

FIRST REGULAR SESSION

# HOUSE BILL NO. 754

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE OEHLERKING.

1499H.02I

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 362.020, 362.247, 362.275, 362.295, and 447.200, RSMo, and to enact in lieu thereof four new sections relating to certain financial organizations, with a penalty provision.

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

Section A. Sections 362.020, 362.247, 362.275, 362.295, and 447.200, RSMo, are  
2 repealed and four new sections enacted in lieu thereof, to be known as sections 362.020,  
3 362.247, 362.275, and 362.295, to read as follows:

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

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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18 **The articles of agreement may provide for the issuance of additional shares of capital**  
19 **stock or other classes of stock pursuant to the same procedures and conditions as**  
20 **provided under section 351.180, provided that such terms and procedures are**  
21 **acceptable to the director of finance and, provided that any notice or other approval**  
22 **required to be given or obtained from the state of Missouri shall be given or obtained**  
23 **from the director of the division of finance.**

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

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

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

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

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

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

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

24 (4) Was able to clearly hear such board meeting discussion from its beginning to end.  
25 4. The director of the division of finance may promulgate additional regulations,  
26 reasonable in scope, to provide for the integrity of the board of directors' operations when  
27 directors attend board meetings remotely, the safety and soundness of the bank or trust  
28 company's operation, and the bank or trust company's interest in minimizing the cost of  
29 compliance with such regulation.

362.275. 1. The board of directors of every bank and trust company organized or  
2 doing business pursuant to this chapter shall hold a regular meeting at least once each month,  
3 or, upon application to and acceptance by the director of finance, at such other times, not less  
4 frequently than once each calendar quarter as the director of finance shall approve, which  
5 approval may be rescinded at any time. There shall be submitted to the meeting a list giving  
6 the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each  
7 individual, partnership, corporation or person whose liability to the bank or trust company has  
8 been created, extended, renewed or increased since the cut-off date prior to the regular  
9 meeting by more than an amount to be determined by the board of directors, which minimum  
10 amount shall not exceed five percent of the bank's legal loan limit, except the minimum  
11 amount shall in no case be less than ten thousand dollars; a second list of the aggregate  
12 indebtedness of each borrower whose aggregate indebtedness exceeds five times such  
13 minimum amount, except the aggregate indebtedness shall in no case be less than fifty  
14 thousand dollars; **and** a third list showing all paper past due thirty days or more or  
15 alternatively, the third list shall report the total past-due ratio for loans thirty days or more  
16 past due, nonaccrual loans divided by total loans, and a listing of past-due loans in excess of  
17 the minimum amount to be determined by the board of directors, which minimum amount  
18 shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall  
19 in no case be less than ten thousand dollars; ~~and a fourth list showing the aggregate of the~~  
20 ~~then-existing indebtedness and liability to the bank or trust company of each of the directors,~~  
21 ~~officers, and employees thereof].~~ The information called for in the second[;] **and** third[~~, and~~  
22 ~~fourth]~~ lists shall be submitted as of the date of the regular meeting or as of a reasonable date  
23 prior thereto. No bills payable shall be made, and no bills shall be rediscounted by the bank  
24 or trust company except with the consent or ratification of the board of directors; provided,  
25 however, that if the bank or trust company is a member of the federal reserve system,  
26 rediscounts may be made to it by the officers in accordance with its rules, a list of all  
27 rediscounts to be submitted to the next regular meeting of the board. The director of finance  
28 may require, by order, that the board of directors of a bank or trust company approve or  
29 disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal  
30 or other advance including every overdraft over an amount to be specified in the director's  
31 order and may also require that the board of directors review, at each monthly meeting, a list

32 of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an  
33 amount to be specified in the director's order. The minutes of the meeting shall indicate the  
34 compliance with the requirements of this section. Furthermore, the debtor's identity on the  
35 information required in this subsection may be masked by code to conceal the actual debtor's  
36 identity only for information mailed to or otherwise provided directors who are not physically  
37 present at the board meeting. The code used shall be revealed to all directors at the beginning  
38 of each board meeting for which this procedure is used.

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

362.295. 1. Within ten days after service upon it of the notice provided for by section  
2 361.130, every bank and trust company shall make a written report to the director, which  
3 report shall be in the form and shall contain the matters prescribed by the director and shall  
4 specifically state the items of capital, deposits, specie and cash items, public securities and  
5 private securities, real estate and real estate securities, and such other items as may be  
6 necessary to inform the public as to the financial condition and solvency of the bank or trust  
7 company, or which the director may deem proper to include therein. In lieu of requiring  
8 direct filing of reports of condition, the director may accept reports of condition or their  
9 equivalent as filed with federal regulatory agencies and may require verification and the filing  
10 of supplemental information as the director deems necessary.

11 2. Every report shall be verified by the oaths of the president or vice president and  
12 cashier or secretary or assistant cashier or assistant secretary, and the verification shall state  
13 that the report is true and correct in all respects to the best of the knowledge and belief of the  
14 persons verifying it, and the report shall be attested by three directors, and shall be a report of  
15 the actual condition of the bank or trust company at the close of business on the day  
16 designated and which day shall be prior to the call. If the director of finance obtains the data  
17 pursuant to subsection 3 of section 361.130, the director may rely on the verification provided  
18 to the federal regulatory agency.

19 3. ~~Every report, exclusive of the verification, shall, within thirty days after it shall~~  
20 ~~have been filed with the director, be published by the bank or trust company in one newspaper~~  
21 ~~of the place where its place of business is located, or if no newspaper is published there, in a~~  
22 ~~newspaper of general circulation in the town and community in which the bank or trust~~

23 ~~company is located; the newspaper to be designated by the board of directors and a copy of~~  
24 ~~the publication, with the affidavit of the publisher thereto, shall be attached to the report;~~  
25 ~~provided, if the bank or trust company is located in a town or city having a population~~  
26 ~~exceeding ten thousand inhabitants, then the publication must be in a daily newspaper, if~~  
27 ~~published in that city; but if the bank or trust company is located in a town or city having a~~  
28 ~~population of ten thousand inhabitants or less, then the publication may be in either a daily or~~  
29 ~~weekly newspaper published in the town or city as aforesaid; and in all cases a copy of the~~  
30 ~~statement shall be posted in the banking house accessible to all.~~

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

35 [5.] 4. If the bank or trust company shall fail to make any report required by this  
36 section on or before the day designated for the making thereof, or shall fail to include therein  
37 any matter required by the director, the bank or trust company shall forfeit to the state the sum  
38 of one hundred dollars for every day that the report shall be delayed or withheld, and for  
39 every day that it shall fail to report any omitted matter, unless the time therefor shall have  
40 been extended by the director. Should any president, cashier or secretary of the bank or trust  
41 company or any director thereof fail to make the statement so required of him or them, or  
42 willfully and corruptly make a false statement, he or they, and each of them, shall be deemed  
43 guilty of a misdemeanor, and, upon conviction thereof, upon information, punished by a fine  
44 for each offense not exceeding five hundred dollars and not less than one hundred dollars, or  
45 by imprisonment not less than one or more than twelve months in the city or county jail, or by  
46 both such fine and imprisonment.

47 [6.] 5. A bank or trust company ~~[may provide each written]~~ **shall provide a paper or**  
48 **electronic copy of any regular periodic** report required to be ~~[published free of charge to~~  
49 ~~the public; and when each bank or trust company notifies their customers that such~~  
50 ~~information is available; and when one copy of such information is available]~~ **filed under**  
51 **section 361.130** to each ~~[person]~~ **customer** that requests it~~;~~ ~~the newspaper publication~~  
52 ~~provisions of this section shall not be enforced against such bank or trust company].~~

2 [447.200.—1.— If any consumer deposit account with a banking  
3 organization or financial organization, as such terms are defined in and under  
4 section 447.503, is determined to be or to have been inactive for a period of  
5 twelve or more months and if inactivity fees apply to such account, such  
6 banking organization, bank or financial organization shall notify the person or  
7 depositor named on such inactive account of such inactivity. Notice may be  
8 delivered by first class mail, with postage prepaid, and marked "Address  
Correction Requested", or alternatively, the notice may be sent or delivered

9 electronically if the consumer has consented to receiving electronic disclosures  
10 ~~in accordance with the federal Truth in Savings Act, 12 U.S.C. Sections 4301~~  
11 ~~to 4313, and the regulations promulgated pursuant thereto.~~

12 ~~2. Notwithstanding any provision of law to the contrary, for any~~  
13 ~~consumer deposit account with a banking organization, bank or financial~~  
14 ~~organization that is or that has been inactive for twelve months or more, such~~  
15 ~~bank or financial organization shall issue annual statements to the person or~~  
16 ~~depositor named on the account. The organization or a bank may charge a~~  
17 ~~service fee of up to five dollars for any statement issued under this subsection,~~  
18 ~~provided that such fee shall be withdrawn from the inactive account.~~

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

23 ~~4. For purposes of this section, the word "inactive" means a prescribed~~  
24 ~~period during which there is no activity or contact initiated by the person or~~  
25 ~~depositor named on the account, which results in an inactivity fee or fees being~~  
26 ~~charged to the account.]~~

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