shall disclose the
21 terms of the commercial financing transaction as required by this section. The disclosures shall be
22 provided at or before consummation of the transaction. Only one disclosure is required for each
23 commercial financing transaction, and a disclosure is not required as a result of the modification,
24 forbearance, or change to a consummated commercial financing transaction.

25 (2) A provider shall disclose the following in connection with each commercial financing
26 transaction:

27 (a) The total amount of funds provided to the business under the terms of the commercial
28 financing transaction agreement. This disclosure shall be labeled "Total Amount of Funds
29 Provided";

30 (b) The total amount of funds disbursed to the business under the terms of the commercial
31 financing transaction, if less than the total amount of funds provided, as a result of any fees
32 deducted or withheld at disbursement and any amount paid to a third party on behalf of the business.
33 This disclosure shall be labeled "Total Amount of Funds Disbursed";

34 (c) The total amount to be paid to the provider pursuant to the commercial financing
35 transaction agreement. This disclosure shall be labeled "Total of Payments";

36 (d) The total dollar cost of the commercial financing transaction under the terms of the
37 agreement, derived by subtracting the total amount of funds provided from the total of payments.
38 This calculation shall include any fees or charges deducted by the provider from the "Total Amount
39 of Funds Provided". This disclosure shall be labeled "Total Dollar Cost of Financing";

1 (e) The manner, frequency, and amount of each payment. This disclosure shall be labeled
2 "Payments". If the payments may vary, the provider shall instead disclose the manner, frequency,
3 and the estimated amount of the initial payment labeled "Estimated Payments" and the commercial
4 financing transaction agreement shall include a description of the methodology for calculating any
5 variable payment and the circumstances when payments may vary;

6 (f) A statement of whether there are any costs or discounts associated with prepayment of
7 the commercial financing product including a reference to the paragraph in the agreement that
8 creates the contractual rights of the parties related to prepayment. This disclosure shall be labeled
9 "Prepayment"; and

10 (3) A provider that consummates a commercial financing facility may provide disclosures of
11 this subsection which are based on an example of a transaction that could occur under the
12 agreement. The example shall be based on an accounts receivable total face amount owed of ten
13 thousand dollars. Only one disclosure is required for each commercial financing facility, and a
14 disclosure is not required as result of a modification, forbearance, or change to the facility. A new
15 disclosure is not required each time accounts receivable are purchased under the facility.

16 4. The provisions of this section shall not apply to the following:

17 (1) A provider that is a depository institution or a subsidiary or affiliate;

18 (2) A provider that is a service corporation to a depository institution that is:

19 (a) Owned and controlled by a depository institution; and

20 (b) Regulated by a federal banking agency;

21 (3) A provider that is a lender regulated under the federal Farm Credit Act, 12 U.S.C.

22 Section 2001, et seq.;

23 (4) A commercial financing transaction that is:

24 (a) Secured by real property;

25 (b) A lease; or

26 (c) A purchase money obligation that is incurred as all or part of the price of the collateral or
27 for value given to enable the business to acquire rights in or the use of the collateral if the value is in
28 fact so used;

29 (5) A commercial financing transaction in which the recipient is a motor vehicle dealer or
30 an affiliate of such a dealer, or a vehicle rental company, or an affiliate of such a company, pursuant
31 to a commercial loan or commercial open-end credit plan of at least fifty thousand dollars or a
32 commercial financing transaction offered by a person in connection with the sale or lease of
33 products or services that such person manufactures, licenses, or distributes, or whose parent
34 company or any of its directly or indirectly owned and controlled subsidiaries manufactures,
35 licenses, or distributes;

36 (6) A commercial financing transaction that is a factoring transaction, purchase, sale,
37 advance, or similar of accounts receivable owed to a health care provider because of a patient's
38 personal injury treated by the health care provider;

1 (7) A provider that is licensed as a money transmitter in accordance with a license,
2 certificate, or charter issued by this state or any other state, district, territory, or commonwealth of
3 the United States;

4 (8) A provider that consummates no more than five commercial financing transactions in
5 this state in a twelve-month period; ~~[or]~~

6 (9) A commercial financing transaction of more than five hundred thousand dollars; or

7 (10) A commercial financing product that is a premium finance agreement, as defined in
8 subdivision (3) of section 364.100, offered or entered into by a provider that is a registered premium
9 finance company.

10 5. (1) No person shall engage in business as a broker within this state for compensation,
11 unless prior to conducting such business, the person has filed a registration with the division of
12 finance within the department of commerce and insurance and has on file a good and sufficient bond
13 as specified in this subsection. The registration shall be effective upon receipt by the division of
14 finance of a completed registration form and the required registration fee, and shall remain effective
15 until the time of renewal.

16 (2) After filing an initial registration form, a broker shall file, on or before January thirty-
17 first of each year, a renewal registration form along with the required renewal registration fee.

18 (3) The broker shall pay a one-hundred-dollar registration fee upon the filing of an initial
19 registration and a fifty-dollar renewal registration fee upon the filing of a renewal registration.

20 (4) The registration form required by this subsection shall include the following:

21 (a) The name of the broker;

22 (b) The name in which the broker is transacted if different from that stated in paragraph (a)
23 of this subdivision;

24 (c) The address of the broker's principal office, which may be outside this state;

25 (d) Whether any officer, director, manager, operator, or principal of the broker has been
26 convicted of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering;
27 and

28 (e) The name and address in this state of a designated agent upon whom service of process
29 may be made.

30 (5) If information in a registration form changes or otherwise becomes inaccurate after
31 filing, the broker shall not be required to file a further registration form prior to the time of renewal.

32 (6) Every broker shall obtain a surety bond issued by a surety company authorized to do
33 business in this state. The amount of the bond shall be ten thousand dollars. The bond shall be in
34 favor of the state of Missouri. Any person damaged by the broker's breach of contract or of any
35 obligation arising therefrom, or by any violation of this section, may bring an action against the
36 bond to recover damages suffered. The aggregate liability of the surety shall be only for actual
37 damages and in no event shall exceed the amount of the bond.

(7) Employees regularly employed by a broker who has complied with this subsection shall not be required to file a registration or obtain a surety bond when acting within the scope of their employment for the broker.

6. (1) Any person who violates any provision of this section shall be punished by a fine of five hundred dollars per incident, not to exceed twenty thousand dollars, for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this section. Any person who violates any provision of this section after receiving written notice of a prior violation from the attorney general shall be punished by a fine of one thousand dollars per incident, not to exceed fifty thousand dollars, for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this section.

(2) Violation of any provision of this section shall not affect the enforceability or validity of the underlying agreement.

(3) This section shall not create a private right of action against any person or other entity based upon compliance or noncompliance with its provisions.

(4) Authority to enforce compliance with this section is vested exclusively in the attorney general of this state.

7. The requirements of subsections 3 and 5 of this section shall take effect upon either:

(1) Six months after the division of finance finalizes promulgating rules, if the division intends to promulgate rules; or

(2) February 28, 2025, if the division does not intend to promulgate rules.

8. The division of finance may promulgate rules implementing this section. If the division of finance intends to promulgate rules, it shall declare its intent to do so no later than February 28, 2025. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2024, shall be invalid and void."; and

Further amend said bill, Page 2, Section 570.148, Line 38, by inserting after all of said section and line the following:

~~"[447.200. 1. If any consumer deposit account with a banking organization or financial organization, as such terms are defined in and under section 447.503, is determined to be or to have been inactive for a period of twelve or more months and if inactivity fees apply to such account, such banking organization, bank or financial organization shall notify the person or depositor named on such inactive account of such inactivity. Notice may be delivered by first class mail, with postage prepaid, and marked "Address Correction Requested", or alternatively, the notice may be sent or delivered electronically if~~

1 the consumer has consented to receiving electronic disclosures in accordance with
2 the federal Truth in Savings Act, 12 U.S.C. Sections 4301 to 4313, and the
3 regulations promulgated pursuant thereto.

4 2. Notwithstanding any provision of law to the contrary, for any consumer
5 deposit account with a banking organization, bank or financial organization that is
6 or that has been inactive for twelve months or more, such bank or financial
7 organization shall issue annual statements to the person or depositor named on the
8 account. The organization or a bank may charge a service fee of up to five dollars
9 for any statement issued under this subsection, provided that such fee shall be
10 withdrawn from the inactive account.

11 3. If any consumer deposit account with a banking organization, bank or
12 financial organization is determined to be or to have been inactive for a period of
13 five years, the funds from such account shall be remitted to the abandoned fund
14 account established under section 447.543.

15 4. For purposes of this section, the word "inactive" means a prescribed
16 period during which there is no activity or contact initiated by the person or
17 depositor named on the account, which results in an inactivity fee or fees being
18 charged to the account.]; and

19
20 Further amend said bill by amending the title, enacting clause, and intersectional references
21 accordingly.