FIRST REGULAR SESSION

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

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 346

92ND GENERAL ASSEMBLY

2003

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0990L.05T

AN ACT

To repeal sections 30.270, 59.163, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 364.030, 364.105, 365.030, 367.140, 367.509, 369.159, 400.9-525, 407.433, 408.140, 408.233, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.500, 408.653, 408.654, and 447.510, RSMo, and to enact in lieu thereof thirty-two new sections relating to banking, with penalty provisions.

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

Section A. Sections 30.270, 59.163, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.170, 362.295, 362.910, 362.923, 364.030, 364.105, 365.030, 367.140, 367.509, 369.159, 400.9-525, 407.433, 408.140, 408.233, 408.450, 408.455, 408.460, 408.465, 408.467, 408.470, 408.500, 408.653, 408.654, and 447.510, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 30.270, 59.163, 59.321, 173.387, 173.390, 306.410, 361.130, 361.140, 361.160, 361.170, 362.010, 362.105, 362.106, 362.111, 362.170, 362.295, 362.910, 362.923, 364.030, 364.105, 365.030, 367.140, 367.509, 369.159, 370.171, 400.9-525, 407.433, 408.140, 408.233, 408.455, 408.500, and 447.510, 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

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

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

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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 depositaries. 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 depositaries.

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.

59.163. In any county of the first class in which the recorder of deeds is required by law to keep offices both at the county seat and at another place within the county, all deeds, deeds of trust, mortgages, and other instruments affecting real property situated in that range in the county where the office outside of the county seat is located shall be recorded in such office and not at the county seat; and the proper place to file, or to file for record if goods are or are to become fixtures, **[**all financing statements or other instruments or statements incidental thereto, such as continuation statements, termination statements, statements of assignment, statements of release, in order to perfect, continue, terminate, assign, release or affect a security interest in accordance with article 9, part 4, chapter 400, the Uniform Commercial Code,**]** is as follows:

(1) **[**When the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods (as such types of collateral are defined in the Uniform Commercial Code) and the debtor's residence is in that range where the office outside the county seat is located, then in such office outside the county seat, or if the debtor is not a resident of this state and the goods are kept in that range where the office outside the county seat is located, then in such office outside the county seat, and in addition, when the collateral is crops, and the land on which the crops are growing or are to be grown is located in that range where the office outside the county seat is located, then in such office outside the county seat;

(2)**]** When the collateral is goods which at the time the security interest attaches are or are to become fixtures, and the land to which the fixtures are or are to be attached is located in that range where the office outside the county seat is located, then in such office outside the county seat, and any such filing shall be for record;

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[(3) When the collateral is any other kind of property, in the office of the secretary of state and in addition: (a) If the debtor has a place of business only in such county of this state and only in that range where the office outside the county seat is located, also in such office outside the county seat, or (b) If the debtor has places of business only in such county of this state but has a place of business both in that range where the office outside the county seat is located, and also elsewhere in such county, then also in such office outside the county seat and also in such office at the county seat, or (c) If the debtor has no place of business in this state, but resides in that range where the office outside the county seat is located, then also in such office outside the county seat;

(4)**]** **(2)** In all other cases where the proper place, or one of the proper places, to file or to file for record is in the office of the recorder of deeds of such county, then only in such office at the county seat and not in such office outside the county seat**;**

(3) All financing statements or other instruments or statements incidental thereto, such as continuation statements, termination statements, statements of assignment, in order to perfect, continue, terminate, assign, release, or affect a security interest in accordance with article 9, chapter 400, the Uniform Commercial Code, shall have priority over liens filed under this section for the time period after June 30, 2001, and before August 28, 2003.

59.321. In addition to any other fee, the recorder of deeds in all counties and any city not within a county shall collect one dollar on all documents or instruments that are recorded. The recorder of deeds in all counties, except in counties with a charter form of government and any city not within a county, shall forward the fee to the county employees' retirement system pursuant to section 50.1190, RSMo, provided, however, that the recorder of deeds in any county with a charter form of government and any city not within a county whose employees are not members of the county employees' retirement system shall deposit the fee to the general revenue of that county or city not within a county. The provisions of this section shall become effective September 1, 2003.

173.387. The authority shall not, under any circumstances, be the originator of any federally guaranteed student loan, except for consolidation of existing student loans**, parent loans for undergraduate students (PLUS),** and upon designation by the commissioner as lender of last resort.

173.390. Bonds of the authority may be issued as serial bonds, as term bonds, or as a combination of both types. All such bonds issued by the authority shall be payable solely from and secured by a pledge of revenues derived from or by reason of the ownership of student loan notes and investment income or as may be designated in a bond resolution authorized by the authority. Such bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denomination or denominations and of such terms and maturities, may be in fully registered form or in bearer form, registrable either as to principal or

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interest or both, may bear such conversion privileges, may be payable in such installment or installments and at such time or times not exceeding **[**thirty**]** **forty** years from the date of the issuance thereof, may be payable at such place or places whether within or without the state of Missouri, may bear interest at such rate or rates per annum as determined by the authority without regard to section 108.170, RSMo, may be made payable at such time or times and at such place or places, may be evidenced in such manner, may be executed by such officers of the authority, may have attached thereto, in the case of bearer bonds or bonds registrable as to principal only, interest coupons bearing the facsimile signature of the secretary of the authority, and may contain such provisions not inconsistent herewith, all as shall be provided in the bond resolution or resolutions of the authority whereunder the bonds shall be authorized to be issued. If deemed advisable by the authority, there may be retained in the bond resolution under which any bonds of the authority are authorized to be issued an option to call for redemption in advance of maturity all or any part of such bonds as may be specified in the bond resolution, at such price or prices, upon the giving of such notice or notices, and upon such terms and conditions as may be set forth in the bond resolution and as may be recited on the face of the bonds, but nothing in this section shall be construed to confer upon the authority the right or option to call for redemption in advance of maturity any bonds except as may be provided in the bond resolution under which they shall be issued. The bonds of the authority may be sold at public or private sale for such price, in such manner, and from time to time as may be determined by the authority notwithstanding the provisions of section 108.170, RSMo, and the authority may pay all expenses, premiums, and commissions which it may deem necessary or advantageous in connection with the issuance thereof from the proceeds of the bonds. Other forms of indebtedness issued by the authority shall have such terms as may be provided in a bond resolution authorized by the authority. Any such indebtedness may bear interest at such rates and be sold in such manner as may be determined by the authority notwithstanding the provisions of section 108.170, RSMo, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance thereof from proceeds therefrom or from other funds of the authority.

306.410. If an owner creates a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the certificate of title, showing the name and address of the lienholder and the date of his or her security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so is a class A misdemeanor;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien pursuant to section

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306.400;

(3) To perfect a lien for a subordinate lienholder when a transfer of ownership occurs, the subordinate lienholder shall either mail or deliver, or cause to be mailed or delivered, a completed notice of lien to the department of revenue, accompanied by authorization from the first lienholder. The owner shall ensure the subordinate lienholder is recorded on the application for title at the time the application is made to the department of revenue. To perfect a lien for a subordinate lienholder when there is no transfer of ownership, the owner or lienholder in possession of the certificate shall either mail or deliver, or cause to be mailed or delivered, the owner's application for title, certificate, notice of lien, authorization from the first lienholder and title fee to the department of revenue. The delivery of the certificate and executing a notice of authorization to add a subordinate lien does not affect the rights of the first lienholder under the security agreement;

(4) Upon receipt of the documents and fee required in subdivision (3) of this section, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the **[**first lienholder**] owner** named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate as prescribed in section 306.405. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

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361.130. 1. The director shall require all financial institutions under his **or her** supervision to make regular periodic reports of their condition to him **or her**, and in addition **[**he**] the director** may require special reports at such times as he **or she** may prescribe. The director shall prescribe the form and contents of all such reports. Such reports shall be verified and the director shall prescribe the form of verification.

2. The director, at least two times in each year, shall designate some day as of which every bank or trust company under **[**his**] the director's** supervision shall report to him **or her**. **[**He**] The director** shall serve a notice designating such day by delivering a copy thereof to some officer of such corporation at its place of business or by mail, postage prepaid, addressed to such corporation at its principal place of business.

3. In lieu of requiring direct filing of reports of condition, the director may obtain the information from data filed with federal regulatory agencies but may require verification and the filing of supplemental information as the director deems necessary.

361.140. 1. The director of finance shall prepare the following information to be included in the report of the director of the department of economic development:

(1) A summary of the state and condition of every corporation required to report to him

or her and from which reports have been received **or obtained pursuant to subsection 3 of section 361.130** during the preceding two years, at the several dates to which such reports refer, with an abstract of the whole amount of capital reported by them, the whole amount of their debts and liabilities and the total amount of their resources, specifying in the case of banks and trust companies the amount of lawful money held by them at the time of their several reports, and such other information in relation to such corporations as, in his **or her** judgment, may be useful;

(2) A statement of all corporations authorized by him **or her** to do business during the previous biennium with their names and locations and the dates on which their respective certificates of incorporation were issued, particularly designating such as have commenced business during the biennium;

(3) A statement of the corporations whose business has been closed either voluntarily or involuntarily, during the biennium, with the amount of their resources and of their deposits and other liabilities as last reported by them and the amount of unclaimed and unpaid deposits, dividends and interest held by him **or her** on account of each;

(4) A statement of the amount of interest earned upon all unclaimed deposits, dividends and interest held by him **or her** pursuant to the requirements of this chapter;

(5) Any amendments to this chapter, which, in his **or her** judgment, may be desirable;

(6) The names and compensation of the deputies, clerks, examiners, special agents and other employees employed by him **or her**, and the whole amount of the receipts and expenditures of the division during each of the last two preceding fiscal years.

2. All such reports shall be printed at the expense of the state and paid for as other public printing.

361.160. 1. The director of finance at least once each year, either personally or by a deputy or examiner appointed by the director, shall visit and examine every bank and trust company organized and doing business under the laws of this state, and every other corporation which is by law required to report to the director; except, for banks or trust companies receiving a Camel 1 or Camel 2 rating from the division of finance, the director of finance at least once each eighteen calendar months either personally or by a deputy or examiner appointed by the director, shall visit and examine such bank or trust company, and the director of finance, at the director's discretion, may conduct the director's examination, or any part thereof, on the basis of information contained in examination reports of other states, the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits performed by certified public accountants. **The director shall be afforded prompt and free access to any workpapers upon which a certified public accountant bases an audit. A certified public accountant shall retain workpapers for a minimum of three years after the date of issuance of the certified public accountant's report to the bank or trust company.** The director or the director's agent may concentrate the examinations on institutions which the director believes have safety or soundness concerns.

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2. The director, or the deputy or examiners designated by the director for that purpose, shall have power to examine any such corporation whenever, in the director's judgment, it may be deemed necessary or expedient, and shall have power to examine every agency located in this state of any foreign banking corporation and every branch in this state of any out-of-state bank, for the purpose of ascertaining whether it has violated any law of this state, and for such other purposes and as to such other matters as the director may prescribe.

3. The director and the director's deputy and examiners shall have power to administer oaths to any person whose testimony may be required in such examination or investigation of any such corporation or agency, and to compel the appearance and attendance of any person for the purpose of any such examination or investigation.

4. On every such examination inquiry shall be made as to the condition and resources of such corporation, the mode of conducting and managing its affairs, the actions of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to its creditors, and whether the requirements of its charter and of law have been complied with in the administration of its affairs, and as to such other matters as the director may prescribe.

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5. The director may also make such special investigations as the director deems necessary to determine whether any individual or corporation has violated any of the provisions of this law.

6. Such examination may be made and such inquiry instituted or continued in the discretion of the director after the director has taken possession of the property and business of any such corporation, until it shall resume business or its affairs shall be finally liquidated in accordance with the provisions of this chapter.

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7. The result of each examination shall be certified by the director or the examiner upon the records of the corporation examined and the result of all examinations during the biennial period shall be embodied in the report to be made by the director of the department of economic development to the legislature.

8. The director may contract with regulators in other states to provide for the examination of Missouri branches of out-of-state banks and branches of banks whose home state is Missouri. The agreements may provide for the payment by the home state of the cost of examinations conducted by the host state at the request of the home state regulators.

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361.170. 1. The expense of every regular and every special examination, together with the expense of administering the banking laws, including salaries, travel expenses, supplies and equipment, and including the direct and indirect expenses for rent and other supporting services furnished by the state, shall be paid by the banks and trust companies of the state, and for this purpose the director shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by the division during such fiscal year. To this, there shall be added an amount equal to fifteen percent of the estimated expenses to pay the costs of rent and other supporting services such as the costs related to the division's services from the state auditor and attorney general and an amount sufficient to cover the cost of fringe benefits furnished by the

state. From this total amount the director shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank or trust company assessments. The director shall allocate and assess the remainder to the several banks and trust companies in the state on the basis of a weighted formula to be established by the director, which will take into consideration their total assets, as reflected in the last preceding report called for by the director pursuant to the provisions of section 361.130 **or from information obtained pursuant to subsection 3 of section 361.130** and, for trust companies which do not take deposits or make loans, the volume of their trust business, and the relative cost, in salaries and expenses, of examining banks and trust companies of various size and this calculation shall result in an assessment for each bank and trust company which reasonably represents the costs of the division of finance incurred with respect to such bank or trust company. A statement of such assessment shall be sent by the director to each bank and trust company on or before July first. One-half of the amount so assessed to each bank or trust company shall be paid by it to the state director of the department of revenue on or before July fifteenth, and the remainder shall be paid on or before January fifteenth of the next year.

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2. Any expenses incurred or services performed on account of any bank, trust company or other corporation subject to the provisions of this chapter, outside of the normal expense of any annual or special examination, shall be charged to and paid by the corporation for whom they were incurred or performed.

3. The state treasurer shall credit such payments to a special fund to be known as the "Division of Finance Fund", which is hereby created and which shall be devoted solely to the payment of expenditures actually incurred by the division and attributable to the regulation of banks, trust companies, and other corporations subject to the jurisdiction of the division. Any amount, other than the fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section, remaining in such fund at the end of any fiscal year up to five percent of the amount assessed to the banks and trust companies pursuant to subsection 1 of this section shall not be transferred and placed to the credit of the general revenue fund as provided in section 33.080, RSMo, but shall be applicable by appropriation of the general assembly to the payment of such expenditures of the division in the succeeding fiscal year and shall be applied by the division to the reduction of the amount to be assessed to banks and trust companies in such succeeding fiscal year; provided the fifteen percent for supporting services and the amount of fringe benefits described in subsection 1 of this section and any amount remaining in the division of finance fund at the end of the fiscal year which exceeds five percent of the amount assessed to the banks and trust companies pursuant to subsection 1 of this section shall be returned to general revenue.

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362.010. When used in this chapter, the term:

(1) "Aggregate demand deposits" means the deposit against which reserves must be maintained by banks and trust companies and includes total deposits, all amounts due to banks, bankers and trust companies, the amount due on certified and cashier's checks, and for unpaid

dividends, less the following items:

(a) Total time deposits;

(b) The amounts due it on demand from banks, bankers and trust companies, other than its reserve depositaries, including foreign exchange balances credited to it and subject to draft;

(c) The excess due it from reserve depositaries over the amount required to maintain its total reserves;

(2) "Assessment" shall be construed as synonymous with the word "forfeiture";

(3) "Bank" means any corporation soliciting, receiving or accepting money, or its equivalent, on deposit as a business, whether the deposit is made subject to check, or is evidenced by a certificate of deposit, a passbook, a note, a receipt, or other writing**, and specifically a commercial bank chartered under this chapter or a national bank located in this state**;

(4) "Demand deposits" means deposits, payment of which can legally be required **[**within thirty days**] as provided in federal law and regulation**;

(5) "Dividend period" means the period from the date as of which the last dividend of any corporation to which this chapter is applicable was declared to the date selected for the declaration of the next dividend; or the period from the date when its corporate existence began to the date as of which the first dividend is declared;

(6) "Net earnings" means the excess of gross earnings of any corporation to which this chapter is applicable over expenses and losses chargeable against the earnings during any dividend period;

(7) "Population" means population as determined by the last state or federal enumeration; or when used in connection with the words "unincorporated village" as determined by the finance commissioner from the best available sources of information**, except as otherwise provided in this chapter**;

(8) "Reserve depositary" means a bank, trust company or banking corporation approved by the finance director as a depositary for reserves on deposit;

(9) "Reserves on deposit" means the reserves against deposits maintained by any corporation pursuant to this chapter in reserve depositaries, or in a federal reserve bank of which the corporation is a member, and not in excess of the amount authorized by this chapter;

(10) "Reserves on hand" means the reserves against deposits kept in the vault of any individual or corporation pursuant to the provisions of this chapter;

(11) "Stockholder", unless otherwise qualified, means a person who appears by the books of a stock corporation to be the owner and holder of one or more shares of the stock of the corporation;

(12) "Surplus" means the excess of assets over liabilities including liability to stockholders;

(13) "Surplus fund" means a fund created pursuant to the provisions of this chapter by a bank or trust company from its net earnings or undivided profits, which to the amount specified in this chapter is not available for the payment of dividends and cannot be used for the payment

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of expenses or losses so long as any corporation has undivided profits;

(14) "Time deposits" means all deposits, the payment of which cannot legally be required **[**within thirty days**] as provided in federal law and regulation**;

(15) "Total profits" means the total amount of undistributed net earnings of any corporation to which this chapter is applicable from the date of its organization, including such portions of its surplus fund or guaranty fund as have been derived from net earnings or from undivided profits;

(16) "Total reserves" means the aggregate of reserves on hand and reserves on deposit maintained pursuant to the provisions of this chapter;

(17) "Undivided profits" means the credit balance of the profit and loss account of any corporation to which this chapter is applicable.

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

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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 this subsection 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, and provided 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;

(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;

(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;

(10) **[**Purchase, lease, hold**]** **Acquire** 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; **and**

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

(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

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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;

(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;

(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 (10) 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;

(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;

(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

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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;

(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**] Purchase or lease, in an amount not exceeding its legal loan limit, real property and improvements thereto suitable for the convenient conduct of its functions. The bank may derive income from renting or leasing such real property or improvements or both. If the purchase or lease of such real property or improvements exceeds the legal loan limit or is from an officer, director, employee, affiliate, principal shareholder or a related interest of such person, prior approval shall be obtained from the director of finance**; 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

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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 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

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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, owning and leasing governmental structures except as limited by other law, 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, **or obtained by the director pursuant to subsection 3 of section 361.130, RSMo,** 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**, nondepository trust company,** 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

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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.

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362.111. A bank or trust company may impose fees or service charges on deposit accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 361.105, RSMo, by the director of the division of finance and the state banking board. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

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 **or obtained by the director pursuant to subsection 3 of section 361.130, RSMo. For purposes of lending limitations, goodwill may comprise no more than ten percent of unimpaired capital**.

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 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); (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;

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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

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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;

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(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;

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(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;

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(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 or trust company may invest in equity stock in the Federal Home Loan Bank up to twice the limit described in subdivision (1) of this subsection 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

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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.

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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.

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

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

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

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

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

6. A bank or trust company may provide each written report required to be published free of charge to the public; and when each bank or trust company notifies their customers that such information is available; and when one copy of such information is available to each person that requests it, the newspaper publication provisions of this section shall not be enforced against such bank or trust company.

362.910. As used in sections 362.910 to 362.940, **[**except for section 362.925,**]** unless the context clearly indicates otherwise, the following terms mean:

(1) "Bank", any bank, trust company or national banking association which accepts demand deposits and makes loans, and which has its principal banking house in Missouri and a branch of any bank, trust company or national banking association which accepts demand deposits and which has a physical presence in Missouri, other than a branch located outside of Missouri;

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(2) "Bank holding company", any company which has control over any bank or over any company that is a bank holding company;

(3) "Company", any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, but shall not include any corporation the majority of the shares of which are owned by the United States or by any state;

(4) "Control", a company has control over a bank**, trust company,** or company if:

(a) The company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote twenty-five percent or more of any class of voting securities of the bank or company;

(b) The company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(c) The company directly or indirectly exercises a controlling influence over the management or policies of the bank or company;

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(d) Provided, however, no company shall be deemed to have control over a bank or a company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities and which are held only for such period of time as will permit the sale thereof upon a reasonable basis, or which is formed for the sole purpose of participating in a proxy solicitation, or which acquires ownership or control of shares in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition, or which acquires ownership or control of shares in a fiduciary capacity. For the purpose of sections 362.910 to 362.940, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company in its capacity as trustee of a trust has sole discretionary authority to exercise voting rights with reference thereto; except that this limitation is applicable in the case of a bank or company which acquired such shares prior to December 31, 1970, only if the bank or company had the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the trust relationship to divest itself of such voting rights and failed to exercise that right to divest prior to December 31, 1971;

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(5) "Director" or "director of finance", the director of the division of finance of the department of economic development**;**

(6) "Trust holding company", any company which has control over any trust company or over any company that is a trust holding company.

362.923. **1.** The director of the division of finance may enter into cooperative and reciprocal agreements with the federal reserve banks for periodic examination of bank holding companies on a joint or alternating basis, but, except in extraordinary situations, no such agreements may be concluded which would result in a bank holding company being examined more frequently than once every twelve months. The director may accept reports of examination and other exchanges of information from such agencies in lieu of conducting his own

examinations and compiling his own reports, and may provide reports of examination and other information to such agencies.

2. A trust holding company or a company formed to be a trust holding company, as hereinafter described, is a new business entity under Missouri law and is not subject to federal reserve examination. The director of the division of finance shall contract with the parties that charter such entity to obtain safety and soundness authority as a condition for such entity's acquisition of a trust company.To simplify such process:

(1) A trust holding company or a company formed to be a trust holding company which seeks to acquire control of any nondepositary trust company shall file an application with the division of finance;

(2) The director shall determine if the proposed acquisition of a nondepositary trust company by a trust holding company is consistent with the interests of promoting and maintaining sound trust companies;

(3) The director may issue an order approving or disapproving the proposed acquisition of a nondepositary trust company by a trust holding company and may present, enforce, advocate, or defend the order in any judicial or administrative proceeding; and

(4) The director may examine and investigate any trust holding company as appropriate or necessary to carry out the director's duties. The director may enter into cooperative and reciprocal agreements with federal and state regulatory authorities appropriate to such functions and may share reports and information or pursue joint actions or concurrent jurisdiction with federal and state regulatory authorities.

364.030. 1. No person shall engage in the business of a financing institution in this state without a license therefor as provided in this chapter; except, however, that no bank, trust company, loan and investment company, licensed sales finance company, registrant under the provisions of sections 367.100 to 367.200, RSMo, or person who makes only occasional purchases of retail time contracts or accounts under retail charge agreements and which purchases are not being made in the course of repeated or successive purchase of retail installment contracts from the same seller, shall be required to obtain a license under this chapter but shall comply with all the laws of this state applicable to the conduct and operation of a financing institution.

2. The application for the license 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 incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of three

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hundred dollars for each place of business of the licensee in this state which shall be paid into the general revenue fund. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

4. Each license shall specify the location of the office or branch and must be conspicuously displayed therein. In case the location is changed, the director shall either endorse the change of location of the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of an application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a financing institution under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

364.105. 1. No person shall engage in the business of a premium finance company in this state without first registering as a premium finance company with the director.

2. The annual registration fee shall be three hundred dollars payable to the director as of the first day of July of each year. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

3. Registration shall be made on forms prepared by the director and shall contain the following information:

(1) Name, business address and telephone number of the premium finance company;

(2) Name and business address of corporate officers and directors or principals or partners;

(3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(a) The premium finance company is financially capable to engage in the business of insurance premium financing; and

(b) If a corporation, that the corporation is authorized to transact business in this state;

(4) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the director accompanied by an additional fee of one hundred dollars.

365.030. 1. No person shall engage in the business of a sales finance company in this state without a license as provided in this chapter; except, that no bank, trust company, savings and loan association, loan and investment company or registrant under the provisions of sections 367.100 to 367.200, RSMo, authorized to do business in this state is required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter.

2. The application for the license 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

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incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident 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.

3. The license fee for each calendar year or part thereof shall be the sum of three hundred dollars for each place of business of the licensee in this state. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

4. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location is changed, the director shall either endorse the change of location on the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

367.140. 1. Every lender shall, at the time of filing application for certificate of registration as provided in section 367.120 hereof, pay the sum of three hundred dollars as an annual registration fee for the period ending the thirtieth day of June next following the date of payment and in full payment of all expenses for investigations, examinations and for the administration of sections 367.100 to 367.200, except as provided in section 367.160, and thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a lender is supervised by the commissioner of finance under any other law, the charges for examination and supervision required to be paid under said law shall be in lieu of the annual fee for registration and examination required under this section. The fee shall be made payable to the director of revenue. If the initial registration fee for any certificate of registration is for a period of less than twelve months, the registration fee shall be prorated according to the number of months that said period shall run. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.**

2. Upon receipt of such fee and application for registration, and provided the bond, if required by the director, has been filed, the director shall issue to the lender a certificate containing the lender's name and address and reciting that such lender is duly and properly registered to conduct the supervised business. The lender shall keep this certificate of registration posted in a conspicuous place at the place of business recited in the registration certificate. Where the lender engages in the supervised business at or from more than one office or place of business, such lender shall obtain a separate certificate of registration for each such

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office or place of business.

3. Certificates of registration shall not be assignable or transferable except that the lender named in any such certificate may obtain a change of address of the place of business therein set forth. Each certificate of registration shall remain in full force and effect until surrendered, revoked, or suspended as herein provided.

367.509. 1. A title loan license applicant must have and maintain capital of at least seventy-five thousand dollars at all times.

2. The license application 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 residential address of the owner, partners, 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 applying for a title loan license shall pay one thousand dollars as an investigation fee. Applicants for additional title lending licenses shall pay one thousand dollars per additional location as an investigation fee. The lender shall, beginning with the first license renewal, pay annually to the director a fee of one thousand dollars for each licensed location.

4. Each license shall specify the location of the title loan office and shall be conspicuously displayed therein. Before any title lending office may relocate, the director shall approve such relocation by mailing the licensee a new 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 loan license, the director shall issue a license to engage in the title loan business in accordance with sections 367.500 to 367.533. The licensing year shall commence on January first and end the following December thirty-first. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.** Each license shall be uniquely numbered and shall not be transferable or assignable. **[**Renewal licenses shall be effective for a period of one year.**]**

369.159. **[**An association may make a service charge on accounts subject to such conditions or requirements as may be fixed by regulations of the director of the division of finance. No limitation shall be placed upon service charges on NOW accounts.**] An association may impose fees or service charges on accounts; however, such fees or service**

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charges are subject to such conditions or requirements that may be fixed by regulations pursuant to section 369.301 by the director of the division of finance and the state savings and loan commission. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

370.171. A credit union may impose fees or service charges on deposit accounts or similar accounts; however, such fees or service charges are subject to such conditions or requirements that may be fixed by regulations pursuant to this chapter by the director of credit union supervision and the credit union commission. Notwithstanding any law to the contrary, no such condition or requirement shall be more restrictive than the fees or service charges on deposit accounts or similar accounts permitted any federally chartered depository institution.

400.9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in section 400.9-502(c), is:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing**,** or **five dollars** by **[**another**] an electronic** medium authorized by filing-office rule**[**, of which fee seven dollars is received and collected by the secretary of state on behalf of the counties of this state for deposit in the uniform commercial code transition fee trust fund**]**; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in section 400.9-502(c) is:

(1) If the filing office is the secretary of state's office, then twelve dollars for the first page and one dollar for each subsequent page if the record is communicated in writing**,** or **five dollars** by **[**another**] an electronic** medium authorized by filing-office rule**[**, of which fee seven dollars is received and collected by the secretary of state on behalf of the counties of this state for deposit in the uniform commercial code transition fee trust fund**]**; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(c) The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b).

(d) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is:

(1) If the filing office is the secretary of state's office, then twenty-two dollars for the first page and one dollar for each subsequent page if the record is communicated in writing or by

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another medium authorized by filing-office rule**[**, of which fee seven dollars is received and collected by the secretary of state on behalf of the counties of this state for deposit in the uniform commercial code transition fee trust fund**]**; or

(2) If the filing office is other than the secretary of state's office, then the fee otherwise allowed by law.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 400.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) **[**The department of revenue shall administer a special trust fund, which is hereby established, to be known as the "Uniform Commercial Code Transition Fee Trust Fund", and which shall be funded by seven dollars of each of the fees received and collected pursuant to subdivisions (a), (b) and (d) of this section on behalf of the counties of this state for deposit in the uniform commercial code transition fee trust fund.

(1) The secretary of state shall keep and provide to the department of revenue and the county employees' retirement fund an accurate record of the moneys to be deposited in the uniform commercial code transition fee trust fund allocated to each county and city not within a county on the basis of where such record, financing statement or other document would have been filed prior to July 1, 2001, and the department of revenue shall distribute the moneys pursuant to subdivision (2) of this subsection on that basis.

(2) The moneys in the uniform commercial code transition fee trust fund shall be distributed to the county employees' retirement fund established pursuant to section 50.1010, RSMo, or the general revenue fund of any charter county or city not within a county whose employees are not members of the county employees' retirement fund.

(3) The moneys in the uniform commercial code transition fee trust fund shall be deemed to be nonstate funds, as defined in section 15 of article IV of the Missouri Constitution, to be administered by the department of revenue, provided, however that interest, if any, earned by the money in the trust fund shall be deposited into the general revenue fund in the state treasury.**]** **The provisions of this section shall become effective on September 1, 2003.**

407.433. 1. No person, other than the cardholder, shall:

(1) Disclose more than the last five digits of a credit card or debit card account number on any sales receipt **provided to the cardholder** for merchandise sold in this state;

(2) Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a credit or debit card without the permission of the cardholder and with the intent to defraud any person, the issuer, or a merchant; or

(3) Use a reencoder to place information encoded on the magnetic strip or stripe of a credit or debit card onto the magnetic strip or stripe of a different card without the permission of the cardholder from which the information is being reencoded and with the intent to defraud

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any person, the issuer, or a merchant.

2. Any person who knowingly violates this section is guilty of an infraction and any second or subsequent violation of this section is a class A misdemeanor.

3. It shall not be a violation of subdivision (1) of subsection 1 of this section if:

(1) The sole means of recording the credit card number or debit card number is by handwriting or, prior to January 1, 2005, by an imprint of the credit card or debit card; and

(2) For handwritten or imprinted copies of credit card or debit card receipts, only the merchant's copy of the receipt lists more than the last five digits of the account number.

4. This section shall become effective on January 1, 2003, and applies to any cash register or other machine or device that prints or imprints receipts of credit card or debit card transactions and which is placed into service on or after January 1, 2003. Any cash register or other machine or device that prints or imprints receipts on credit card or debit card transactions and which is placed in service prior to January 1, 2003, shall be subject to the provisions of this section on or after January 1, 2005.

Unofficial

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:

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(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 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;

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(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**] fifteen** dollars, whichever is **[**less**] greater, not to exceed fifty dollars**; 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**]** **twenty-five** 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; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;

(9) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets 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.

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.

Unofficial Bill Copy

408.233. 1. No charge other than that permitted by section 408.232 shall be directly or indirectly charged, contracted for or received in connection with any second mortgage loan, except as provided in this section:

(1) Fees and charges prescribed by law actually and necessarily paid to public officials for perfecting, releasing, or satisfying a security interest related to the second mortgage loan;

(2) Taxes;

(3) Bona fide closing costs paid to third parties, which shall include:

(a) Fees or premiums for title examination, title insurance, or similar purposes including survey;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Fees for notarizing deeds and other documents;

(d) Appraisal fees; and

(e) Fees for credit reports;

(4) Charges for insurance as described in subsection 2 of this section;

(5) A nonrefundable origination fee not to exceed five percent of the principal which may be used by the lender to reduce the rate on a second mortgage loan;

(6) Any amounts paid to the lender by any person, corporation or entity, other than the borrower, to reduce the rate on a second mortgage loan or to assist the borrower in qualifying for the loan;

(7) For revolving loans, an annual fee not to exceed fifty dollars may be assessed.

2. An additional charge may be made for insurance written in connection with the loan, including insurance protecting the lender against the borrower's default or other credit loss, and:

(1) For insurance against loss of or damage to property where no such coverage already exists; and

(2) For insurance providing life, accident, health or involuntary unemployment coverage.

3. The cost of any insurance shall not exceed the rates filed with the division of insurance, and the insurance shall be obtained from an insurance company duly authorized to conduct business in this state. Any person or entity making second mortgage loans, or any of its employees, may be licensed to sell insurance permitted in this section.

4. On any second mortgage loan, a default charge may be contracted for and received for any installment or minimum payment not paid in full within fifteen days of its scheduled due date equal to five percent of the amount or **[**twenty-five**]** **fifteen** dollars, whichever is **[**less**]** **greater, not to exceed fifty dollars**. A default charge may be collected only once on an installment or a payment due however long it remains in default. A default charge may be collected at the time it accrues or at any time thereafter and for purposes of subsection 3 of section 408.234 a default charge shall be treated as a payment. No default charge may be collected on an installment or a payment due which is paid in full within fifteen days of its scheduled due date even though an earlier installment or payment or a default charge on earlier installment or payments may not have been paid in full.

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5. The lender shall, in addition to the charge authorized by subsection 4 of this section, be allowed to assess the borrower or other maker of refused instrument the actual charge made by any institution for processing the negotiable instrument, plus a handling fee of not more than **[**fifteen**] twenty-five** dollars; and, 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 are not handled by a salaried employee of the holder of the contract or note.

408.455. All contracts or agreements **originally** subject to **[**section**] sections** 408.450 **to 408.470, existing on August 28, 2003,** shall **[**also be**] remain** subject to the provisions of sections 408.140, 408.150, 408.160 and 408.550 to 408.562**, even if the contract or agreement is converted into another form of credit**.

408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual 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. **The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.** The provisions of this section shall not apply to pawnbroker loans, 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 violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in 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 of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-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

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agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-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 first renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by not less than five percent of the original amount of the loan until such loan is paid in full. However, no loan may be renewed more than six times.

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.

447.510. 1. Unclaimed funds, as defined in this section, held and owing by an insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the

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funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

2. "Unclaimed funds", as used in this section, means all moneys held and owing by any insurance corporation unclaimed and unpaid for more than seven years or five years as provided in section 447.536 after the moneys became due and payable as established from the records of the corporation under any property insurance or casualty insurance policy or any life or endowment insurance policy or annuity contract which has matured or terminated, including all unpaid drafts, except drafts issued for the purpose of an offer of settlement. It shall be the responsibility of the issuing company to establish that an unpaid draft was tendered as a settlement offer. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years or five years as provided in section 447.536:

(1) Assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan; or

(2) Corresponded in writing with the life insurance corporation concerning the policy.

Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

3. (1) Property distributable in the course of a demutualization, rehabilitation, or related reorganization of an insurance company is deemed abandoned two years after the date the property is first distributable if, at the time of the first distribution the last known address of the owner on the books and records of the holder is known to be incorrect, or the distribution or statements are returned by the post office as undeliverable; and the owner:

(a) Has not communicated in writing with the holder or its agent regarding the property; or

(b) Otherwise communicated with the holder regarding the property as evidenced by a memorandum or other record on file with the holder or its agent.

(2) Property distributable in the course of demutualization, rehabilitation, or related reorganization of a mutual insurance company that is not subject to subsection 1 of this section shall be reportable as otherwise provided in section 447.536.

(3) The initial report for December 31, 2002, required pursuant to this subsection shall be filed no later than November 1, 2003. Any additional reports of property subject to subsection 1 of this section shall be reported and delivered no later than May first of each year for all property to be reported pursuant to this subsection for December of the preceding year.

[408.450. 1. Notwithstanding the provisions of any other law, the parties to any

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written contract may agree to and stipulate for any rate per annum of interest time charge or time price differential not in excess of twenty-four percent per annum that does not exceed for any calendar period, as set forth in subsections 2 and 3 of this section, the average auction rate quoted on a nominal discount basis by the Federal Reserve Board for twenty-six-week treasury bills for the preceding auction, multiplied by two; however, if the preceding auction shall fall on the last day of the preceding month, then the rate shall be determined by the next preceding auction.

2. All open-end accounts shall fluctuate no more often than monthly and no less often than quarterly.

3. All closed-end accounts shall fluctuate no more often than quarterly and no less than annually; and only one formula and one index shall be used to determine the rate or time price differential for any one closed-end account.

4. This section shall not apply to open-end credit under which a credit card has been issued or any extension of credit made pursuant to sections 408.250 to 408.370.

5. Interest or time price differential on contracts subject to sections 408.450 to 408.467 shall be computed on a simple interest basis.

6. There shall be no prepayment penalty on any contract subject to sections 408.450 to 408.467.

7. No creditor shall refuse credit to a person solely because of his refusal to accept the provisions of sections 408.450 to 408.467.

8. The amount of regular, periodic payments on closed-end accounts shall not be changed, but the total number of payments due may be increased or decreased as a result of changes in the rate.**]**

[408.460. 1. If an open-end contract provides for or is amended to provide for, pursuant to section 408.450, a variable rate or amount according to any index, formula or provision of law disclosed to the obligor, the applicable rate ceiling is the ceiling as disclosed to the obligor. The monthly or quarterly ceiling shall be adjusted in accordance with and limited by section 408.450.

2. In any open-end account, the creditor may provide in the agreement covering the open-end account, or may amend the agreement to provide that the terms, including the formula used to determine the rate on the open-end account, will be subject to revision as to current and future balances, from time to time, by notice from the creditor to the obligor. Any creditor revising an open-end account pursuant to sections 408.450 to 408.467 shall disclose in the notice:

(1) The new formula to be used in computing the rate;

(2) The date on which the new rate formula will become effective;

(3) Whether the rate shall change monthly or quarterly and whether or not it will affect current as well as future balances;

(4) The obligor's rights under this section and the procedures for the obligor to

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exercise those rights;

(5) The address to which the obligor may send notification of the obligor's election not to continue the open-end account. If the amendment increases the rate, the notice shall contain the following printed in not less than 10-point bold-face type or equivalent: "YOU MAY TERMINATE THIS ACCOUNT IF YOU DO NOT WISH TO PAY THE NEW RATE."

3. With a notice required by subsection 2 of this section, the creditor shall include a form which may be returned at the expense of the creditor and on which the obligor may indicate his decision to terminate the account by checking or marking an appropriate box, or similar arrangement. The form may be included on a portion of the account statement to be returned to the creditor or on a separate sheet. Any obligor who is mailed a notice required by subsection 2 of this section, addressed to the obligor's last known address as shown by the creditor's records, is considered to have agreed to the revision if the obligor, or a person authorized by the obligor, after the expiration of five days after the notice is mailed, accepts or uses any extensions of credit or if the obligor elects to retain the privilege of using the open-end account. Such an election is considered to have occurred unless the obligor notifies the creditor in writing before the twenty-first day after the date on which the notice is sent that the obligor does not wish to continue the open-end account. The parties may also amend the contract by any other means permitted by any applicable law. Any obligor who rejects a rate change in accordance with this section has the right to pay off the then existing balance on the open-end account at the rate, and over the time period, in effect prior to the change, and at the same minimum payment terms previously agreed to, unless the obligor agrees to the new rates in accordance with this section. Rejection of the new rates may constitute termination of the account at the lender's option; however, the lender may not, in absence of an existing delinquency, accelerate the balance due.**]**

[408.465. 1. If the furnishing of any of the information required to compute the ceiling is discontinued so that it is no longer available to the lender from the Federal Reserve Board on a timely basis, the lender shall obtain that information from reliable sources satisfactory to the commissioner of finance.

2. If the information required to compute a ceiling is not available, then that ceiling remains at the level at which it was when the information became available until the information again becomes available.**]**

[408.467. The maximum rate on any contract to renew or extend the terms of payment of any indebtedness made pursuant to sections 408.450 to 408.465 is the applicable ceiling allowed by sections 408.450 to 408.465 for a contract entered at the time the renewal or extension is made or agreed to.**]**

[408.470. Sections 408.450 to 408.467 shall not apply to any loans or time price sales on which the rate of interest or time price differential charged is lawful without

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regard to the rates permitted in section 408.450.**]**

[408.653. 1. A depository institution including any state or federally chartered bank, credit union, savings and loan association or any similar institution may charge no more than fifteen dollars as an overdraft charge or as a charge for a check, draft or similar sight order returned for insufficient or uncollected funds.

2. Any person to whom a check, draft, order or like instrument is tendered may, if such instrument is dishonored or returned unpaid for any reason, charge and collect from the maker or drawer, or the person for whose benefit such instrument was given, the amount of twenty dollars plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument. No such charge will be considered interest, finance charge, time price differential or anything of a similar nature for purposes of any statute in this state.**]**

[408.654. Notwithstanding any other provisions of law to the contrary, a depository institution, including any state or federally chartered bank, credit union, savings and loan association or similar institution, may charge up to twenty dollars as an overdraft charge when the check, draft or similar sight order is presented for the first time to the depository institution and the depository institution pays such check, draft or similar sight order upon presentation or up to fifteen dollars as a charge for a check, draft or similar sight order returned because the customer has insufficient or uncollected funds in the customer's depository institution account.**]**

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