

SECOND REGULAR SESSION

[PERFECTED]

SENATE BILL NO. 895

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS YECKEL AND GROSS.

Read 1st time January 9, 2002, and 1,000 copies ordered printed.

Read 2nd time January 21, 2002, and referred to the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections.

Reported from the Committee January 31, 2002, with recommendation that the bill do pass.

Taken up for Perfection February 26, 2002. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3624S.02P

AN ACT

To repeal sections 30.270, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 369.144, 385.050, 400.9-303, 408.083, 408.140, 408.170, 408.320, 408.556, 408.557, 525.070, 700.350, RSMo, section 375.065 as enacted by house committee substitute for senate substitute for senate bill no. 193, ninety-first general assembly, first regular session and section 375.065 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 896, ninetieth general assembly, second regular session, relating to financial services, and to enact in lieu thereof twenty-six 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 30.270, 362.020, 362.106, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 369.144, 375.065, 385.050, 400.9-303, 408.083, 408.140, 408.170, 408.320, 408.556, 408.557, 525.070, 700.350, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 30.270, 362.020,

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

362.106, 362.111, 362.117, 362.170, 362.245, 362.270, 362.275, 362.335, 364.120, 365.100, 365.140, 367.518, 369.144, 375.065, 385.050, 400.9-303, 408.083, 408.140, 408.170, 408.320, 408.556, 408.557, 525.070 and 700.350, to read as follows:

30.270. 1. For the security of the moneys deposited by the state treasurer pursuant to the provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable securities to be approved by the governor and state auditor if satisfactory to them, and the state treasurer shall require of the selected and approved banks or financial institutions as security for the safekeeping and payment of deposits, securities from the list provided for in this section, which list may include only securities of the following kind and character:

- (1) Bonds or other obligations of the United States;
- (2) Bonds or other obligations of the state of Missouri including revenue bonds issued by state agencies or by state authorities created by legislative enactment;
- (3) Bonds of any city in this state having a population of not less than two thousand;
- (4) Bonds of any county in this state;
- (5) Approved registered bonds of any school district situated in this state;
- (6) Approved registered bonds of any special road district in this state;
- (7) State bonds of any state;
- (8) Notes, bonds, debentures or other similar obligations issued by the federal land banks, federal intermediate credit banks, or banks for cooperatives or any other obligations issued pursuant to the provisions of an act of the Congress of the United States known as the Farm Credit Act of 1971, and acts amendatory thereto;
- (9) Bonds of the federal home loan banks;
- (10) Any bonds or other obligations guaranteed as to payment of principal and interest by the government of the United States or any agency or instrumentality thereof;
- (11) Bonds of any political subdivision established pursuant to the provisions of section 30, article VI, of the Constitution of Missouri;
- (12) Tax anticipation notes issued by any county of the first classification;
- (13) A surety bond issued by an insurance company licensed pursuant to the laws of the state of Missouri whose claims-paying ability is rated in the highest category by at least one nationally recognized statistical rating agency. The face amount of such surety bond shall be at least equal to the portion of the deposit to be secured by the surety bond;
- (14) An irrevocable standby letter of credit issued by a Federal Home Loan Bank possessing the highest rating issued by at least one nationally recognized statistical rating agency;
- (15) Out-of-state municipal bonds, provided such bonds are rated in the highest category by at least one nationally recognized statistical rating agency.**

2. Securities deposited shall be in an amount valued at market equal at least to one

hundred percent of the aggregate amount on time deposit as well as on demand deposit with the particular financial institution less the amount, if any, which is insured either by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or by the National Credit Unions Share Insurance Fund.

3. The securities or book entry receipts shall be delivered to the state treasurer and receipted for by the state treasurer and retained by the treasurer or by financial institutions that the governor, state auditor and treasurer agree upon. The state treasurer shall from time to time inspect the securities and book entry receipts and see that they are actually held by the state treasury or by the financial institutions selected as the state depositories. The governor and the state auditor may inspect or request an accounting of the securities or book entry receipts, and if in any case, or at any time, the securities are not satisfactory security for deposits made as provided by law, they may require additional security to be given that is satisfactory to them.

4. Any securities deposited pursuant to this section may from time to time be withdrawn and other securities described in the list provided for in subsection 1 of this section may be substituted in lieu of the withdrawn securities with the consent of the treasurer; but a sufficient amount of securities to secure the deposits shall always be held by the treasury or in the selected depositories.

5. If a financial institution of deposit fails to pay a deposit, or any part thereof, pursuant to the terms of its contract with the state treasurer, the state treasurer shall forthwith convert the securities into money and disburse the same according to law.

6. Any financial institution making deposits of bonds with the state treasurer pursuant to the provisions of this chapter may cause the bonds to be endorsed or stamped as it deems proper, so as to show that they are deposited as collateral and are not transferable except upon the conditions of this chapter or upon the release by the state treasurer.

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

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

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

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

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

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

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

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

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

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

(1) A bank or trust company may exercise all powers necessary, proper or convenient to effect any 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 web site, 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] **a bank or trust company may exercise powers contained in section 362.111.**

362.111. 1. Notwithstanding any other law to the contrary except for bank

regulatory powers in chapters 361 and 369 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, federal savings and loan associations or federal savings banks are expressly authorized by federal law to conduct, if such Missouri bank meets the prescribed standards, provided that powers conferred by this subdivision:

(1) Shall always be subject to the same limitations applicable to a national bank, federal savings and loan associations or federal savings banks for conducting the activity;

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

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

(4) Shall be subject to applicable Missouri law on interstate banking and branching, including section 362.077;

(5) 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

(6) May be exercised by a Missouri bank after that institution has notified the director of the division of finance of its intention to exercise such specific power at the close of the notice period and such 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, federal savings and loan associations or federal savings 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, federal savings and loan associations or federal savings 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 subsection 2 of this section without giving notice.

2. When a determination is made pursuant to subdivision (6) of subsection 1 of this section, the director shall issue a public interpretive letter or statement that no

action regarding the specific power authorized pursuant to subsection 1 of this section, such interpretive 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 subsection; 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, federal savings and loan associations or federal savings banks in the interpretative letter. Such Missouri bank shall not be required to give the notice pursuant to subdivision (6) of subsection 1 of this section. For the purposes of this section, the following terms shall mean:

(1) "Activity", the offering of any product or service or the conducting of any other activity;

(2) "Federal law", any federal statute or regulation or an interpretive letter issued by the Office of the Comptroller of the Currency or the Office of Thrift Supervision;

(3) "Missouri bank", any bank or trust company, savings and loan associations or savings banks created pursuant to the laws of this state.

362.117. 1. Any bank may become a trust company with all the powers and subject to all the obligations and duties of trust companies organized under the provisions of this chapter.

2. A bank desiring to become a trust company shall proceed in the following manner:

(1) It shall call a meeting of its stockholders and shall give notice thereof as provided in section 362.044;

(2) At the meeting so called the stockholders of the bank may, by a vote of at least two-thirds of the entire capital stock issued, outstanding and entitled to vote, direct that the bank shall be transformed into a trust company. In the event that such action is taken by the prescribed vote, a resolution may be adopted fixing a future date certain upon which the state bank shall be transformed into a trust company and directing not less than five nor more than thirty of the stockholders of the bank, who shall be designated by name in the resolution, to proceed with the organization of the trust company;

(3) The designated stockholders shall proceed in all respects as is provided by law for other individuals in incorporating a trust company, except that the articles of agreement may provide that instead of the capital stock being paid up in lawful money the same may be paid up by an assignment of the assets of the state bank about to dissolve, the assignment to take effect at the aforesaid future date certain, and the director may allow the assignment to be

accepted instead of cash, if the incorporators shall have certified in the articles of agreement that the net value of the assigned assets is equal to at least the full amount of the stock of the proposed trust company, and the director, as the result of an examination by himself, his deputies or his examiners, is satisfied that the assets are of such value, **and except further that the stockholders may request in the resolution referred to in subdivision (2) of subsection 2 of this section that the new charter contain the original incorporation date for such state bank to be dissolved and the director shall grant such request to be included in the new trust company public charter to be issued.**

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] **the greater of: (i) twenty-five** percent of the unimpaired capital of the bank or trust company, **provided such bank or trust company has a composite rating of 1 or 2 under the Capital, Assets, Management, Earnings, Liquidity and Sensitivity (CAMELS) rating system of the Federal Financial Institute Examination Counsel (FFIEC); or (ii) 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 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 this subsection, 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, **provided however, a bank may invest in equity stock in the Federal Home Loan Bank up to twice the limit described in subdivision (1) of subsection 2 of section 362.170, and** except as **otherwise** 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.

362.245. 1. The affairs and business of the corporation shall be managed by a board of directors, consisting of not less than five nor more than thirty-five stockholders who shall be elected annually; except, that trust companies in existence on October 13, 1967, may continue to divide the directors into three classes of equal number, as near as may be, and to elect one class each year for three-year terms. Notwithstanding any provision of this chapter to the contrary, a director who is not a stockholder shall have all the rights, privileges, and duties of a director who is a stockholder.

2. Each director shall be a citizen of the United States, and at least a majority of the directors must be residents of this state at the time of their election and during their continuance in office; provided, however, that if a director actually resides within a radius of one hundred miles of the banking house of said bank or trust company, even though his or her residence be in another state adjoining and contiguous to the state of Missouri, he or she shall for the purposes of this section be considered as a resident of this state and in **the** event such director shall be a nonresident of the state of Missouri he or she shall upon his or her election as a director file with the president of the banking house **or such other chief executive office as otherwise permitted by this chapter** written consent to service of legal process upon him in his or her capacity as a director by service of the legal process upon the president as though the same were personally served upon the director in Missouri.

3. If at a time when not more than a majority of the directors are residents of this state, any director shall cease to be a resident of this state or adjoining state as defined in subsection 2 of this section, he or she shall forthwith cease to be a director of the bank or trust company and his or her office shall be vacant.

4. No person shall be a director in any bank or trust company against whom such bank or trust company shall hold a judgment.

5. Cumulative voting shall only be permitted at any meeting of the members or stockholders in electing directors when it is provided for in the articles of incorporation or bylaws.

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, **except as otherwise provided by law.**

362.275. 1. The board of directors of every bank and trust company organized or doing business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon application to and acceptance by the director of finance, at such other times, not less frequently than once each calendar quarter as the director of finance shall approve, which approval may be rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership, corporation or person whose liability to the bank or trust company has been created, extended, renewed or increased since the cut-off date prior to the regular meeting by more than an amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars, and a second list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds five times such minimum amount, except the aggregate indebtedness shall in no case be less than fifty thousand dollars; and a third list showing all paper past due thirty days or more; and a fourth list showing the aggregate of the then existing indebtedness and liability to the bank or trust company of each of the directors, officers, and employees thereof. The information called for in the second, third, and fourth lists shall be submitted as of the date of the regular meeting or as of a reasonable date prior thereto. If there is collateral to the indebtedness, it shall be described as of the date of the lists. No bills payable shall be made, and no bills shall be rediscounted by the bank or trust company except with the consent or ratification of the board of directors; provided, however, that if the bank or trust company is a member of the federal reserve system, rediscounts may be made to it by the officers in accordance with its rules, a list of all rediscounts to be submitted to the next regular meeting of the board. The director of finance may require, by order, that the board of directors of a bank or trust company approve or disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or other advance including every overdraft over an amount to be specified in the director's order and may also require that the board of directors review, at each monthly meeting, a list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an amount to be specified in the director's order. The minutes of the meeting shall indicate the compliance with the requirements of this section. Furthermore, the debtor's identity on the information required in this subsection, may be masked by code to conceal the actual debtor's identity only for information mailed to or otherwise provided directors who are not physically present at the board meeting. The code used shall be revealed to all directors at the beginning of each board meeting for which this procedure is used.

2. **For any issue in need of immediate action**, the board of directors **or the executive committee of the board as defined in section 362.253** may [ratify a poll taken by the bank or trust company's senior officers on any issue in need of immediate action and ultimate board approval, provided:

(1) The vote by poll meets or exceeds a majority of the board of directors unless a greater number of votes for board action is required by the bank or trust company's articles of agreement, bylaws or the law;

(2) Any director who is a member of the board and has a pecuniary interest in the board's action, recuses himself or herself from the poll, takes no part, and does not vote on the board ratification of such issue; and

(3) Such poll is made available by director's name and vote to the board prior to the board's vote on ratification.

3. If the board ratifies such poll as provided in subsection 2 of this section, the ratification shall have the same force and effect as the board originally approving such action at a board meeting, as of the date the poll is approved] **enter into an unanimous consent agreement as permitted by subsection 2 of section 351.340, RSMo. Such consent may be communicated by facsimile transmission or by other authenticated record, separately by each director, provided each consent is signed by the director and the bank has no indication such signature is not the director's valid consent. When the bank or trust company has received unanimous consent from the board or executive committee, the action voted on shall be considered approved.**

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.

3. A bank or trust company may appoint such officers as provided for in the articles of agreement, bylaws or as otherwise provided by law, however provided the directors appoint an officer that is also designated as the chief executive officer, the

bank or trust company shall not be required to appoint an officer designated as president. When the chief executive officer owns or controls fifty percent or more of the voting stock of the bank or trust company, such chief executive officer shall not be required to be a member of the board of directors, unless the director of the division of finance determines such officer's presence is necessary to prevent unsafe and unsound banking activity.

364.120. 1. A premium finance company shall not charge, contract for, receive, or collect any interest or discount charge other than as permitted by sections 364.100 to 364.160.

2. The interest or discount is to be computed on the balance of the premiums due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance contract, for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

3. The interest or discount shall be a maximum of fifteen dollars per one hundred dollars per year, which shall be computed as a fifteen percent add-on interest rate, plus an additional service charge of ten dollars per premium finance agreement which need not be refunded on cancellation or prepayment; except that, if the insurance premiums being financed are for other than personal, family or household purposes, the parties to the premium finance agreement may agree to any rate of interest which shall be stated in the premium finance agreement. The interest or discount permitted by this subsection anticipates timely repayment in consecutive monthly installments equal in amount for a period of one year. For repayment in greater or lesser periods or in unequal, irregular, or other than monthly installments, the interest or discount may be computed at an equivalent effective rate having due regard for the timely payments of installments.

4. Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time and shall receive a refund credit[, which shall represent at least as great a proportion of the interest or discount as the sum of the periodic balances, after the month in which prepayment is made, bears to the sum of all periodic balances under the schedule of installments in the agreement; except that, if the initial term of the contract is greater than sixty-one months, the interest earned shall be computed to the date of prepayment on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding. Where the amount of the refund credit is less than one dollar, no refund need be made]. **The amount of the refund shall be calculated by the actuarial method of calculating refunds and no more interest shall be retained by the lender than is actually earned.**

365.100. If the contract so provides, the holder thereof may charge and collect:

(1) [A delinquency and collection charge on each installment in default for a period of

not less than ten days in an amount not to exceed five percent of each installment or five dollars, whichever is less] **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, or when the installment is for twenty-five dollars or less, a charge for late payment for a period of not less than fifteen days shall not exceed five dollars,** provided, however, that a minimum charge of one dollar may be made;

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs; **and**

(3) A dishonored or insufficient funds check fee equal to such fee as provided in section 408.653, RSMo, in addition to fees charged by a bank for each check, draft, order or like instrument which is returned unpaid.

365.140. Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall [represent at least as great a proportion of the time price differential as the sum of the monthly time balances beginning one month after prepayment is made bears to the sum of all the monthly time balances under the schedule of payment in the contract after deducting from the refund an acquisition cost of fifteen dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of the time price differential earned shall be computed to the date of prepayment on the basis of the rate originally contracted for on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080. Where the amount of credit is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail installment contract is prepaid. Any insurance rendered unnecessary by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 2 of section 365.080.**

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

(1) All disclosures required 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 ten-point bold type, that nonpayment of the loan may result in loss of the borrower's vehicle or other titled personal property;

(3) The name, business address, telephone number and certificate number of the title lender, and the name and residential address of the borrower;

(4) The monthly interest rate to be charged;

(5) A statement which shall be in at least ten-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;

(6) The location where the titled personal property may be delivered if the loan is not paid and the hours such location is open for receiving such deliveries; and

(7) Any additional disclosures deemed necessary by the director or required pursuant to sections 400.9-101 to [400.9-508] **400.9-710**, RSMo.

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

369.144. Each association incorporated pursuant to or operating under the provisions of sections 369.010 to 369.369 has all the powers enumerated, authorized, and permitted by sections 369.010 to 369.369 and such other rights, privileges, and powers as may be incidental to or reasonably necessary to exercise such powers granted herein. Among others, and except as otherwise limited by the provisions of sections 369.010 to 369.369, each association has the following powers:

(1) To have perpetual existence; to adopt and use a corporate seal, which may be affixed by imprint, facsimile, or otherwise; and to adopt and amend bylaws as provided in sections 369.010 to 369.369;

(2) To sue and be sued, complain and defend in any court of law or equity;

(3) To acquire, hold, sell, dispose of and convey real and personal property; and to mortgage, pledge, or lease any real or personal property in the exercise of the powers granted herein; provided, however, that such leasing activities are limited to the extent permitted a federal association;

(4) To borrow from sources, individual or corporate. All such loans and advances may be secured by property of the association, and may be evidenced by such notes, bonds, debentures, or other obligations or securities as the director of the division of finance may authorize for all associations;

(5) To obtain and maintain insurance of its accounts by the Federal Deposit Insurance Corporation or any successor thereto, or by any agency of this state insuring accounts in

associations, or by any other insurer approved by the director of the division of finance, and may comply with conditions necessary to obtain and maintain such insurance;

(6) To qualify as and become a member of a Federal Home Loan Bank;

(7) In addition to the powers and authorities granted in this section, the director of the division of finance may, from time to time, with the approval of the commission, issue regulations granting such other powers and authorities as have been granted to federal associations subject to the supervision of the Office of Thrift Supervision or any successor thereto which are necessary to enable associations to compete. The regulations shall be promulgated as provided in this chapter and shall not be inconsistent with the constitution and laws of this state;

(8) To appoint officers, agents, and employees as its business shall require and to provide them suitable compensation; to enter into employment contracts not to exceed five years in duration; to provide for life, health and casualty insurance for officers, employees and directors who are not officers, and to adopt and operate reasonable bonus plans, retirement benefits and deferred compensation plans for such officers and employees; to adopt and operate stock option and similar incentive compensation programs by capital stock associations; and to provide for indemnification of its officers, employees and directors as prescribed or permitted by sections 369.010 to 369.369 whether by insurance or otherwise;

(9) To become a member of, deal with, or make reasonable payments or contributions to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable conditions of eligibility;

(10) To sell money orders, travel checks and similar instruments drawn by it on its commercial bank accounts, accounts it has with the district Federal Home Loan Bank or as agent for any organization empowered to sell such instruments through agents within the state;

(11) When an association is a member of a Federal Home Loan Bank, to act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, to perform, under such regulations as the Secretary may prescribe, all such reasonable duties as fiscal agents for the United States as the Secretary may require; and to act as agent for any instrumentality of the United States and as agent of this state or any instrumentality thereof;

(12) To service loans and investments for others;

(13) When an association is insured, to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954 as amended, if the funds of such trust are invested only in accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall

show in proper detail all transactions engaged in under the authority of this subdivision;

(14) To act as agent for others in any transaction incidental to the operation of its business;

(15) To accept deposits, and to lend and invest its funds as provided in sections 369.010 to 369.369;

(16) To use abbreviations, words or symbols in connection with any document of any nature and on checks, proxies, notices and other instruments, which abbreviations, words, or symbols shall have the same force and legal effect as though the respective words and phrases for which they stand were set forth in full;

(17) To act as custodian or keeper of microfilm records of other savings associations or place microfilm records of the association for storage and safekeeping with another association;

(18) To make donations in reasonable amounts for the public welfare or for charitable, scientific, religious, or educational purposes;

(19) To act as agent for any electric, gas, water, telephone or other public utility company operating within this state in receiving moneys due such company for utility services furnished by such company;

(20) To enter into agreements with others to supply data processing services and for the use of data processing equipment owned or controlled by the association;

(21) Notwithstanding any other law to the contrary except for regulatory powers included in this chapter, a savings and loan association or state savings bank may exercise powers contained in section 362.111, RSMo.

[375.065. 1. Notwithstanding any other provision of this chapter, the director may license credit insurance producers by issuing individual licenses to each credit insurance producer or by issuing an organizational credit entity license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit entity license authorizes the employees of the licensee who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as insurance producers for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit involuntary unemployment insurance;
- (5) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit entity license, an applicant shall submit to the director the uniform business entity application along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the business entity, the business address or addresses of the business entity and the type of ownership of the business entity. If a business entity is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of the business entity. If the business entity is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the business entity is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the business entity and to whom it pays any salary or commission for the sale, solicitation, negotiation or procurement of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property or any other form of credit or credit-related insurance approved by the director. Any changes in the list of employees of the business entity due to hiring or termination or any other reason shall be submitted to the director within ten days of the change.

3. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed insurance producers pursuant to the provisions of subsection 1 of section 375.014 for the authorized lines of credit insurance, and shall be deemed licensed insurance producers for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on the business entity application list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant has complied with all license requirements contained in this section, shall issue the applicant an organizational credit business entity license which shall remain in effect for one year or until suspended or revoked by the director, or until the organizational credit business entity ceases to operate as a legal entity in this state. Each organizational credit business entity shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

- (1) Paying a renewal fee of fifty dollars;
- (2) Providing the director a list of all employees selling, soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each employee.

5. Licenses of organizational credit business entities which are not timely renewed shall expire on the anniversary date of the original issuance. An organizational credit business entity that allows the license to expire may, within twelve months of the due date of the renewal, reinstate the license by paying the license fee that would have been paid had the license been renewed in a timely manner plus a penalty of twenty-five dollars per month that the license was expired.

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit business entity.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

375.065. 1. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

- (1) Credit life insurance;
- (2) Credit accident and health insurance;
- (3) Credit property insurance;
- (4) Credit [involuntary unemployment] **mortgage life** insurance;
- (5) **Credit mortgage disability insurance;**
- (6) **Credit involuntary unemployment insurance;**
- (7) Any other form of credit or credit-related insurance approved by the director.

2. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property, **credit mortgage life, credit mortgage disability** or any other form of credit or credit-related insurance approved by the director.

3. An organizational credit agency authorized pursuant to this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

- (1) Paying a renewal fee of fifty dollars;
- (2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

5. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

385.050. 1. Any insurer may revise its schedules of premium rates from time to time and shall file the revised schedules with the director. No insurer shall issue any credit life insurance policy or credit accident and sickness insurance policy for which the premium rate exceeds that determined by the schedules of the insurer as then approved by the director.

2. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that no refund of less than one dollar need be made. The formula to be used in computing the refund shall be the ["sum of the digits" formula with respect to decreasing term credit life insurance and credit accident and sickness insurance,

and the pro rata unearned gross premium with respect to level term credit life insurance] **actuarial method of calculating refunds.**

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and sickness insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to the debtor and shall promptly make an appropriate credit to the account.

4. The amount charged to a debtor for any credit life or credit accident and sickness insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

5. Nothing in sections 385.010 to 385.080 shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

400.9-303. (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title. **However, when a certificate of title is perfected pursuant to sections 700.350 to 700.390, RSMo, the perfection and nonperfection of a lien on a manufactured home defined in subsection 1 of section 700.350, RSMo, shall not be governed by this chapter; but the effect of perfection and priority of such lien shall be determined pursuant to article 9 of this chapter.**

(d) When a notice of lien is filed in accordance with chapter 301 or 306, RSMo, then the lien is perfected and this chapter shall not govern perfection or nonperfection or the priority of the lien even though a valid application for a certificate of title and the applicable fee was not delivered to the appropriate authority or the certificate of title was not issued by such authority.

408.083. Notwithstanding any other provision of law to the contrary, all credit contracts with interest or time price differential calculated on an add-on basis entered into after August [13, 1988, with an initial term greater than sixty-one months] **28, 2002**, the proceeds of which are used for personal, family or household purposes, shall provide that the amount of interest

or time price differential earned upon prepayment in full will be computed on the basis of the rate or rate formula originally contracted for on the actual unpaid principal balances for the time actually outstanding.

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]~~ **seventy-five** 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;

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

(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;

(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;

(9) If the open-end credit contract is tied to a transaction account in a depository institution and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of the lesser of twenty-five dollars or five percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120.

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.

408.170. [1.] If a note or loan contract providing for amount of interest, added to the principal of the loan is prepaid in full [(by cash, renewal, or refinancing) one month or more before the final installment date, the lender shall either:

(1) Recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding; or

(2) If the initial term of the contract is sixty-one months or less, give a refund of a portion of the amount of interest originally contracted for which shall be computed as follows:

The amount of the refund shall be at least as great a proportion of such amount of interest as the sum of the full monthly balances of the contract scheduled to follow the installment date after the date of prepayment in full bears to the sum of all the monthly balances of the contract, both sums to be determined according to the payment schedule provided by the contract; except that, if prepayment in full occurs during the first installment period, interest shall be recomputed and charged only for the actual number of days elapsed. When the period before the first installment is more or less than one month, the portion of the interest earned for such period shall be determined by counting each day in such period as one-thirtieth of a month and one three hundred and sixtieth of a year.

2. No refund shall be required for any partial prepayment.

3. The word "refund" as used herein shall mean a credit or deduction from the amount of interest originally contracted for] **at any time by cash, renewal or refinancing, the buyer shall receive a refund which shall be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a note or loan contract is prepaid.**

408.320. Notwithstanding the provisions of any retail time contract to the contrary, any buyer may prepay in full at any time before maturity the debt of any retail time contract and on so paying such debt shall receive a refund credit thereof for such anticipation of payments. The amount of such refund shall [represent at least as great a proportion of the time charge as the sum of the monthly time balances, beginning one month after prepayment is made, bears to the sum of all the monthly time balances under the schedule of payments in the contract after deducting from such refund an acquisition cost of twelve dollars; except that, if the initial term of the contract is greater than sixty-one months, the amount of time charge earned shall be computed to the date of prepayment on the basis of the rate originally contracted for computed on the actual unpaid time balances for the time actually outstanding. Any insurance obviated by reason of prepayment shall be canceled by the holder and any refund of premiums received by the holder shall be treated in accordance with the provisions of subsection 5 of section 408.280. Where the amount of credit is less than one dollar no refund need be made] **be calculated by the actuarial method. The lender shall retain no more interest than is actually earned whenever a retail time contract is prepaid.**

408.556. 1. In any action brought by a lender against a borrower arising from default, the petition shall allege the facts of the borrower's default, facts sufficient to show compliance with the provisions of sections [400.9-501 to 400.9-507] **400.9-601 to 400.9-629**, RSMo, which provisions are hereby deemed applicable to all credit transactions, with respect to any sale or other disposition of collateral for the credit transaction, the amount to which the lender is entitled, and an indication of how that amount was determined.

2. A default judgment may not be entered in the action in favor of the lender unless the

petition is verified by the lender, or sworn testimony, by affidavit or otherwise, is adduced showing that the lender is entitled to the relief demanded.

3. If a lender takes possession or voluntarily accepts surrender of goods in which the lender has a purchase money security interest to secure a credit transaction in the principal amount of less than five hundred dollars, the borrower is not liable to the lender for the unpaid balance.

4. Following any disposition of collateral pursuant to the provisions of [section 400.9-504] **sections 400.9-601 to 400.9-629**, RSMo, the lender shall be entitled to recover from the borrower the deficiency, if any, only if the amount financed in the transaction was more than five hundred dollars and the amount remaining unpaid at the time of default is three hundred dollars or more.

408.557. [1.] When a lender sells or otherwise disposes of collateral in a transaction in which an action for a deficiency may be commenced against the borrower, prior to bringing any such action or upon written request of the borrower, the lender shall give the borrower the notice [described in this section. A lender gives notice to the borrower under this section when he delivers the notice to the borrower or mails the notice to him at his last known address.

2. The notice shall be in writing and conspicuously state:

(1) The name, address and telephone number of the lender to whom payment of any deficiency is to be made;

(2) An identification of the goods sold or otherwise disposed of;

(3) The date of sale or other disposition;

(4) The nature of the disposition if other than a sale, or, if a sale, whether or not the goods were sold at public auction and the name and address of the person who conducted the auction;

(5) The amount due the lender immediately prior to the disposition after deducting the amount of any refund of interest and, if known to the creditor, insurance premiums;

(6) The sale price;

(7) Expenses incurred by the lender permitted to be deducted from the sale price before application to the debt pursuant to sections 400.9-501 to 400.9-507, RSMo, itemized and identified to show the nature of each such expense; and

(8) The remaining deficiency, or surplus, as of the date of sale, computed by subtracting item (7) from item (6) and subtracting the difference so determined, if more than zero, from item (5)] **provided in section 400.9-614, RSMo, for consumer goods transactions or section 400.9-613, RSMo, for all other transactions that are not consumer goods transactions.**

525.070. Whenever any property, effects, money or debts, belonging or owing to the defendant, shall be confessed, or found by the court or jury, to be in the hands of the garnishee, [he] **the garnishee** may, at any time before final judgment, discharge himself, by paying or

delivering the same, or so much thereof as the court shall order, to the sheriff **or to the court**, from all further liability on account of the property, money or debts so paid or delivered.

700.350. 1. As used in sections 700.350 to 700.390, the term "manufactured home" shall have the same meanings given it in section 700.010 **or section 400.9-102(a)(53), RSMo.**

2. Unless excepted by section 700.375, a lien or encumbrance on a manufactured home shall not be valid against subsequent transferees or lienholders of the manufactured home who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 700.350 to 700.380.

3. A lien or encumbrance on a manufactured home is perfected by the delivery to the director of revenue, by the owner, of the existing certificate of ownership, if any, an application for a certificate of ownership containing the name and address of the lienholder and the date of his security agreement, and the required certificate of ownership fee. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. 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 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" in the second lienholder's portion of the title application and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one lien.

4. Whether a manufactured home is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the manufactured home would be kept in this state and it is 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 shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected under the laws of the jurisdiction where the manufactured home 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, his 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 the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the manufactured home 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 which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected under the laws of the jurisdiction where the manufactured home was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected under paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

5. All transactions involving liens or encumbrances on manufactured homes perfected pursuant to sections 700.350 to 700.390 after June 30, 2001 and before August 28, 2002, and the rights, duties and interests flowing from them are and shall remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by section 400.9-303, RSMo, and section 700.350. The changes in section 400.9-303, RSMo, and section 700.350 made through the provisions of this act are remedial and should be given that construction.

6. On new sales of a manufactured home, if the title to said home is not provided within 30 days of delivery of the home, then the sale of said home shall be voidable by the purchaser from the beginning.

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