FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED**]**

HOUSE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 186

91ST GENERAL ASSEMBLY

2001

0610L.06T

AN ACT

To repeal sections 139.050, 139.052, 139.053, 148.064, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 379.316, 379.321, 379.356, 379.425, 379.888, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, and section 367.100 as enacted by Senate Substitute for House Committee Substitute for House Bill No. 738, ninety-first general assembly, first regular session, relating to financial services, and to enact in lieu thereof forty-four new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 139.050, 139.052, 139.053, 148.064, 301.600, 362.044, 362.105, 362.106, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 362.942, 367.100, 367.215, 367.500, 367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.527, 367.530, 379.316, 379.321, 379.356, 379.425, 379.888, 408.052, 408.140, 408.500 and 513.430, RSMo 2000, and section 367.100 as enacted by Senate Substitute for House Committee Substitute for House Bill No. 738, ninety-first general assembly, first regular session, are repealed and forty-four new sections enacted in lieu thereof, to be known as sections 139.050, 139.052, 139.053, 148.064, 301.600, 362.044, 362.105, 362.106, 362.109, 362.119, 362.170, 362.270, 362.325, 362.335, 362.495, 362.935, 367.100, 367.215, 367.500,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

367.503, 367.506, 367.509, 367.512, 367.515, 367.518, 367.521, 367.524, 367.525, 367.527, 367.530, 367.531, 367.532, 379.316, 379.321, 379.356, 379.425, 379.888, 408.052, 408.140, 408.500, 408.510, 427.220, 513.430 and 1, to read as follows:

139.050. 1. In all constitutional charter cities in this state which have seven hundred thousand inhabitants or more, all current and all delinquent general, school and city taxes may be paid entirely, or in installments of at least twenty-five percent of the taxes, and the delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The director of revenue shall issue receipts for the partial payments.

3. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

139.052. 1. The governing body of any county may by ordinance or order provide for the payment of all or any part of current and delinquent real property taxes, in such installments and on such terms as the governing body deems appropriate. Additionally, the county legislative body may limit the right to pay such taxes in installments to certain classes of taxpayers, as may be prescribed by ordinance or order. Any delinquent taxes shall bear interest at the rate provided by section 140.100, RSMo, and shall be subject to the fees provided by law.

2. The county official charged with the duties of the collector shall issue receipts for any installment payments.

3. Installment payments made at any time during a tax year shall not affect the taxpayer's right to protest the amount of such tax payments under applicable provisions of law.

4. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

139.053. 1. The governing body of any county, excluding township counties, may by ordinance or order provide for the payment of all or any part of current real and personal property taxes which are owed, at the option of the taxpayer, on an annual, semiannual or quarterly basis at such times as determined by such governing body.

2. The ordinance shall provide the method by which the amount of property taxes owed for the current tax year in which the payments are to be made shall be estimated. The collector shall submit to the governing body the procedures by which taxes will be collected pursuant to the ordinance or order. The estimate shall be based on the

previous tax year's liability. A taxpayer's payment schedule shall be based on the estimate divided by the number of pay periods in which payments are to be made. The taxpayer shall at the end of the tax year pay any amounts owed in excess of the estimate for such year. The county shall at the end of the tax year refund to the taxpayer any amounts paid in excess of the property tax owed for such year. No interest shall be paid by the county on excess amounts owed to the taxpayer. Any refund paid the taxpayer pursuant to this subsection shall be an amount paid by the county only once in a calendar year.

3. If a taxpayer fails to make an installment payment of a portion of the real or personal property taxes owed to the county, then such county may charge the taxpayer interest on the amount of property taxes still owed for that year.

4. Any governing body enacting the ordinance or order specified in this section shall first agree to provide the county collector with reasonable and necessary funds to implement the ordinance or order.

5. Subsection 1 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulation, as amended.

148.064. 1. Notwithstanding any law to the contrary, this section shall determine the ordering and limit reductions for certain taxes and tax credits which may be used as credits against various taxes paid or payable by banking institutions. Except as adjusted in subsections 2, 3 and 6 of this section, such credits shall be applied in the following order until used against:

(1) The tax on banks determined under subdivision (2) of subsection 2 of section 148.030;

(2) The tax on banks determined under subdivision (1) of subsection 2 of section 148.030;

(3) The state income tax in section 143.071, RSMo.

2. The tax credits permitted against taxes payable pursuant to subdivision (2) of subsection 2 of section 148.030 shall be utilized first and include taxes referenced in subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such taxes. Where a banking institution subject to this section joins in the filing of a consolidated state income tax return under chapter 143, RSMo, the credit allowed under this section for state income taxes payable under chapter 143, RSMo, shall be determined based upon the consolidated state income tax liability of the group and allocated to a banking institution, without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such consolidated taxes as provided in chapter 143, RSMo.

3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may be reduced by the tax credits in subsection 5 of this section without regard to any adjustments in subsection 2 of this section.

4. To the extent that certain tax credits which the taxpayer is entitled to claim are transferable, such transferability may include transfers among such taxpayers who are members of a single consolidated income tax return, and this subsection shall not impact other tax credit transferability.

5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall include tax credits available for economic development, low-income housing and neighborhood assistance which the taxpayer is entitled to claim for the year, including by way of example and not of limitation, tax credits pursuant to the following sections: section 32.115, RSMo, section 100.286, RSMo, and sections 135.110, 135.225, 135.352 and 135.403, RSMo.

6. For tax returns filed on or after January 1, 2001, including returns based on income in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the outstanding shares and surplus exceed one million dollars, determined in the same manner as in section 147.010, RSMo. This tax credit shall be taken as a dollar-for-dollar credit against the bank tax provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was already reduced to zero by other credits, then against the corporate income tax provided for in chapter 143, RSMo.

7. In the event the corporation franchise tax in chapter 147, RSMo, is repealed by the general assembly, there shall also be a reduction in the taxation of banks as follows: in lieu of the loss of the corporation franchise tax credit reduction in subdivision (1) of subsection 2 of section 148.030, the bank shall receive a tax credit equal to one and one-half percent of net income as determined in this chapter. This subsection shall take effect at the same time the corporation franchise tax in chapter 147, RSMo, is repealed.

8. An S corporation bank or bank holding company that otherwise qualifies to distribute tax credits to its shareholders, shall pass through any tax credits referred to in subsection 5 of this section to its shareholders as otherwise provided for in subsection 9 of section 143.471, RSMo, with no reductions or limitations resulting from the transfer through such S corporation, and on the same terms originally made available to the original taxpayer, subject to any original dollar or percentage limitations on such credits, and when such S corporation is the original taxpayer, treating such S corporation as having not elected Subchapter S status.

9. Notwithstanding any law to the contrary, in the event the corporation franchise tax in chapter 147, RSMo, is repealed by the general assembly, after such repeal all Missouri taxes of any nature and type imposed directly or used as a tax credit against the bank's taxes, shall be passed through to the S corporation bank or bank holding company shareholder in the form otherwise permitted by law, except for the following:

(1) Credits for taxes on real estate and tangible personal property owned by the bank and held for lease or rental to others;

(2) Contributions paid pursuant to the unemployment compensation tax law of Missouri; or

(3) State and local sales and use taxes collected by the bank on its sales of tangible personal property and the services enumerated in chapter 144, RSMo.

301.600. 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. **Subject to the provisions of section 301.620,** a lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. **To perfect a subordinate lien, the notice of lien must be accompanied by the documents required to be delivered to the director pursuant to subdivision (3) of section 301.620.** The notice of lien is perfected as of the time of its creation if the delivery of such notice to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" on the notice of lien and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure

future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows: proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is receipted for by the department of revenue, and returned to the lienholder.

4. If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 or 3 of this section or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

5. By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of

satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

362.044. 1. Stockholders' meetings may be held at such place, within this state, as may be prescribed in the bylaws. In the absence of any such provisions, all meetings shall be held at the principal banking house of the bank or trust company.

2. An annual meeting of stockholders for the election of directors shall be held on a day which each bank or trust company shall fix by its bylaws; and if no day be so provided, then on the second Monday of January.

3. Special meetings of the stockholders may be called by the directors or upon the written request of the owners of a majority of the stock.

4. Notice of annual or special stockholders' meetings shall state the place, day and hour of the meeting, and shall be published at least ten days prior to the meeting and once a week after the first publication with the last publication being not more than seven days before the day fixed for such meeting, in some daily or weekly newspaper printed and published in the city or town in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in the county in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in an adjoining county. A written or printed copy of the notice shall be delivered personally or mailed to each stockholder at least ten but not more than fifty days prior to the day fixed for the meeting, and shall state, in addition to the place, day and hour, the purpose of any special meeting or an annual meeting at which the stockholders will consider a change in the par value of the corporation stock, the issuance of preferred shares, a change in the number of directors, an increase or reduction of the capital stock of the bank or trust company, a change in the length of the corporate life, an extension or change of its business, a change in its articles to avail itself of the privileges and provisions of this chapter, or any other change in its articles in any way not inconsistent with the provisions of this chapter. Any stockholder may waive notice by causing to be delivered to the secretary during, prior to or after the meeting a written, signed waiver of notice, or by attending such meeting except where a stockholder attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Unless otherwise provided in the articles of incorporation, a majority of the

outstanding shares entitled to vote at any meeting represented in person or by proxy shall constitute a quorum at a meeting of stockholders; provided, that in no event shall a quorum consist of less than a majority of the outstanding shares entitled to vote, but less than a quorum shall have the right successively to adjourn the meeting to a specified date no longer than ninety days after the adjournment, and no notice need be given of the adjournment to shareholders not present at the meeting. Every decision of a majority of the quorum shall be valid as a corporate act of the bank or trust company unless a larger vote is required by this chapter.

6. (1) The stockholders of the bank or trust company may approve business by proxy and cancel any stockholders' meeting, provided:

(a) The stockholders are sent notice of such stockholders' meeting and a proxy referred to in this section;

(b) Within such proxy the stockholders are given the opportunity to approve or disapprove the cancellation of such stockholders' meeting;

(c) At least eighty percent of such bank or trust company's stock is voted by proxy; and

(d) All stockholders voting by proxy vote to cancel such stockholders' meeting.

(2) No business shall be voted on by proxy other than that expressly set out and clearly explained by the proxy material. If such stockholders' meeting is canceled by proxy, notice of such cancellation shall be sent to all stockholders at least five days prior to the date originally set for such stockholders' meeting. The corporate secretary shall reflect all proxy votes by subject and in chronological order in the board of directors' minute book. The notice for such stockholders' meeting shall state the effective date of any of the following: new directors' election, change in corporate structure and any other change requiring stockholder approval.

7. The voting shareholder or shareholders of the bank or trust company may transact all business required at an annual or special stockholders' meeting by unanimous written consent.

362.105. 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all

kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) **Hold a noncontrolling equity interest in any business entity that conducts only activities that are financial in nature or incidental to financial activity or that is established pursuant to subdivision (16) of subsection 1 of this section where the majority of the stock or other interest is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any foreign bank with a branch or branches in Missouri, or any combination of these financial institutions; provided that if the entity is defined pursuant to Missouri law as any type of financial institution subsidiary or other type of entity subject to special conditions or regulations, those conditions and regulations shall**

remain applicable, andprovided that such business entity may be formed as any type of business entity, in which each investor's liability is limited to the investment in and loans to the business entity as otherwise provided by law;

(7) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

[(7)**]** **(8)** Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

[(8)**]** **(9)** Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

[(9)**]** **(10)** Purchase, lease, hold or convey real property for the following purposes:

(a) With the approval of the director, plots whereon there is or may be erected a building or buildings suitable for the convenient conduct of its functions or business or for customer or employee parking even though a revenue may be derived from portions not required for its own use, and as otherwise permitted by law;

(b) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business;

(c) Real property purchased at sales under judgment, decrees or liens held by it;

[(10)**]** **(11)** Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable;

[(11)**] (12)** Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

[(12)**] (13)** Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (9) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

[(13)**] (14)** Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

[(14)**] (15)** Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

[(15)**] (16)** Offer through one or more subsidiaries any products and services which

a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may**:**

(1) Invest up to its legal loan limit in a building or buildings suitable for the convenient conduct of its business, including, but not limited to, a building or buildings suitable for the convenient conduct of its functions, parking for bank, trust company and leasehold employees and customers and real property for landscaping. Revenue may be derived from renting or leasing a portion of the building or buildings and the contiguous real estate; provided that, such bank or trust company has assets of at least two hundred million dollars**; and**

(2) Loan money on real estate and handle escrows, settlements and closings on real estate for the benefit of the bank's customers, as a core part of the banking business, notwithstanding any other provision of law to the contrary.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depositary, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. (1) In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government to:

(a) State-chartered banks and trust companies which are necessary to enable such banks and trust companies to compete;

(b) State-chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches;

(c) Subsidiaries of state-chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State-chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

6. A bank or trust company to which authority is granted by regulation in subsection 4 of this section, based on the population of the political subdivision, may continue to exercise such authority for up to five years after the appropriate decennial census indicates that the population of the town in which such bank or trust company is located has exceeded the limits provided for by regulation pursuant to subsection 4 of this section.

362.106. In addition to the powers authorized by section 362.105:

(1) A bank or trust company may exercise all powers necessary, proper **[**and**]** **or** convenient to effect any **[**or all**]** of the purposes for which the bank or trust company has been formed **and any powers incidental to the business of banking**;

(2) A bank or trust company may offer any direct and indirect benefits to a bank customer for the purpose of attracting deposits or making loans, provided said benefit is not otherwise prohibited by law, and the income or expense of such activity is nominal;

(3) Notwithstanding any other law to the contrary, every bank or trust company created under the laws of this state may, for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute, acquire and hold the voting stock of one or more corporations the activities of which are managing or owning agricultural property, subdividing and developing real property and building residential housing or commercial improvements on such property, and owning, renting, leasing, managing, operating for income and selling such property; provided that, the total of all investments, loans and guarantees made pursuant to the authority of this subdivision shall not exceed five percent of the total assets of the bank or trust company as shown on the next preceding published report of such bank or trust company to the director of finance, unless the director of the division of finance approves a higher percentage by regulation, but in no event shall such percentage exceed that allowed national banks by the appropriate regulatory authority, and, in addition to the investments permitted by this subdivision, a bank or trust company may extend credit, not to exceed the lending limits of section 362.170, to each of the corporations in which it has invested. No provision of this section authorizes a bank or trust company to own or operate, directly or through a subsidiary company, a real estate brokerage company;

(4) Notwithstanding any other law to the contrary except for bank regulatory powers in chapter 361, RSMo, powers incidental to the business of banking shall include the authority of every Missouri bank, for a fee or other consideration, and upon complying with any applicable licensing and registration law, to conduct any activity that national banks are expressly authorized by federal law to conduct, if such Missouri bank meets the prescribed standards, provided that powers conferred by this subdivision:

(a) Shall always be subject to the same limitations applicable to a national bank for conducting the activity;

(b) Shall be subject to applicable Missouri insurance law;

(c) Shall be subject to applicable Missouri licensing and registration law for the activity;

(d) Shall be subject to the same treatment prescribed by federal law; and any enabling federal law declared invalid by a court of competent jurisdiction or by the responsible federal chartering agency shall be invalid for the purposes of this subdivision; and

(e) May be exercised by a Missouri bank after that institution has notified

the director of its intention to exercise such specific power at the close of the notice period and the director, in response, has made a determination that the proposed activity is not an unsafe or unsound practice and such institution meets the prescribed standards required for the activity permitted national banks in the interpretive letter. The director may either take no action or issue an interpretive letter to the institution more specifically describing the activity permitted, and any limitations on such activity. The notice provided by the institution requesting such activity shall include copies of the specific law authorizing the power for national banks, and documentation indicating that such institution meets the prescribed standards. The notice period shall be thirty days but the director may extend it for an additional sixty days. After a determination has been made authorizing any activity pursuant to this subdivision, any Missouri bank may exercise such power as provided in subdivision (5) of this section without giving notice.

(5) When a determination is made pursuant to paragraph (e) of subdivision (4) of this section, the director shall issue a public interpretative letter or statement of no action regarding the specific power authorized pursuant to subdivision (4) of this section; such interpretative letters and statements of no action shall be made with the name of the specific institution and related identifying facts deleted. Such interpretative letters and statements of no action shall be published on the division of finance public Internet website, and filed with the office of the secretary of state for ten days prior to effectiveness. Any other Missouri bank may exercise any power approved by interpretative letter or statement of no action of the director pursuant to this subdivision; provided, the institution meets the requirements of the interpretative letter or statement of no action and the prescribed standards required for the activity permitted national banks in the interpretive letter. Such Missouri bank shall not be required to give the notice pursuant to paragraph (e) of subdivision (4) of this section. For the purposes of this subdivision and subdivision (4) of this section, "activity" shall mean the offering of any product or service or the conducting of any other activity; "federal law" shall mean any federal statute or regulation or an interpretive letter issued by the Office of the Comptroller of the Currency; "Missouri bank" shall mean any bank or trust company created pursuant to the laws of this state.

362.109. Notwithstanding any law to the contrary, any order or ordinance by any political subdivision shall be consistent with and not more restrictive than state law and regulations governing lending or deposit taking entities

regulated by the Division of Finance or the Division of Credit Unions within the Department of Economic Development.

362.119. Any bank organized **[**under**] pursuant to** the laws of this state may invest not to exceed five percent of its capital, surplus and undivided profits in shares of stock in any new or existing trust company or companies **or any new or existing holding company or companies controlling a trust company or companies, provided that such holding company is either a bank holding company or is a holding company with the sole purpose of owning a trust company,** if the direct or indirect ownership of a majority of such stock or class of stock in such **[**trust company or companies**] entity or entities** is restricted to banks authorized to do business in the state of Missouri. For purposes of this section, the term "ownership of a majority of such stock or class of stock" does not mean or infer that such owner or owners have a controlling interest or voting interest in such trust company or companies**, and the term "entity" means a trust company, bank holding company or a holding company that is not a bank holding company but that has the sole purpose of owning a trust company**.

362.170. 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the aggregate which will exceed fifteen percent of the unimpaired capital of the bank or trust company if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;

e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;

f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;

g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;

(b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon paper based upon the collateral security of warehouse receipts covering agricultural

products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: first, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable **[**installment consumer**]** paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same, shall not be considered as money borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not

receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage-related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g. of paragraph (a) of subdivision (1) of subsection 2 of this section, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) No salaried officer of any bank or trust company shall use or borrow for himself or herself, directly or indirectly, any money or other property belonging to any bank or trust company of which the person is an officer, in excess of ten percent of the unimpaired capital of the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust company. Where loans and a line of credit are made to salaried officers, the loans and line of credit shall first be approved by a majority of the board of directors or of the executive or discount committee, the approval to be in writing and the officer to whom the loans are made, not voting. The form of the approval shall be as follows:

We, the undersigned, constituting a majority of the ..... of the ..... (bank or trust company), do hereby approve a loan of $..... or a line of credit of

$....., or both, to ....., it appearing that the loan or line of credit, or both, is not more than 10 percent of the unimpaired capital of ..... (bank or trust company); it further appearing that the loan (money actually advanced) will not make the aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank or trust company.

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Dated this ..... day of ....., 20.....

Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan to that corporation shall be considered for the purpose of this subdivision as a loan to the officer. Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount lent;

(6) Invest or keep invested in the stock of any private corporation, except as provided in this chapter.

3. Provided, that the provisions in this section shall not be so construed as in any way to interfere with the rules and regulations of any clearinghouse association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class C felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen

percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915**, and the prohibition for investments in this subsection shall not apply to investments otherwise provided by law other than subdivision (4) of subsection 3 of section 362.105**.

7. Any bank or trust company to which the provisions of subsection 2 of this section apply may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

362.270. Within thirty days after the date on which the annual meeting of the stockholders is held the directors elected at such meeting shall, after subscribing the oath required in section 362.250, hold a meeting at which they shall elect a **chief executive officer which the board may designate as** president **or another appropriate title,** from their own number, one or more vice presidents, and such other officers as are provided for by the bylaws to be elected annually.

362.325. 1. Any bank or trust company may, at any time, and in any amount, increase or, with the approval of the director, reduce its capital stock (as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. A bank or trust company may, but shall not be obligated to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and one certified copy filed in the public records of the division of finance.

6. Upon the filing of the certified copy the director shall promptly satisfy himself or herself that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he or she is so satisfied he or she shall issue a certificate that the bank or trust company has complied with the law made and provided for the increase or decrease of capital stock, and the amount to which the capital stock has been increased or decreased or for the change in the length of its corporate life or any other change provided for in this section. Thereupon, the capital stock of the bank or trust company shall be increased or decreased to the amount specified in the certificate or the length of the corporate life of the bank shall be changed or other authorized change made as specified in the certificate. The certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of the increase, decrease or change.

7. Provided, however, that if the change undertaken by the bank or trust company in its articles of agreement shall provide for the relocation of the bank or trust company in another community, the director shall make or cause to be made an examination to ascertain whether the convenience and needs of the new community wherein the bank desires to locate are such as to justify and warrant the opening of the bank therein and whether the probable volume of business at the new location is sufficient to ensure and maintain the solvency of the bank and the solvency of the then existing banks and trust companies at the location, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys, and, if the director, as a result of the examination, be not satisfied in the particulars mentioned or either of them, he or she may refuse to issue the certificate applied for, in which event he or she shall

forthwith give notice of his or her refusal to the bank applying for the certificate, which if it so desires may, within ten days thereafter, appeal from the refusal to the state banking board.

8. All certificates issued by the director of finance relating to amendments to the charter of any bank shall be provided to the bank or trust company and one certified copy filed in the public records of the division of finance.

9. The board of directors may designate a chief executive officer, and such officer will replace the president for purposes of this section.

362.335. 1. The directors may appoint and remove any cashier, secretary or other officer or employee at pleasure.

2. The cashier, secretary or any other officer or employee shall not endorse, pledge or hypothecate any notes, bonds or other obligations received by the corporation for money loaned, until such power and authority is given the cashier, secretary or other officer or employee by the board of directors, pursuant to a resolution of the board of directors, a written record of which proceedings shall first have been made; and a certified copy of the resolution, signed by the president and cashier or secretary with the corporate seal annexed, shall be conclusive evidence of the grant of this power; and all acts of endorsing, pledging and hypothecating done by the cashier, secretary or other officer or employee of the bank or trust company without the authority from the board of directors shall be null and void. **The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.**

362.495. Whenever unusual withdrawals from any bank or trust company doing a banking business in this state, organized under the laws of this state are being made, or whenever in the judgment of the president and cashier or president and secretary of such bank or trust company and/or the board of directors thereof, unusual withdrawals are about to be made, such officers and/or directors are hereby authorized to suspend payment of checks of depositors and any and all other withdrawals of assets of such bank or trust company for a period of six banking days. **The board of directors may designate a chief executive officer who is not the president, but who shall perform all the duties of the president required by this section.**

362.935. The director of finance shall administer and carry out the provisions of sections 362.910 to 362.940 and may issue such regulations and orders as may be necessary to discharge this duty and to prevent evasion of subsection 1 of section 362.920 **[**or subsection 1 of section 362.925**]**.

[362.942. 1. No bank holding company whose bank subsidiaries' operations are principally conducted in a state other than the state of Missouri, and which

acquires control of a bank located in the state of Missouri, may acquire any other banks or establish branch banks for a two-year period beginning on the date such acquisition is consummated. During such two-year period, the bank holding company shall not be treated as a bank holding company whose bank subsidiaries' operations are principally conducted in the state of Missouri for purposes of acquiring other banks or establishing branch banks.

2. Notwithstanding any law to the contrary, nothing in this section shall limit the Missouri regional interstate banking law as contained in section 362.925.

3. The provisions of this section are severable. In the event that a court of competent jurisdiction shall enter a decision finding subsection 1 of this section unconstitutional or otherwise invalid and if such decision remains in force after all appeals therefrom have been exhausted, all remaining provisions of this section shall remain in full force and effect notwithstanding such decision and such decision shall not be given retroactive effect by any court and shall not invalidate any acquisitions completed in reliance on any provisions of law prior to the date when all such appeals have been exhausted.**]**

[367.100. As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean loans for personal, family or household purposes in amounts of five hundred dollars or more;

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action.

The provisions of section 367.100(1)(b) shall not be effective until January 1, 2002.**]**

367.100. As used in sections 367.100 to 367.200:

(1) "Consumer credit loans" shall mean**:**

(a) Prior to January 1, 2002, loans for the benefit of or use by an individual or individuals:

[(a)**] a.** Secured by a security agreement or any other lien on tangible personal property or by the assignment of wages, salary or other compensation; or

[(b)**] b.** Unsecured and whether with or without comakers, guarantors, endorsers or sureties;

(b) Beginning January 1, 2002 and thereafter, loans for personal, family or household purposes in amounts of five hundred dollars or more;

(2) "Director" shall mean the director of the division of finance or such agency or agencies as may exercise the powers and duties now performed by such director;

(3) "Lender" shall mean any person engaged in the business of making consumer credit loans. A person who makes an occasional consumer credit loan or who occasionally makes loans but is not regularly engaged in the business of making consumer credit loans shall not be considered a lender subject to sections 367.100 to 367.200;

(4) "Person" shall include individuals, partnerships, associations, trusts, corporations, and any other legal entities, excepting those corporations whose powers emanate from the laws of the United States and those which under other law are subject to the supervisory jurisdiction of the director **[**of the division of the finance of Missouri,**]** or the director of the division of credit unions of Missouri;

(5) "Supervised business" shall mean the business of making consumer credit loans, as herein defined, of money, credit, goods, or things in action.

367.215. The director of finance shall not issue a renewal license to any person or entity licensed under the provisions of sections 367.100 to 367.200 unless the audit report is furnished as required by section 367.210. **In lieu of the requirements of sections 367.205 to 367.215, the licensee may post a surety bond in the amount of one hundred thousand dollars. The bond shall be in a form satisfactory to the director and shall be issued by a bonding or insurance company authorized to do business in the state to secure compliance with all laws relative to consumer credit. If, in the opinion of the director, the bond shall at any time appear to be inadequate, insecure, exhausted, or otherwise doubtful, additional bond in a form and with surety satisfactory to the director shall be filed within fifteen days after the director gives notice to the licensee. A licensee may, in lieu of filing any bond required under this section, provide the director with a one hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any bank, trust company, savings and loan or credit union operating in Missouri.**

367.500. As used in sections 367.500 to **[**367.530**] 367.533**, unless the context

otherwise requires, the following terms mean:

(1) "Borrower", **[**the owner of any titled personal property who pledges such property to a title lender**]** **a person who borrows money** pursuant to a title loan agreement;

(2) "Capital", the assets of a person less the liabilities of that person. Assets and liabilities shall be measured according to generally accepted accounting principles;

(3) "Certificate of title", a state-issued certificate of title or certificate of ownership for personal property**[**, which certificate is deposited with a title lender as security for a title loan pursuant to a title loan agreement**]**;

(4) "Director", the director of the division of finance of the department of economic development or its successor agency;

(5) "Person", any resident of the state of Missouri or any business entity formed under Missouri law or duly qualified to do business in Missouri;

(6) "Pledged property", personal property, ownership of which is evidenced and delineated by a **[**state-issued certificate of**]** title;

(7) "Title lending office" **or** "**title loan office**", a location at which, or premises in which, a title lender regularly conducts business;

(8) "Title lender", a person **[**who has**]** qualified to **[**engage in the business of making**]** **make** title loans pursuant to sections 367.500 to **[**367.530 and**]** **367.533 who** maintains at least one title lending office within **[**the boundaries of**]** the state of Missouri, which office is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

(9) "Title loan agreement", a written agreement between a borrower and a title lender in a form which complies with the requirements of sections 367.500 to **[**367.530**]** **367.533**. The title lender shall **[**retain physical possession of the certificate of title for the entire length of the title loan agreement and for all renewals or extensions thereof, except to the extent necessary to**]** perfect **[**the title lender's**]** **its** lien pursuant to sections 301.600 to 301.660, RSMo, but **[**shall**]** **need** not **[**be required to**]** retain physical possession of the titled personal property at any time**[**. The money advanced to the borrower under a title loan agreement shall not be considered a debt of the borrower for any purpose and the borrower shall have no personal liability under a title loan agreement**]**; and

(10) "**[**Title**]** **Titled** personal property", any personal property **excluding property qualified to be a personal dwelling** the ownership of which is evidenced **[**and delineated**]** by a **[**state-issued**]** certificate of title.

367.503. 1. The **[**division of finance**]** **director** shall **[**have responsibility to**]** administer and regulate **[**the provisions of**]** sections 367.500 to **[**367.530**]** **367.533**. The director, deputy director, other assistants and examiners, and all special agents and other

employees shall keep all information [obtained from persons applying for a certificate of registration as a title lender and from all persons licensed as a title lender confidential and shall not disclose such information unless required by law or judicial order] **concerning title lenders confidential as required by sections 361.070 and 361.080, RSMo**.

2. No employee of the division of finance shall have any ownership or interest in any **title loan** business [entity engaged in the business of title loans,] or receive directly or indirectly any payment or gratuity from any such entity.

3. [In enacting rules affecting the business of title lending,] The director shall [not limit the number of title lending certificates of registration that may be issued, but shall only] issue as many [certificates of registration] **title loan licenses** as may be applied for by qualified applicants.

4. No rule or portion of a rule promulgated pursuant to the authority of sections 367.500 to [367.530] **367.533** shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

367.506. 1. [It is unlawful for] Any person [to act] **who acts** as a title lender [unless such person has first registered and received] **without** a [certificate of registration from the division of finance to conduct such business in the manner and form provided pursuant to this act. Violators of the registration requirement are] **title loan license is** subject to both civil and criminal penalties.

2. All title loan agreements entered into by a person who acts in violation of the [registration] **licensing** requirements [provided in] **of** sections 367.500 to [367.530] **367.533**, and all title pledges accepted by such person, shall be null and void. Any borrower who enters into a title loan agreement with a person who acts in violation of the provisions of sections 367.500 to [367.530] **367.533** shall not be bound by [the terms of] such agreement, and such borrower's only liability [to such person] shall be for the return of the principal [sum borrowed plus interest at the rate set by statute for interest on judgments].

3. The attorney general may initiate a civil action against any person [required to maintain a certificate of registration as a title lender] who acts as a title lender without [first obtaining such certificate] **a title loan license**. Such action shall be commenced in the circuit court for any county [in which such person engaged in title lending. For purposes of this section, such county shall mean any county] in which the person executed any title loan agreement and any county in which any of the pledged **titled personal** property is normally kept. The civil penalty for title lending without [first obtaining] a [certificate of registration] **title loan license** shall be [a fine of] not less than one thousand dollars and not more than five thousand dollars for each day that a person acts in violation of the [registration] **licensing** requirement. If the violation of the [registration] **licensing** requirement is intentional or knowing, the person shall be barred from applying for a

[certificate of registration as a title lender**] title loan license** for a period of five years from the date of the last violation.

4. A first offense violation of the **[**registration**] licensing** requirement pursuant to this section shall be a class C misdemeanor. Second and subsequent offenses shall be class A misdemeanors. For purposes of jurisdiction and venue, the crime of unlawful title lending shall be deemed to have occurred in both the county in which an unlawful title loan agreement was executed and the county in which the pledged property is normally kept.

367.509. 1. **[**To be eligible for**]** A **[**registration certificate as a title lender, an**] title loan license** applicant must **[**be either a natural person resident in the state of Missouri or a business entity formed under the laws of the state of Missouri or a business entity qualified to conduct business in the state of Missouri, and**]** have and maintain capital of at least seventy-five thousand dollars at all times.

2. The **license** application **[**for a certificate of registration**]** shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant**[**;**],** date of formation if a business entity**[**;**],** the address of each title loan office operated or sought to be operated**[**;**],** the name and **[**resident**] residential** address of the owner **[**or**],** partners **[**or**]**, **[**if a corporation or association, of the**]** directors, trustees and principal officers**[**;**],** and such other pertinent information as the director may require. **A corporate surety bond in the principal sum of twenty thousand dollars per location shall accompany each license application. The bond shall be in a form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state in order to ensure the faithful performance of the obligations of the applicant and the applicant's agents and subagents in connection with title loan activities. An applicant or licensee may, in lieu of filing any bond required pursuant to this section, provide the director with an irrevocable letter of credit as defined in section 400.5-103, RSMo, in the amount of twenty thousand dollars per location, issued by any bank, trust company, savings and loan or credit union operating in Missouri in a form acceptable to the director.**

3. Every person **[**that has not previously been issued a certificate of registration pursuant to this section to engage in the business of title lending shall, at the time of**]** applying for **[**such certificate,**] a title loan license shall** pay **[**the sum of**]** one thousand dollars as an investigation fee**[**, which fee shall be used to cover the costs of investigating the application**]**. **[**A registered title lender may apply**] Applicants** for **[**a certificate of registration for**]** additional title lending **[**office locations, and**] licenses** shall**[**, at the time of making such application**]** pay **[**the sum of**]** one thousand dollars **per additional location** as an investigation fee**[**, which fee shall be used to cover the costs of investigating

the title lender's additional title lending office location**]**. **[**In addition to the investigative fees required pursuant to this section,**]** The lender shall, beginning with the first **license** renewal **[**of said certificate**]**, pay annually to the director a fee of one thousand dollars for each **licensed** location **[**for which a certificate of registration has been issued**]**.

4. Each **[**certificate**] license** shall specify the location of the **[**specific**]** title loan office **[**to which it applies**]** and shall be conspicuously displayed therein. Before any title lending office **[**location**]** may **[**be changed or moved by the lender**] relocate**, the director shall approve such **[**change of location by endorsing the certificate or**] relocation by** mailing the licensee a new **[**certificate**] license** to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, by a person eligible to apply for a title **[**lender's certificate**] loan license**, the director shall issue a **[**certificate to the applicant**] license** to engage in the title loan business **[**under and**]** in accordance with **[**the provisions of**]** sections 367.500 to **[**367.530 for a period which shall expire the last day of December next following the date of its issuance**] 367.533**. **The licensing year shall commence on January first and end the following December thirty-first.** Each **[**certificate**] license** shall be uniquely numbered and shall not be transferable or assignable. Renewal **[**certificates**] licenses** shall be effective for a period of one year.

367.512. 1. **[**Any licensed title lender may engage in the business of making loans secured by a certificate of title as provided in sections 367.500 to 367.530.

2.**]** Every title loan**, and each extension or renewal of such title loan,** shall be **[**reduced to**] in** writing **[**in a title loan agreement. Each title loan agreement**], signed by the borrower and** shall provide **[**as follows and shall include the following terms**] that**:

(1) The title lender agrees to make a loan **[**of money**]** to the borrower, and the borrower agrees to give the title lender a security interest in unencumbered titled personal property **[**owned by the borrower**]**;

(2) **Whether** the borrower consents to the title lender keeping possession of the certificate of title;

(3) The borrower shall have the **[**exclusive**]** right to redeem the certificate of title by repaying the loan **[**of money**]** in full and by complying with the title loan agreement **which may be** for **[**an**] any** agreed period of time **[**but in any case**]** not less than thirty days;

(4) The title lender shall renew the title loan agreement **[**for additional thirty-day periods**]** upon the borrower's **written** request and the payment by the borrower of any interest **[**and fees**]** due at the time of such renewal**[**,**].** However**,** upon the third renewal of **[**the**] any** title loan agreement, and **[**each**] any** subsequent renewal **[**thereafter**]**, the borrower shall reduce the principal **[**amount of the loan**]** by ten percent **[**of the original amount of the loan**]** until such loan is paid in full;

(5) When the [certificate of title is redeemed] **loan is satisfied**, the title lender shall release its [security interest in the titled personal property] **lien** and return the [personal property certificate of] title to the borrower;

(6) [Upon failure of the borrower to redeem the certificate of title at the end of the original thirty-day agreement period, or at the end of any agreed-upon thirty-day renewal or renewals thereof, the borrower shall deliver the titled personal property to the title lender at the location specified in the agreement, which location shall be no more than fifteen miles from the title lender's office where the title loan agreement was executed;

(7)] If the borrower [fails to deliver the titled personal property to the title lender] **defaults**, the title lender shall be allowed to take possession of the titled personal property **after compliance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**;

[(8)] **(7)** Upon obtaining possession of the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo**, the title lender shall be authorized to sell the titled personal property **in accordance with chapter 400, RSMo, sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo,** and to convey to the buyer thereof good title thereto[, subject to the waiting periods provided for in section 367.521; and

(9) A borrower who does not redeem a pledged certificate of title shall have no personal liability to the title lender to repay principal, interest or expenses incurred in connection with the title loan, and that the title lender shall look solely to the titled personal property for satisfaction of the amounts owed under the title loan agreement].

[3.] **2.** Any borrower who obtains a title loan [from a title lender] under false pretenses by hiding or not disclosing the existence of a valid prior lien or security interest affecting the titled personal property, shall be personally liable to the title lender for the full amount stated in the title loan agreement.

367.515. [1. The maximum rate of interest that a title lender shall contract for and receive for making and carrying any title loan authorized by sections 367.500 to 367.530 shall not exceed one and one-half percent per month on the amount of such loans. Title lenders may charge, contract for, and receive a fee, which shall not be deemed interest, to defray the ordinary cost of operations. Such fee may include the title lenders cost for investigating the title, appraisal of the titled personal property, insuring the titled personal property while in the possession of the borrower, documenting and recording the transactions, perfecting a security interest in the titled personal property, storage of titled personal property in the possession of the title lender and for all other services and costs of the lender associated with such transactions. A pro rata portion of the foregoing fee shall be fully earned, due and owing each day that the title loan agreement remains unpaid after

maturity. Such interest and fees shall be deemed to be earned, due and owing as of the date of the title loan agreement and on the date of any subsequent renewal thereof.

2.**]** A title lender **[**may assess and collect a repossession charge if the borrower fails to deliver the titled personal property pursuant to the terms of the title loan agreement. This charge shall equal the actual expense incurred by the title lender to repossess the titled personal property, including attorney's fees, but shall be no greater than five hundred dollars for any single article of titled personal property**] shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140, RSMo**.

367.518. 1. Each title loan agreement shall disclose the following:

(1) All disclosures required **[**to be made under**] by** the federal Truth in Lending Act **and regulation Z**;

(2) That the transaction is a loan secured by the pledge of titled personal property **and, in at least 10-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property**;

(3) The **[**identity of the parties to the agreement, including the**]** name, business address, telephone number and certificate number of the title lender, and the name**[**, resident**] and residential** address **[**and identification**]** of the borrower;

(4) The monthly interest rate to be charged;

(5) **[**The allowable fees and expenses to be charged to the borrower upon redemption of the certificate of title;

(6) The date on which the borrower's exclusive right to redeem the pledged certificate of title pursuant to section 367.521 expires**] A statement which shall be in at least 10-point bold type, separately acknowledged by the signature of the borrower and reading as follows: You may cancel this loan without any costs by returning the full principal amount to the lender by the close of the lender's next full business day**;

[(7)**] (6)** The location where the titled personal property **[**is to**] may** be delivered if the **[**certificate of title**] loan** is not **[**redeemed**] paid** and the hours such location is open for receiving such deliveries; and

[(8)**] (7)** Any additional disclosures deemed necessary by the **[**division of finance**] director** or required pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The division of finance is directed to **[**promulgate**] draft** a form **[**of disclosure**]** to be used in title loan **[**agreements**] transactions**. Use of **[**the**] this** form **[**promulgated by the division of finance**]** is not mandatory**[**.**];** however, use of such form, properly completed, shall satisfy the disclosure provisions of this section.

367.521. 1. **[**Except as otherwise provided in sections 367.500 to 367.530,**]** The

borrower shall be entitled to redeem the **[**certificate of title upon**]** **security by** timely satisfaction of **[**all outstanding obligations agreed to in**]** the **terms of the** title loan agreement. Upon expiration or default of a title loan agreement **[**and of the renewal or renewals of the agreement, if any, the title lender shall retain possession of the certificate of title for at least twenty days. If the borrower fails to redeem the certificate of title before the lapse of the twenty-day holding period, the pledgor shall thereby forfeit all right, title and interest in and to the titled personal property to the title lender, who shall thereby acquire an absolute right of title to the titled personal property, and the title lender shall have the sole right and authority to sell or dispose of the pledged property pursuant to sections 400.9-101 to 400.9-508, RSMo.

2. The title lender has, upon default by the pledgor of any obligation pursuant to the title loan agreement, the right to take possession of the titled personal property.

3. In taking possession, the title pledge lender or the lender's agent may proceed without judicial process if this can be done without breach of the peace; or, if necessary, may proceed by action to obtain judicial process. Any repossession conducted without the knowledge and cooperation of the owner shall comply with the requirements of subsection 12 of section 304.155, RSMo.

4. If the title lender takes possession of the titled personal property, either personally or through its agent, at any time during the twenty-day holding period provided herein, the title lender shall retain possession, either personally or through its agent, of the titled personal property until the expiration of the twenty-day holding period.

5. If during the twenty-day holding period, the borrower redeems the certificate of title by paying all outstanding principal, interest, and other fees stated in the title pledge agreement, and, if applicable, repossession fees and storage fees, the borrower shall be given possession of the certificate of title and the titled personal property, without further charge.

6. If the borrower fails to redeem the titled personal property during the twenty-day holding period, the borrower shall thereby forfeit all right, title, and interest in and to the titled personal property and certificate of title, to the title lender, who shall thereby acquire an absolute right of title and ownership to the titled personal property. The title lender shall then have the sole right and authority to sell or dispose of the unredeemed titled personal property.

7. If the borrower loses the title pledge agreement or other evidence of the transaction, the borrower shall not thereby forfeit the right to redeem the pledged property, but may promptly, before the lapse of the redemption date, make affidavit for such loss, describing the pledged property, which affidavit shall, in all respects, replace and be substituted for the lost evidence of the transaction**], the title lender may proceed**

against the collateral pursuant to chapter 400, RSMo, and with sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo.

367.524. 1. Every title lender shall keep a consecutively numbered record of each **[**and every**]** title loan agreement executed, which number shall be placed on the corresponding title loan agreement itself. Such record shall include the following:

(1) A clear and accurate description of the titled personal property, including its vehicle identification or serial number, license plate number, **[**if applicable,**]** year, make, model, type, and color;

(2) The date of the title loan agreement;

(3) The amount of the loan **[**made pursuant to the title loan agreement**]**;

(4) The date of maturity of the loan; and

(5) The name, **[**race, sex, height,**]** date of birth, Social Security number, **[**resident**]** **residential** address, and the type **[**and unique identification number**]** of **[**the**]** photo identification of the borrower.

2. The title lender shall **[**make a good and useable**]** photocopy **[**of**]** the photo identification of the borrower or shall take an instant photograph of the borrower, **[**which**]** **and shall attach such** photocopy or photograph **[**shall be attached**]** to the lender's copy of the title loan agreement **and all renewals**.

3. The borrower shall sign the title loan agreement and shall be provided with a copy of such agreement. The title lender, or the lender's employee or agent shall also sign the title loan agreement. **The title lender shall provide each customer with and retain a photocopy of the pledged title at the time the note is signed.**

4. The title lender shall keep the numbered records and copies of its title loan agreements**, including a copy of the notice required pursuant to subsection 1 of section 367.525,** for a period of no less than two years from the date of the closing of the last transaction reflected therein. **[**The date of the last transaction, as used in this subsection, means in the case where a borrower redeemed the pledged certificate of title, the date of such redemption, and in the case where a borrower does not redeem the pledged certificate of title, the date on which the title lender sells the titled personal property.**]** A title lender who ceases engaging in the business of making title loans shall keep these records for **[**a period of no less than**]** **at least** two years from the date the lender ceased engaging in the business. **A title lender must notify the director to request an examination at least ten days before ceasing business.**

5. The records required **[**to be maintained**]** by this section shall be made available for inspection by any employee of the division of finance upon request during ordinary business hours without warrant or court order.

367.525. 1. Before accepting a title loan application, the lender shall

provide the borrower the following notice in at least 10-point bold type and receipt thereof shall be acknowledged by signature of the borrower:

(Name of Lender)

NOTICE TO BORROWER

(1.) Your automobile title will be pledged as security for the loan. If the loan is not repaid in full, including all finance charges, you may lose your automobile.

(2.) This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

I have read the above "NOTICE TO BORROWER" and I understand that if I do not repay this loan that I may lose my automobile.

_____

Borrower

_____

Date

2. If the loan is secured by titled personal property other than an automobile, the lender shall either provide a form with the proper word describing the security or else shall strike the word "automobile" from the three places it appears, write or print in the type of titled personal property serving as security and have the customer initial all three places.

3. The title lender shall post in a conspicuous location in each licensed office, in at least 14-point bold type the maximum rates that such title lender is currently charging on any loans made and the statement:

NOTICE:

Borrowing from this lender places your automobile at risk. If this loan is not repaid in full, including all finance charges, you may lose your automobile.

This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

4. When making or negotiating loans, the title lender shall take into consideration in determining the size and duration of a loan contract the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract.

367.527. 1. A title lender shall not:

(1) Accept a pledge from a person under eighteen years of age**[**,**]** or from anyone who appears to be intoxicated;

(2) **[**Make any agreement giving the title lender any recourse against the borrower other than the title lender's right to take possession of the titled personal property and certificate of title upon the borrower's default or failure to redeem, sell or otherwise dispose

of the titled personal property in accordance with provisions of this act, except as otherwise expressly permitted in sections 367.500 to 367.530;

(3) Enter into a title agreement in which the amount of money loaned in consideration of the pledge of any single certificate of title**] make a loan which** exceeds five thousand dollars;

[(4)**] (3)** Accept any waiver**[**, in writing or otherwise,**]** of any right or protection **[**accorded**] of** a borrower **[**pursuant to sections 367.500 to 367.530**]**;

[(5)**] (4)** Fail to exercise reasonable care to protect from loss or damage certificates of title or titled personal property in the physical possession of the title lender;

[(6)**] (5)** Purchase titled personal property in the operation of its business;

[(7)**] (6)** Enter into a title loan agreement unless the borrower presents clear title **[**to titled personal property**]** at the time that the loan is made **[**and such title is retained in the physical possession of the title pledge lender; or**];**

[(8)**] (7)** Knowingly violate any provision of sections 367.500 to **[**367.530**] 367.533** or any rule promulgated **[**pursuant to authority granted by this act**] thereunder;**

(8) Violate any provision of sections 408.551 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo; or

(9) Store repossessed titled personal property at a location more than fifteen miles from the office where the title loan agreement was executed.

2. If a title lender enters into a transaction contrary to this section, **[**any lien obtained by the title lender**] the loan and the lien** shall be void.

367.530. 1. Every **[**person engaged in the business of title lending**] title lender** shall **[**provide**] maintain** a **[**safe**] fireproof** place for the **[**keeping of the**]** pledged certificates of title and **a safe place** for **[**the keeping of**]** pledged property delivered to **or repossessed by** the title lender **[**pursuant to the terms of any title loan agreement**]**.

2. Every **[**person engaged in the business of title lending**] title lender** shall maintain premises liability insurance in an amount of not less than one million dollars per occurrence for the benefit of customers and employees **[**who visit or work at the title lending office**]**, which insurance shall provide coverage for, among other risks, injuries caused by the criminal acts of third parties.

3. A **[**person engaged in the business of title lending**] title lender** shall **not** be **[**immune from liability**] liable** for any loss or injury occasioned or caused by the use of pledged property unless the pledged property is actually in the **title lender's** possession **[**of the title pledge lender**]**.

4. A **[**person engaged in the business of title lending**] title lender** shall be strictly liable to the borrower for any loss to pledged property in the **title lender's** possession **[**of the title lender, but only if the borrower makes a redemption of the pledged property prior

to the expiration of the twenty-day holding period provided in section 367.521**]**.

367.531. The provisions of sections 408.552 to 408.557, RSMo, and sections 408.560 to 408.562, RSMo, are applicable to all transactions pursuant to sections 367.500 to 367.533.

367.532. 1. Any title lender which fails, refuses or neglects to comply with sections 367.500 to 367.533, sections 408.551 to 408.557, RSMo, sections 408.560 to 408.562, RSMo, or any laws relating to title loans or commits any criminal act may have its license suspended or revoked by order of the director after a hearing before said director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the title lender at least ten days prior to the hearing.

2. Whenever it shall appear to the director that any title lender is failing, refusing or neglecting to make a good faith effort to comply with the provisions of sections 367.500 to 367.533, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

379.316. 1. Section 379.017 and sections 379.316 to 379.361 apply to insurance companies incorporated pursuant to sections 379.035 to 379.355, section 379.080, sections 379.060 to 379.075, sections 379.085 to 379.095, sections 379.205 to 379.310, and to insurance companies of a similar type incorporated pursuant to the laws of any other state of the United States, and alien insurers licensed to do business in this state, which transact fire and allied lines, marine and inland marine insurance, to any and all combinations of the foregoing or parts thereof, and to the combination of fire insurance with other types of insurance within one policy form at a single premium, on risks or operations in this state, except:

(1) Reinsurance, other than joint reinsurance to the extent stated in section 379.331;

(2) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured pursuant to marine, as distinguished from inland marine, insurance policies;

(3) Insurance against loss or damage to aircraft;

(4) All forms of motor vehicle insurance; and

(5) All forms of life, accident and health, and workers' compensation insurance.

2. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the director, or as established by general custom of the business, as inland marine insurance.

3. Commercial property and commercial casualty insurance policies **[**which meet the exemption requirements of section 379.362 shall be exempt from those insurance laws of this state which concern the regulation by the director of the department of insurance of the policy language, policy provisions or the format of such policies, or the regulation of the rates used to calculate the amount of premium charged**] are subject to rate and form filing requirements as provided in section 379.321**.

379.321. 1. Every insurer shall file with the director, except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section **[**and as to inland marine risks which by regulation or general custom of the business are not written according to manual rates or rating plans**]**, every manual of classifications, rules, underwriting rules and rates, every rating plan and every modification of the foregoing which it uses and the policies and forms to which such rates are applied. Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the director to accept such filings on its behalf, provided that nothing contained in section 379.017 and sections 379.316 to 379.361 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the director to accept such filings on its behalf. Filing with the director by such insurer or licensed rating organization within ten days after such manuals, rating plans or modifications thereof or policies or forms are effective shall be sufficient compliance with this section.

2. Except as to commercial property or commercial casualty insurance as provided in subsection 6 of this section and **[**as to contracts or policies for**]** inland marine risks **[**as to which filings are not required**] as provided in subsection 1 of this section**, no insurer shall make or issue a policy or contract except pursuant to filings which are in effect for that insurer or pursuant to section 379.017 and sections 379.316 to 379.361. Any rates, rating plans, rules, classifications or systems, in effect on August 13, 1972, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

3. Upon the written application of the insured, stating his or her reasons therefor, filed with the insurer, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

4. Every insurer which is a member of or a subscriber to a rating organization shall

be deemed to have authorized the director to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) That any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the director and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and

(2) That any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the director:

(a) Requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty days after receipt of such request, either:

a. To make such filing as a rating organization filing;

b. To make such filing on an agency basis solely on behalf of the requesting member; or

c. To decline the request of such member; and

(b) Excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

5. Any change in a filing made pursuant to this section during the first six months of the date such filing becomes effective shall be approved or disapproved by the director within ten days following the director's receipt of notice of such proposed change.

6. **[**Commercial property and commercial casualty insurance policies which meet the exemption requirements of section 379.362 shall adhere to the filing requirements of this section, provided however, that the filings for such policies shall be for informational purposes only. Therefore, all manuals of classifications, rules, underwriting rules, rates, rate plans and modifications, policy forms and other forms to which such rates are applied, shall be filed with the director for policies which meet the exemption requirements of section 379.362. Such filings shall be made with the director within thirty days after such materials are used by the insurer, but such policies and rates need not be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual policies or the rates related thereto where the original policy forms, manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director.**]** **Commercial property and commercial casualty requirements differ as follows:**

(1) All commercial property and commercial casualty insurance rates, rate plans, modifications, and manuals of classifications, where appropriate, shall be filed with the director for informational purposes only. Such rates are not to be reviewed or approved by the department of insurance as a condition of their use. Nothing in this subsection shall require the filing of individual rates where the original manuals, rates and rules for the insurance plan or program to which such individual policies conform have already been filed with the director;

(2) If an insurer will only renew a commercial casualty or commercial property insurance policy with an increase in premium of twenty-five percent or more, a "premium alteration requiring notification" notice must be mailed or delivered by the insurer at least sixty days prior to the expiration date of the policy, except in the case of an umbrella or excess policy the coverage of which is contingent on the coverage of an underlying policy of commercial property or casualty insurance, in which case notice of an increase in premium of twenty-five percent or more shall be mailed or delivered at least thirty days prior to the expiration date of the policy. Such notice shall be mailed or delivered to the agent of record and to the named insured at the address shown in the policy. If the insurer fails to meet this notice requirement, the insured shall have the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. This provision does not apply if the insurer has offered to renew a policy without such an increase in premium or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. For purposes of this section, "premium alteration requiring notification" means an annual increase in premium of twenty-five percent or more, exclusive of premium increases due to a change in the operations of the insured which increases either the hazard insured against or the individual loss characteristics, or due to a change in the magnitude of the exposure basis, including, without limitation, increases in payroll or sales. For commercial multiperil policies, no "premium alteration requiring notification" shall be required unless the increase in premium for all of a policyholder's policies taken together amounts to a twenty-five percent or more annual increase in premium;

(3) Commercial property and commercial casualty policy forms shall be filed with the director as provided pursuant to subsection 1 of this section. However, if after review, it is determined that corrective action must be taken to modify the filed forms, the director shall impose such corrective action on a prospective basis for new policies. All policies previously issued which are

of a type that is subject to such corrective action shall be deemed to have been modified to conform to such corrective action retroactive to their inception date;

(4) For purposes of this section, "commercial casualty" means "commercial casualty insurance" as defined in section 379.882. For purposes of this section, "commercial property" means property insurance, which is for business and professional interests, whether for profit, nonprofit or public in nature which is not for personal, family or household purposes, but does not include title insurance;

(5) Nothing in this subsection shall limit the director's authority over excessive, inadequate or unfairly discriminatory rates.

379.356. **1.** No insurer, broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of section 379.017 and sections 379.316 to 379.361. No insurer or employee thereof, and no broker or agent shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed agents and brokers; nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

2. An insurer or insurance producer, agent or broker may charge additional incidental fees for premium installments, late payments, policy reinstatements, or other similar services specifically provided for by law or regulation. Such fees shall be disclosed to the applicant or insured in writing.

379.425. 1. Sections 379.420 to 379.510 apply to casualty insurance, including fidelity, surety and guaranty bonds, and to all forms of motor vehicle insurance, on risks or operations in this state, except**:**

(1) Reinsurance, other than joint reinsurance to the extent stated in section 379.460 and subsection 2 of section 379.430;

(2) Insurance against workers' compensation liability;

(3) Accident and health insurance;

(4) Insurance against loss of or damage to aircraft, or against liability, other than employers' liability, arising out of the ownership, maintenance or use of aircraft.

2. Commercial casualty insurance policies **[**which meet the exemption requirements of section 379.362**]** shall be exempt from **[**those insurance laws of this state which concern the regulation by the director of insurance of the policy language, policy provisions or the format of such policies, or regulation of the rates used to calculate the amount of premium charged**] the provisions of sections 379.420 to 379.510 to the extent permitted pursuant to subsection 6 of section 379.321**.

379.888. 1. As used in sections 379.888 to 379.893, the following terms mean:

(1) "'A' rated risk", any insurance coverage for which rates are individually determined based upon judgment because neither a rate service organization nor the insurer has yet established a manual rate based upon experience, except that if a rate service organization or the insurer acquires sufficient experience to establish, or if the insurer itself has, a manual rate for such coverage, then such coverage shall no longer be considered an "A" rated risk for each insurer;

(2) "Base rate", the rate designed to reflect the average aggregate experience of a particular market, prior to adjustment for individual risk characteristics resulting from application of any rating plan;

(3) "Classification", a grouping of insurance risks according to a classification system used by an insurer;

(4) "Classification system", a schedule of classifications and a rule or set of rules used by an insurer for determining the classification applicable to an insured;

(5) "Commercial casualty insurance", casualty insurance for business or nonprofit interests which is not for personal, family, or household purposes;

(6) "Director", the director of the department of insurance;

(7) "Rate", a monetary amount applied to the units of exposure basis assigned to a classification and used by an insurer to determine the premium for an insured;

(8) "Rating plan", a rule or set of rules used by an insurer to calculate premium for an insured, and the parameter values used in such calculation, after application of classification premium rates to units of exposure; and

(9) "Rating system", a collection of rating plans to be used by an insurer, rules for determining which rating plans are applicable to an insured, a classification system, and other rules used by an insurer for determining contractual consideration for insured.

2. **[**Every filing of commercial casualty insurance premium rates, rating plans or rating systems by an insurer or rating organization shall be submitted to the director for review prior to becoming effective if it produces an increase or decrease exceeding twenty-five percent annually from changes in any:

(1) Base rates;

(2) Rating basis;

(3) Rating plans;

(4) Manual rules;

(5) Territorial definitions; or

(6) Combination of such rating system components of subdivisions (1) to (5) of this subsection.

3.**]** Nothing in this section applies to premium increases or decreases from:

(1) Change in hazard of the insured's operation;

(2) Change in magnitude of the exposure basis for the insured, including, without limitation, changes in payroll or sales;

(3) "A" rated risks**[**; or

(4) Commercial casualty insurance that is exempt pursuant to section 379.362**]**.

[4.**]** **3.** Any renewal notice of a commercial casualty insurance policy as defined in section 379.882 for any Missouri risk or portion thereof which would have the effect of increasing the premium charged to the insured due to a change in any scheduled rating factor applied to the policy during the previous policy period shall contain or be accompanied by a notice to the insured informing the insured that any inquiry by the insured concerning the change may be directed to the agent of record or directly to the insurer. When any insured makes a request for information pursuant to this subsection, the insurer, directly or through the insurer's agent, shall inform the insured in writing in terms sufficiently clear and specific of the basis for any reduction in a scheduled rating credit or increase in a scheduled rating debit which is applied to the policy. Evidence supporting the basis for any scheduled rating credit or debit shall be retained by the insurer for the policy term plus two calendar years pursuant to section 374.205, RSMo. The department of insurance shall notify commercial casualty insurers of the requirements of this section by bulletin.

4. Any renewal involving a "premium alteration requiring notification" as defined in subsection 6 of section 379.321, shall be handled pursuant to the requirements of that subsection.

408.052. 1. No lender shall charge, require or receive, on any residential real estate loan, any points or other fees of any nature whatsoever, excepting insurance, including insurance for involuntary unemployment coverage, and a one-percent origination fee, whether from the buyer or the seller or any other person, except that the lender may charge bona fide expenses paid by the lender to any other person or entity except to an officer, employee, or director of the lender or to any business in which any officer, employee or director of the lender owns any substantial interest for services actually performed in connection with a loan. In addition to the foregoing, if the loan is for the construction,

repair, or improvement of residential real estate, the lender may charge a fee not to exceed one percent of the loan amount for inspection and disbursement of the proceeds of the loan to third parties. Notwithstanding the foregoing, the parties may contract for a default charge for any installment not paid in full within fifteen days of its scheduled due date. The restrictions of this section shall not apply:

(1) To any loan which is insured or covered by guarantee made by any department, board, bureau, commission, agency or establishment of the United States, pursuant to the authority of any act of Congress heretofore or hereafter adopted; and

(2) To any loan for which an offer or commitment or agreement to purchase has been received from and which is made with the intention of reselling such loan to the Federal Housing Administration, Farmers Home Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or to any successor to the above-mentioned organizations, to any other state or federal governmental or quasi-governmental organization; and

(3) Provided that the 1994 reenactment of this section shall not be construed to be action taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in excess of those permitted under this section shall be returned to the person from whom received upon demand.

2. Notwithstanding the language in subsection 1 of this section, a lender may pay to an officer, employee or director of the lender, or to any business in which such person has an interest, bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan, provided:

(1) Such services are individually listed by amount and payee on the loan-closing documents; and

(2) Such lender may use the preemption of Public Law 96-221, Section 501 with respect to the residential real estate loan in question. When fees charged need not be disclosed in the annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations thereunder because such fees are **[**deminimus**] de minimis** amounts or for other reasons, such fees need not be included in the annual percentage rate for state examination purposes.

3. **The lender may charge and collect bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan as provided in subsection 2 of this section; however, the lender's board of directors shall determine whether such bona fide fees shall be paid to the lender or businesses related to the lender in subsection 2 of this section, but may allow current contractual relationships to continue for up to two years.**

4. If any points or fees are charged, required or received, which are in excess of

those permitted by this section, or which are not returned upon demand when required by this section, then the person paying the same points or fees or his or her legal representative may recover twice the amount paid together with costs of the suit and reasonable attorney's fees, provided that the action is brought within five years of such payment.

[4.**]** **5.** Any lender who knowingly violates the provisions of this section is guilty of a class B misdemeanor.

408.140. 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed fifty dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) **If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;**

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life,

health, accident, or involuntary unemployment coverage;

[(5)**] (6)** Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than fifteen dollars;

[(6)**] (7)** If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

[(7)**] (8)** Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan. This section applies to nonprecomputed loans only and does not affect any other sections.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.500. 1. Lenders **[**exclusively**], other than banks, trust companies, credit unions, savings banks and savings andloan companies,** in the business of making unsecured loans **[**under**] of** five hundred dollars **[**and who are not otherwise registered under this chapter shall be registered with**] or less shall obtain a license from** the director of the division of finance **[**upon the payment of**].** An annual **[**registration**] license** fee of three hundred dollars **per location shall be required**. The license year shall commence on January first each year and the license fee may be prorated for expired months. **[**Such lenders shall not charge, contract for or receive on such loans interest or any fee of any type or kind whatsoever which exceed the approved rate as provided in this subsection. Lenders shall file a rate schedule with the director who, upon review, shall approve rates comparable with those lawfully charged in the marketplace for similar loans. In determining marketplace interest rates, the director shall consider the

appropriateness of rate requests made by lenders and rates allowed on similar loans in the states contiguous to Missouri. If the director takes no action upon a filed rate schedule within thirty days of receipt, then it shall be deemed approved as filed. The director, on January first and July first of each year, shall consider the filing of new interest rate schedules to reflect changes in the marketplace. The director may promulgate rules regarding the computation and payment of interest, contract statements, payment receipts and advertising for loans made under the provisions of this section.**]** The provisions of this section shall not apply to pawnbroker loans **[**and small**], consumer credit** loans as authorized under chapter 367, RSMo**, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower**.

2. **Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140.** Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in **[**excess of the rate established under**] violation of** this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in **[**excess of the rate established under**] violation of** this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes **[**pursuant to**] of** this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least 14-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

NOTICE:

This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least 10-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the fifth renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by ten percent of the original amount of the loan until such loan is paid in full.

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

408.510. Notwithstanding any other law to the contrary, the phrase "consumer installment loans" means secured or unsecured loans of any amount and payable in not less than four substantially equal installments over a period of not less than one hundred twenty days. The phrase "consumer installment lender" means a person licensed to make consumer installment loans. A consumer installment lender shall be licensed in the same manner and upon the same terms as a lender making consumer credit loans. Such consumer installment lenders shall contract for and receive interest and fees in accordance

with sections 408.100 and 408.140. Consumer installment lenders shall be subject to the provisions of sections 408.551 to 408.562.

427.220. 1. Commissions paid to properly licensed employees or individual agents of a depository institution or a related entity shall not be more limited than commissions paid to employees or agents or any other properly licensed insurance agency, but shall be disclosed at least quarterly to the board of directors of the depository institution if earned under a contract with the depository institution to facilitate the sale of insurance; provided this subsection shall not apply to commissions based on the sale of credit insurance regulated by chapter 385, RSMo.

2. Consideration given under a contract between a depository institution and a related entity to facilitate the sale of insurance shall not be more limited than under such a contract between a depository institution and a nonrelated entity, except that the consideration from the related entity, other than an operating subsidiary, must be at least equal to the fair market value of the consideration from the depository institution. The depository institution may establish the value of rights under a contract by obtaining written bid commitments based on a nonrelated entity's bid for a contract; provided:

(1) The parties to the contract may, demonstrate fair market value by illustrating the costs and benefits of the contract in a number of ways, including but not limited to the following: providing a full accounting of the calculations and compensation, including gross commissions to be received by each party to the contract, and any fees or other payments made to any bank officers, directors, employees and agents as a result of the contract, as well as specifically disclosing the services, such as standard light, heat, telephone, space plus office personnel and filing space, and providing an accounting of new business to be generated, with a comparison of depository institution and agency business, for the parties to the contract;

(2) Information provided pursuant to this subsection, shall be considered proprietary and confidential pursuant to sections 361.070 and 361.080, RSMo.

3. If the division determines enforcement action is necessary to protect the safety and soundness of an institution that it regulates, it may take enforcement action as otherwise permitted by law and may limit insurance commissions or other payments to an amount other than permitted in this section; provided the division has made a finding that enforcement action was required to protect the safety and soundness of such institution. Nothing in this section shall limit the application of sections 382.190 and 382.195, RSMo, to transactions between

insurers and their affiliates.

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

(1) "Commissions", in addition to insurance commissions, this term shall include any other compensation received for the sale of insurance products whether such compensation is classified within the depository institution as salary, bonus or other remuneration;

(2) "Contract", any contract or arrangement;

(3) "Division", the division of finance or the division of credit union supervision;

(4) "Fair market value", the value of an asset or service, which may include determinable costs and a profit reasonable for the market and shall not be limited to a specific rate of profit;

(5) "Operating subsidiary", any subsidiary of a depository institution that is not a financial subsidiary as otherwise defined by law;

(6) "Related entity", any holding company, affiliate or subsidiary of the depository institution or any entity controlled by common ownership with the depository institution or by an individual or individuals who are executive officers or directors of the depository institution.

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed one thousand dollars in value in the aggregate;

(2) Jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value four hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed two thousand dollars in value in the aggregate;

(5) Any motor vehicle, not to exceed one thousand dollars in value;

(6) Any mobile home used as the principal residence, not to exceed one thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one

or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value **[**five**] one hundred fifty** thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within **[**six months**] one year** prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed five hundred dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any similar plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution

pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified under Section 401(k), 403(a)(3), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended.

If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

Section 1. No insurer or its agent or representative shall require any applicant or policyholder to divulge if any insurer has denied any claim of that applicant or policyholder.