

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE
SENATE BILL NO. 1058
93RD GENERAL ASSEMBLY

Reported from the Committee on Judiciary May 4, 2006 with recommendation that House Committee Substitute for Senate Substitute for Senate Bill No. 1058 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4844L.09C

AN ACT

To repeal sections 28.160, 41.950, 70.320, 105.711, 211.031, 211.093, 260.205, 347.015, 347.030, 347.039, 347.048, 347.129, 347.179, 347.189, 347.705, 347.725, 351.015, 351.047, 351.055, 351.120, 351.125, 351.127, 351.145, 351.155, 351.215, 351.370, 351.375, 351.430, 351.484, 351.576, 351.588, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.096, 355.161, 355.166, 355.176, 355.556, 355.688, 355.706, 355.761, 355.781, 355.786, 355.796, 355.801, 355.806, 355.811, 355.821, 355.856, 356.041, 356.211, 356.233, 358.020, 358.440, 358.470, 358.520, 359.011, 359.041, 359.091, 359.165, 359.501, 359.531, 374.261, 374.263, 374.265, 374.267, 375.787, 375.1012, 404.051, 404.550, 404.714, 407.300, 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, 407.1227, 417.005, 417.011, 417.016, 417.018, 417.026, 417.031, 417.046, 417.210, 429.010, 429.080, 452.310, 452.340, 452.375, 452.377, 452.400, 452.402, 454.530, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301, 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506, 456.7-703, 456.8-813, 456.8-814, 456.8-816, 473.333, 473.787, 475.092, 475.130, 475.190, 476.681, 477.005, 478.428, 479.020, 479.260, 483.245, 483.260, 484.020, 486.215, 486.225, 486.230, 486.235, 486.280, 486.385, 488.014, 488.2253, 491.170, 510.120, 516.140, 535.040, 536.010, 536.100, 559.607, 610.021, and 610.100, RSMo, and to enact in lieu thereof one hundred eighty-one new sections relating to judicial

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

procedures and personnel, with penalty provisions, an effective date for certain sections, and an emergency clause.

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

Section A. Sections 28.160, 41.950, 70.320, 105.711, 211.031, 211.093, 260.205, 347.015, 347.030, 347.039, 347.048, 347.129, 347.179, 347.189, 347.705, 347.725, 351.015, 351.047, 351.055, 351.120, 351.125, 351.127, 351.145, 351.155, 351.215, 351.370, 351.375, 351.430, 351.484, 351.576, 351.588, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.096, 355.161, 355.166, 355.176, 355.556, 355.688, 355.706, 355.761, 355.781, 355.786, 355.796, 355.801, 355.806, 355.811, 355.821, 355.856, 356.041, 356.211, 356.233, 358.020, 358.440, 358.470, 358.520, 359.011, 359.041, 359.091, 359.165, 359.501, 359.531, 374.261, 374.263, 374.265, 374.267, 375.787, 375.1012, 404.051, 404.550, 404.714, 407.300, 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, 407.1227, 417.005, 417.011, 417.016, 417.018, 417.026, 417.031, 417.046, 417.210, 429.010, 429.080, 452.310, 452.340, 452.375, 452.377, 452.400, 452.402, 454.530, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301, 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506, 456.7-703, 456.8-813, 456.8-814, 456.8-816, 473.333, 473.787, 475.092, 475.130, 475.190, 476.681, 477.005, 478.428, 479.020, 479.260, 483.245, 483.260, 484.020, 486.215, 486.225, 486.230, 486.235, 486.280, 486.385, 488.014, 488.2253, 491.170, 510.120, 516.140, 535.040, 536.010, 536.100, 559.607, 610.021, and 610.100, RSMo, are repealed and one hundred eighty-one new sections enacted in lieu thereof, to be known as sections 28.160, 41.950, 70.320, 105.711, 211.031, 211.093, 260.205, 347.015, 347.030, 347.039, 347.048, 347.129, 347.179, 347.189, 347.705, 347.725, 351.015, 351.047, 351.055, 351.120, 351.122, 351.125, 351.127, 351.145, 351.155, 351.215, 351.370, 351.375, 351.430, 351.484, 351.576, 351.588, 351.592, 351.594, 351.598, 351.602, 351.690, 355.016, 355.021, 355.066, 355.071, 355.096, 355.161, 355.166, 355.176, 355.556, 355.688, 355.706, 355.761, 355.781, 355.786, 355.796, 355.801, 355.806, 355.811, 355.821, 355.856, 355.857, 356.041, 356.211, 356.233, 358.020, 358.440, 358.470, 358.520, 359.011, 359.041, 359.091, 359.165, 359.501, 359.531, 385.200, 385.201, 385.203, 385.204, 385.205, 385.207, 385.208, 385.209, 385.210, 385.211, 385.212, 385.300, 385.301, 385.302, 385.303, 385.304, 385.305, 385.306, 385.307, 385.310, 385.311, 385.312, 385.400, 385.403, 385.406, 385.409, 385.412, 385.415, 385.418, 385.421, 385.424, 385.427, 385.430, 385.433, 385.436, 404.051, 404.550, 404.714, 417.005, 417.011, 417.016, 417.018, 417.026, 417.031, 417.046, 417.049, 417.210, 429.010, 429.080, 452.310, 452.340, 452.375, 452.377, 452.400, 452.402, 454.530, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301,

32 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506,
 33 456.7-703, 456.8-813, 456.8-814, 456.8-816, 469.600, 473.333, 473.787, 475.092, 475.130,
 34 475.190, 476.681, 477.005, 477.651, 478.428, 479.020, 479.260, 479.265, 483.245, 484.020,
 35 486.215, 486.225, 486.230, 486.235, 486.280, 486.385, 488.014, 488.2221, 488.2253, 491.170,
 36 510.120, 516.140, 535.040, 536.010, 536.100, 559.607, 610.021, 610.100, 650.120, 1, and 2, to
 37 read as follows:

38

2 28.160. 1. The state shall be entitled to fees for services to be rendered by the secretary
 3 of state as follows:

4 For issuing commission to notary public \$15.00

5 For countersigning and sealing certificates of
 6 official character 10.00

7 For all other certificates 5.00

8 For copying archive and state library records,
 9 papers or documents, for each page 8 1/2 x 14
 10 inches and smaller, not to exceed the actual
 11 cost of document search and duplication

12 For duplicating microfilm, for each roll, not to
 13 exceed the actual cost of staff time required
 14 for searches and duplication

15 For copying all other records, papers or documents,
 16 for each page 8 1/2 x 14 inches and smaller, not
 17 to exceed the actual cost of document search
 18 and duplication

19 For certifying copies of records and papers or
 20 documents 5.00

21 For causing service of process to be made 10.00

22 For electronic telephone transmittal, per page 2.00

23 2. There is hereby established the "Secretary of State's Technology Trust Fund Account"
 24 which shall be administered by the state treasurer. All yield, interest, income, increment, or gain
 25 received from time deposit of moneys in the state treasury to the credit of the secretary of state's
 26 technology trust fund account shall be credited by the state treasurer to the account. The
 27 provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the fund shall
 28 not be transferred and placed to the credit of general revenue until the amount in the fund at the
 29 end of a biennium exceeds five million dollars. In any such biennium the amount in the fund in
 30 excess of five million dollars shall be transferred to general revenue.

31 3. The secretary of state may collect an additional fee of ten dollars for the issuance of
32 new and renewal notary commissions which shall be deposited in the state treasury and credited
33 to the secretary of state's technology trust fund account.

34 4. The secretary of state may ask the general assembly to appropriate funds from the
35 technology trust fund for the purposes of establishing, procuring, developing, modernizing and
36 maintaining:

37 (1) An electronic data processing system and programs capable of maintaining a
38 centralized database of all registered voters in the state;

39 (2) Library services offered to the citizens of this state;

40 (3) Administrative rules services, equipment and functions;

41 (4) Services, equipment and functions relating to securities;

42 (5) Services, equipment and functions relating to corporations and business
43 organizations;

44 (6) Services, equipment and functions relating to the Uniform Commercial Code;

45 (7) Services, equipment and functions relating to archives;

46 (8) Services, equipment and functions relating to record services; and

47 (9) Services, equipment and functions relating to state and local elections.

48 5. Notwithstanding any provision of this section to the contrary, the secretary of state
49 shall not collect fees, for processing apostilles, certifications and authentications prior to the
50 placement of a child for adoption, in excess of one hundred dollars per child per adoption, or per
51 multiple children to be adopted at the same time.

52 **6. The secretary of state may establish fees to be charged and collected for special**
53 **handling in connection with filing documents, issuing certificates, and other services**
54 **performed by the office, including expedited filing. Fees charged under this subsection**
55 **shall approximate the estimated cost of special handling and shall not exceed five hundred**
56 **dollars per document filed or document requested. Requests for special handling or**
57 **expedited filing may be filled, and the fees under this subsection may be charged only if the**
58 **special handling does not cause disruption or delay in the process of normal handling of**
59 **documents. Such determination shall be at the sole discretion of the secretary of state or**
60 **his or her designee, and neither the secretary of state nor his or her designee shall be liable**
61 **in any manner for the acceptance or rejection of requests for special handling or expedited**
62 **filing.**

63 **7. The secretary of state may promulgate rules to implement the provisions of this**
64 **section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
65 **that is created under the authority delegated in this section shall become effective only if**
66 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**

67 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
68 **and if any of the powers vested with the general assembly under chapter 536, RSMo, to**
69 **review, to delay the effective date, or to disapprove and annul a rule are subsequently held**
70 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
71 **after August 28, 2006, shall be invalid and void.**

41.950. 1. Any resident of this state who is a member of the national guard or of any
2 reserve component of the armed forces of the United States or who is a member of the United
3 States Army, the United States Navy, the United States Air Force, the United States Marine
4 Corps, the United States Coast Guard or an officer of the United States Public Health Service
5 detailed by proper authority for duty with any branch of the United States armed forces described
6 in this section and who is engaged in the performance of active duty in the military service of the
7 United States in a military conflict in which reserve components have been called to active duty
8 under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order
9 by the President or Congress for any period of thirty days or more shall be relieved from certain
10 provisions of state law, as follows:

11 (1) No person performing such military service who owns a motor vehicle shall be
12 required to maintain financial responsibility on such motor vehicle as required under section
13 303.025, RSMo, until such time as that person completes such military service, unless any
14 person shall be operating such motor vehicle while the vehicle owner is performing such military
15 service;

16 (2) No person failing to renew his driver's license while performing such military service
17 shall be required to take a complete examination as required under section 302.173, RSMo, when
18 renewing his license within sixty days after completing such military service;

19 (3) Any motor vehicle registration required under chapter 301, RSMo, that expires for
20 any person performing such military service may be renewed by such person within sixty days
21 of completing such military service without being required to pay a delinquent registration fee;
22 however, such motor vehicle shall not be operated while the person is performing such military
23 service unless the motor vehicle registration is renewed;

24 (4) Any person enrolled by the supreme court of Missouri or licensed, registered or
25 certified under chapter 168, 256, 289, 317, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334,
26 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 375, 640 or 644, RSMo, whose
27 license, registration or certification expires while performing such military service, may renew
28 such license, registration or certification within sixty days of completing such military service
29 without penalty;

30 (5) In the case of [annual] **corporate registration** reports, franchise tax reports or other
31 reports required to be filed with the office of secretary of state, where the filing of such report
32 would be delayed because of a person performing such military service, such reports shall be
33 filed without penalty within one hundred twenty days of the completion of such military service;

34 (6) No person performing such military service who is subject to a criminal summons
35 for a traffic violation shall be subject to nonappearance sanctions for such violation until after
36 one hundred eighty days after the completion of such military service;

37 (7) No person performing such military service who is required under state law to file
38 financial disclosure reports shall be required to file such reports while performing such military
39 service; however, such reports covering that period of time that such military service is
40 performed shall be filed within one hundred eighty days after the completion of such military
41 service;

42 (8) Any person with an indebtedness, liability or obligation for state income tax or
43 property tax on personal or real property who is performing such military service or a spouse of
44 such person filing a combined return or owning property jointly shall be granted an extension
45 to file any papers or to pay any obligation until one hundred eighty days after the completion of
46 such military service or continuous hospitalization as a result of such military service
47 notwithstanding the provisions of section 143.991, RSMo, to the contrary and shall be allowed
48 to pay such tax without penalty or interest if paid within the one-hundred-eighty-day period;

49 (9) Notwithstanding other provisions of the law to the contrary, for the purposes of this
50 section, interest shall be allowed and paid on any overpayment of tax imposed by sections
51 143.011 to 143.998, RSMo, at the rate of six percent per annum from the original due date of the
52 return or the date the tax was paid, whichever is later;

53 (10) No state agency, board, commission or administrative tribunal shall take any
54 administrative action against any person performing such military service for that person's failure
55 to take any required action or meet any required obligation not already provided for in
56 subdivisions (1) to (8) of this subsection until one hundred eighty days after the completion of
57 such military service, except that any agency, board, commission or administrative tribunal
58 affected by this subdivision may, in its discretion, extend the time required to take such action
59 or meet such obligation beyond the one-hundred-eighty-day period;

60 (11) Any disciplinary or administrative action or proceeding before any state agency,
61 board, commission or administrative tribunal where the person performing such military service
62 is a necessary party, which occurs during such period of military service, shall be stayed by the
63 administrative entity before which it is pending until sixty days after the end of such military
64 service.

65 2. Upon completing such military service, the person shall provide the appropriate
66 agency, board, commission or administrative tribunal an official order from the appropriate
67 military authority as evidence of such military service.

68 3. The provisions of this section shall apply to any individual defined in subsection 1 of
69 this section who performs such military service on or after August 2, 1990.

70.320. Suits affecting any of the terms of any contract [may] **shall** be brought in the
2 circuit court of the county in which any contracting municipality or political subdivision is
3 located [or in the circuit court of the county in which a party to the contract resides] **as provided**
4 **in section 508.050, RSMo.**

105.711. 1. There is hereby created a "State Legal Expense Fund" which shall consist
2 of moneys appropriated to the fund by the general assembly and moneys otherwise credited to
3 such fund pursuant to section 105.716.

4 2. Moneys in the state legal expense fund shall be available for the payment of any claim
5 or any amount required by any final judgment rendered by a court of competent jurisdiction
6 against:

7 (1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or
8 536.087, RSMo, or section 537.600, RSMo;

9 (2) Any officer or employee of the state of Missouri or any agency of the state, including,
10 without limitation, elected officials, appointees, members of state boards or commissions, and
11 members of the Missouri national guard upon conduct of such officer or employee arising out
12 of and performed in connection with his or her official duties on behalf of the state, or any
13 agency of the state, provided that moneys in this fund shall not be available for payment of
14 claims made under chapter 287, RSMo; or

15 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health
16 care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335,
17 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state,
18 under formal contract to conduct disability reviews on behalf of the department of elementary
19 and secondary education or provide services to patients or inmates of state correctional facilities
20 on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or
21 other health care provider licensed to practice in Missouri under the provisions of chapter 330,
22 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to provide services to
23 patients or inmates at a county jail on a part-time basis;

24 (b) Any physician licensed to practice medicine in Missouri under the provisions of
25 chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo,
26 who is employed by or under contract with a city or county health department organized under
27 chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city

28 charter, or a combined city-county health department to provide services to patients for medical
29 care caused by pregnancy, delivery, and child care, if such medical services are provided by the
30 physician pursuant to the contract without compensation or the physician is paid from no other
31 source than a governmental agency except for patient co-payments required by federal or state
32 law or local ordinance;

33 (c) Any physician licensed to practice medicine in Missouri under the provisions of
34 chapter 334, RSMo, who is employed by or under contract with a federally funded community
35 health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42
36 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery,
37 and child care, if such medical services are provided by the physician pursuant to the contract
38 or employment agreement without compensation or the physician is paid from no other source
39 than a governmental agency or such a federally funded community health center except for
40 patient co-payments required by federal or state law or local ordinance. In the case of any claim
41 or judgment that arises under this paragraph, the aggregate of payments from the state legal
42 expense fund shall be limited to a maximum of one million dollars for all claims arising out of
43 and judgments based upon the same act or acts alleged in a single cause against any such
44 physician, and shall not exceed one million dollars for any one claimant;

45 (d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and
46 receives no compensation from a nonprofit entity qualified as exempt from federal taxation under
47 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health
48 screening in any setting or any physician, nurse, physician assistant, dental hygienist, [or] dentist,
49 **or other health care provider** licensed or registered pursuant to chapter **330, 331, 332, [RSMo,**
50 **chapter] 334, [RSMo, or chapter] 335, 336, 337, or 338, RSMo,** who provides [medical, dental,
51 or nursing treatment] **health care services** within the scope of his **or her** license or registration
52 at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo,
53 a city health department operating under a city charter, or a combined city-county health
54 department, or a nonprofit community health center qualified as exempt from federal taxation
55 under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such [treatment
56 is] **services are** restricted to primary care and preventive health services, provided that such
57 [treatment] **services** shall not include the performance of an abortion, and if such [medical,
58 dental, or nursing] **health** services are provided by the [physician, dentist, physician assistant,
59 dental hygienist, or nurse] **health care provider licensed or registered under chapter 330,**
60 **331, 332, 334, 335, 336, 337, or 338, RSMo,** without compensation. Medicaid or medicare
61 payments for primary care and preventive health services provided by a [physician, dentist,
62 physician assistant, dental hygienist, or nurse] **health care provider licensed or registered**
63 **under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo,** who volunteers at a free

64 health clinic is not compensation for the purpose of this section if the total payment is assigned
65 to the free health clinic. For the purposes of the section, "free health clinic" means a nonprofit
66 community health center qualified as exempt from federal taxation under Section 501 (c)(3) of
67 the Internal Revenue Code of 1987, as amended, that provides primary care and preventive
68 health services to people without health insurance coverage for the services provided without
69 charge. In the case of any claim or judgment that arises under this paragraph, the aggregate of
70 payments from the state legal expense fund shall be limited to a maximum of five hundred
71 thousand dollars, for all claims arising out of and judgments based upon the same act or acts
72 alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant,
73 and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited
74 to five hundred thousand dollars. Liability or malpractice insurance obtained and maintained in
75 force by or on behalf of any [physician, dentist, physician assistant, dental hygienist, or nurse]
76 **health care provider licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337,**
77 **or 338, RSMo,** shall not be considered available to pay that portion of a judgment or claim for
78 which the state legal expense fund is liable under this paragraph; or

79 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or
80 registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental
81 hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter
82 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license
83 or registration to students of a school whether a public, private, or parochial elementary or
84 secondary school, if such physician's treatment is restricted to primary care and preventive health
85 services and if such medical, dental, or nursing services are provided by the physician, dentist,
86 physician assistant, dental hygienist, or nurse without compensation. In the case of any claim
87 or judgment that arises under this paragraph, the aggregate of payments from the state legal
88 expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims
89 arising out of and judgments based upon the same act or acts alleged in a single cause and shall
90 not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased
91 pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars;
92 or

93 (f) **Any physician licensed under chapter 334, RSMo, or dentist licensed under**
94 **chapter 332, RSMo, providing specialty care without compensation to an individual**
95 **referred to his or her care by a city or county health department organized under chapter**
96 **192 or 205, RSMo, a city health department operating under a city charter, or a combined**
97 **city-county health department or a nonprofit community health center qualified as exempt**
98 **from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as**
99 **amended, or a federally funded community health center organized under Section 315, 329,**

100 **330, or 340 of the Public Health Services Act (42 U.S.C. Section 216, 254c) provided that**
101 **such treatment shall not include the performance of an abortion. In the case of any claim**
102 **or judgment that arises under this paragraph, the aggregate of payments from the state**
103 **legal expense fund shall be limited to a maximum of one million dollars, for all claims**
104 **arising out of and judgments based upon the same act or acts alleged in a single cause and**
105 **shall not exceed one million dollars for any one claimant, and insurance policies purchased**
106 **under the provisions of section 105.721 shall be limited to one million dollars. Liability or**
107 **malpractice insurance obtained and maintained in force by or on behalf of any health care**
108 **provider licensed or registered under chapter 332 or 334, RSMo, shall not be considered**
109 **available to pay that portion of a judgment or claim for which the state legal expense fund**
110 **is liable under this paragraph; or**

111 (4) Staff employed by the juvenile division of any judicial circuit; or

112 (5) Any attorney licensed to practice law in the state of Missouri who practices law at
113 or through a nonprofit community social services center qualified as exempt from federal
114 taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through
115 any agency of any federal, state, or local government, if such legal practice is provided by the
116 attorney without compensation. In the case of any claim or judgment that arises under this
117 subdivision, the aggregate of payments from the state legal expense fund shall be limited to a
118 maximum of five hundred thousand dollars for all claims arising out of and judgments based
119 upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand
120 dollars for any one claimant, and insurance policies purchased pursuant to the provisions of
121 section 105.721 shall be limited to five hundred thousand dollars.

122 3. The department of health and senior services shall promulgate rules regarding contract
123 procedures and the documentation of care provided under paragraphs (b), (c), (d), [and] (e), **and**
124 **(f)** of subdivision (3) of subsection 2 of this section. The limitation on payments from the state
125 legal expense fund or any policy of insurance procured pursuant to the provisions of section
126 105.721, provided in subsection 7 of this section, shall not apply to any claim or judgment
127 arising under paragraph (a), (b), (c), (d), [or] (e), **or (f)** of subdivision (3) of subsection 2 of this
128 section. Any claim or judgment arising under paragraph (a), (b), (c), (d), [or] (e), **or (f)** of
129 subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any
130 policy of insurance procured pursuant to section 105.721, to the extent damages are allowed
131 under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and
132 maintained in force by any [physician, dentist, physician assistant, dental hygienist, or nurse]
133 **health care provider licensed under chapter 330, 331, 332, 334, 335, 336, 337, or 338,**
134 **RSMo,** for coverage concerning his or her private practice and assets shall not be considered
135 available under subsection 7 of this section to pay that portion of a judgment or claim for which

136 the state legal expense fund is liable under paragraph (a), (b), (c), (d), [or] (e), **or (f)** of
137 subdivision (3) of subsection 2 of this section. However, a [physician, nurse, dentist, physician
138 assistant, or dental hygienist] **health care provider licensed under chapter 330, 331, 332, 334,**
139 **335, 336, 337, or 338, RSMo**, may purchase liability or malpractice insurance for coverage of
140 liability claims or judgments based upon care rendered under paragraphs (c), (d), [and] (e), **and**
141 **(f)** of subdivision (3) of subsection 2 of this section which exceed the amount of liability
142 coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a),
143 (b), (c), (d), [or] (e), **or (f)** of subdivision (3) of subsection 2 of this section is repealed or
144 modified, the state legal expense fund shall be available for damages which occur while the
145 pertinent paragraph (a), (b), (c), (d), [or] (e), **or (f)** of subdivision (3) of subsection 2 of this
146 section is in effect.

147 4. The attorney general shall promulgate rules regarding contract procedures and the
148 documentation of legal practice provided under subdivision (5) of subsection 2 of this section.
149 The limitation on payments from the state legal expense fund or any policy of insurance procured
150 pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any
151 claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or
152 judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state
153 legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent
154 damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice
155 insurance otherwise obtained and maintained in force shall not be considered available under
156 subsection 7 of this section to pay that portion of a judgment or claim for which the state legal
157 expense fund is liable under subdivision (5) of subsection 2 of this section. However, an
158 attorney may obtain liability or malpractice insurance for coverage of liability claims or
159 judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this
160 section that exceed the amount of liability coverage provided by the state legal expense fund
161 under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of
162 this section is repealed or amended, the state legal expense fund shall be available for damages
163 that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

164 5. All payments shall be made from the state legal expense fund by the commissioner
165 of administration with the approval of the attorney general. Payment from the state legal expense
166 fund of a claim or final judgment award against a [physician, dentist, physician assistant, dental
167 hygienist, or nurse] **health care provider licensed under chapter 330, 331, 332, 334, 335, 336,**
168 **337, or 338, RSMo**, described in paragraph (a), (b), (c), (d), [or] (e), **or (f)** of subdivision (3) of
169 subsection 2 of this section, or against an attorney in subdivision (5) of subsection 2 of this
170 section, shall only be made for services rendered in accordance with the conditions of such
171 paragraphs. In the case of any claim or judgment against an officer or employee of the state or

172 any agency of the state based upon conduct of such officer or employee arising out of and
173 performed in connection with his or her official duties on behalf of the state or any agency of the
174 state that would give rise to a cause of action under section 537.600, RSMo, the state legal
175 expense fund shall be liable, excluding punitive damages, for:

- 176 (1) Economic damages to any one claimant; and
177 (2) Up to three hundred fifty thousand dollars for noneconomic damages.

178

179 The state legal expense fund shall be the exclusive remedy and shall preclude any other civil
180 actions or proceedings for money damages arising out of or relating to the same subject matter
181 against the state officer or employee, or the officer's or employee's estate. No officer or
182 employee of the state or any agency of the state shall be individually liable in his or her personal
183 capacity for conduct of such officer or employee arising out of and performed in connection with
184 his or her official duties on behalf of the state or any agency of the state. The provisions of this
185 subsection shall not apply to any defendant who is not an officer or employee of the state or any
186 agency of the state in any proceeding against an officer or employee of the state or any agency
187 of the state. Nothing in this subsection shall limit the rights and remedies otherwise available
188 to a claimant under state law or common law in proceedings where one or more defendants is
189 not an officer or employee of the state or any agency of the state.

190 6. The limitation on awards for noneconomic damages provided for in this subsection
191 shall be increased or decreased on an annual basis effective January first of each year in
192 accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published
193 by the Bureau of Economic Analysis of the United States Department of Commerce. The current
194 value of the limitation shall be calculated by the director of the department of insurance, who
195 shall furnish that value to the secretary of state, who shall publish such value in the Missouri
196 Register as soon after each January first as practicable, but it shall otherwise be exempt from the
197 provisions of section 536.021, RSMo.

198 7. Except as provided in subsection 3 of this section, in the case of any claim or
199 judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri,
200 or an agency of the state, the aggregate of payments from the state legal expense fund and from
201 any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed
202 the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be
203 made from the state legal expense fund or any policy of insurance procured with state funds
204 pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other
205 policy of liability insurance have been exhausted.

206 8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to
207 the credit of the state legal expense fund at the end of an appropriation period shall not be
208 transferred to general revenue.

209 9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
210 is promulgated under the authority delegated in sections 105.711 to 105.726 shall become
211 effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo.
212 Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or
213 adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo.
214 This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
215 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
216 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
217 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family
2 court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall
3 have exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident of or
5 found within the county and who is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the child
7 or person seventeen years of age, neglect or refuse to provide proper support, education which
8 is required by law, medical, surgical or other care necessary for his or her well-being; except that
9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or
10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise without proper care, custody
13 or support; or

14 (c) The child or person seventeen years of age was living in a room, building or other
15 structure at the time such dwelling was found by a court of competent jurisdiction to be a public
16 nuisance pursuant to section 195.130, RSMo;

17 (d) The child or person seventeen years of age is a child in need of mental health services
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health
19 treatment or care for the child;

20 (2) Involving any child who may be a resident of or found within the county and who is
21 alleged to be in need of care and treatment because:

22 (a) The child while subject to compulsory school attendance is repeatedly and without
23 justification absent from school; or

24 (b) The child disobeys the reasonable and lawful directions of his or her parents or other
25 custodian and is beyond their control; or

26 (c) The child is habitually absent from his or her home without sufficient cause,
27 permission, or justification; or

28 (d) The behavior or associations of the child are otherwise injurious to his or her welfare
29 or to the welfare of others; or

30 (e) The child is charged with an offense not classified as criminal, or with an offense
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any
32 child fifteen [and one-half] years of age who is alleged to have violated a state or municipal
33 traffic ordinance or regulation, the violation of which does not constitute a felony, or any child
34 who is alleged to have violated a state or municipal ordinance or regulation prohibiting
35 possession or use of any tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of
39 the circuit in which the child or person resides or may be found or in which the violation is
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child
41 fifteen [and one-half] years of age who is alleged to have violated a state or municipal traffic
42 ordinance or regulation, the violation of which does not constitute a felony, and except that the
43 juvenile court shall have concurrent jurisdiction with the municipal court over any child who is
44 alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall
45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship
49 of the department of social services as provided by law.

50 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person
51 seventeen years of age who resides in a county of this state shall be made as follows:

52 (1) Prior to the filing of a petition and upon request of any party or at the discretion of
53 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be
54 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving
55 court, to the county of the child's residence or the residence of the person seventeen years of age
56 for future action;

57 (2) Upon the motion of any party or on its own motion prior to final disposition on the
58 pending matter, the court in which a proceeding is commenced may transfer the proceeding of
59 a child or person seventeen years of age to the court located in the county of the child's residence

60 or the residence of the person seventeen years of age, or the county in which the offense pursuant
61 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

62 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has
63 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction
64 of a child or person seventeen years of age to the court located in the county of the child's
65 residence or the residence of the person seventeen years of age for further action with the prior
66 consent of the receiving court;

67 (4) Upon motion of any party or upon its own motion at any time following a judgment
68 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause
69 may place the child or person seventeen years of age under the supervision of another juvenile
70 court within or without the state pursuant to section 210.570, RSMo, with the consent of the
71 receiving court;

72 (5) Upon motion of any child or person seventeen years of age or his or her parent, the
73 court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court
74 Rules;

75 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or
76 person seventeen years of age, certified copies of all legal and social documents and records
77 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the
78 transfer.

79 3. In any proceeding involving any child or person seventeen years of age taken into
80 custody in a county other than the county of the child's residence or the residence of a person
81 seventeen years of age, the juvenile court of the county of the child's residence or the residence
82 of a person seventeen years of age shall be notified of such taking into custody within
83 seventy-two hours.

84 4. When an investigation by a juvenile officer pursuant to this section reveals that the
85 only basis for action involves an alleged violation of section 167.031, RSMo, involving a child
86 who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such
87 child to verify that the child is being home schooled and not in violation of section 167.031,
88 RSMo, before making a report of such a violation. Any report of a violation of section 167.031,
89 RSMo, made by a juvenile officer regarding a child who is being home schooled shall be made
90 to the prosecuting attorney of the county where the child legally resides.

211.093. 1. **Except as otherwise provided in this section,** any order or judgment
2 entered by the court under authority of this chapter or chapter 210, RSMo, shall, so long as such
3 order or judgment remains in effect, take precedence over any order or judgment concerning the
4 status or custody of a child under age twenty-one entered by a court under authority of chapter
5 452, 453, 454 or 455, RSMo, but only to the extent inconsistent therewith.

6 **2. At any time after the filing of a petition under section 211.031, and after notice**
7 **and hearing, the juvenile court may, upon its own motion or upon motion by any party,**
8 **enter a temporary custody, visitation, and child support order and transfer jurisdiction**
9 **over the cause to the circuit court of the county of appropriate venue or to the probate**
10 **court of appropriate venue for the purposes of:**

11 **(1) Entry of a final order or judgment of custody, visitation, and child support or**
12 **entry of an order of legal guardianship, if no such order or judgment has been entered with**
13 **respect to the child; or**

14 **(2) Entry of a final order or judgment modifying a previously entered order or**
15 **judgment of custody, visitation, and child support, or legal guardianship.**

16 **3. The juvenile court only may enter an order under subsection 2 of this section if**
17 **the juvenile court makes a finding on the record that the best interest and welfare of the**
18 **child shall be served by entering such an order in light of all of the circumstances. In**
19 **making such an order, the juvenile court may place the child as follows:**

20 **(1) In the temporary legal and physical custody of one or both of the legal parents**
21 **or legal guardians of the child; or**

22 **(2) If the juvenile court finds that both of the parents, or the legal guardian, are**
23 **unfit, unsuitable, or unable to be the custodian of the child, the court may place the child**
24 **in the legal and physical custody of a fit and willing relative of the child who the court**
25 **determines is an appropriate person to exercise custody of the child under subdivision (5)**
26 **of subsection 5 of section 452.375, RSMo, or guardianship of the child under chapter 475,**
27 **RSMo; or**

28 **(3) If the juvenile court finds that both of the parents, or the legal guardian, are**
29 **unfit, unwilling, or unable to be the custodian of the child, and there is no fit and willing**
30 **relative of the child willing to exercise custody or guardianship of the child, the court may**
31 **place the child in the legal and physical custody of an appropriate person over the age of**
32 **twenty-one who the court determines is an appropriate person to exercise custody of the**
33 **child under subdivision (5) of subsection 5 of section 452.375, RSMo, or guardianship of**
34 **the child under chapter 475, RSMo.**

35 **4. Upon the entry of a temporary order under subsection 2 of this section, the clerk**
36 **of the juvenile court shall transfer a certified copy of the juvenile court's order, and the**
37 **clerk of the recipient court immediately shall cause the order to be filed either:**

38 **(1) As a new case in the case of a child where there is no prior order of custody or**
39 **guardianship, or if the only prior custody order is an order entered under chapter 455,**
40 **RSMo.; or**

(2) If there already is a judgment or order of custody or guardianship on record in the recipient court, the clerk of the recipient court shall file the juvenile court's order in the case file in which the prior order was entered provided however, that temporary orders under this section shall not be filed in actions brought under chapter 455, RSMo.

Upon filing of the temporary order in the recipient court, the jurisdiction of the sending juvenile court shall automatically terminate by operation of law, and the jurisdiction of the recipient court shall immediately attach. The temporary order shall be entered in the record of the recipient court and shall have the full force and effect of an order of the recipient court. The temporary order shall remain in full force and effect unless modified by the recipient court after notice and hearing, as provided in this section. The filing of a temporary order under this section in an action in which there is a previous order of custody, visitation, support, or guardianship of a child may be treated as a motion to modify such previous order.

5. The recipient court shall not charge any filing fees for filing the temporary order of the juvenile court under this section. Upon filing of the juvenile court's temporary order, the clerk of the recipient court shall:

(1) Notify the sending juvenile court of the time and date that the order was filed with the recipient court; and

(2) Notify all parties to the action.

6. The temporary order shall become a final judgment of the recipient court superseding all inconsistent prior orders sixty days after jurisdiction of the recipient court attaches unless:

(1) A party to the case in the recipient court files a motion and objections with the recipient court requesting modification of the temporary order or other appropriate relief; or

(2) If the recipient court, on its own motion, sets the cause for hearing.

All findings of fact and conclusions of law entered by the juvenile court shall be res judicata in any proceeding filed in the recipient court under this section as to any person who was a party to the juvenile court proceedings. If the case is transferred to the recipient court for a guardianship, the recipient court shall issue letters of guardian to the guardian within ten days of the judgment becoming final in the manner provided by law.

260.205. 1. It shall be unlawful for any person to operate a solid waste processing facility or solid waste disposal area of a solid waste management system without first obtaining an operating permit from the department. It shall be unlawful for any person to construct a solid

4 waste processing facility or solid waste disposal area without first obtaining a construction
5 permit from the department pursuant to this section. A current authorization to operate issued
6 by the department pursuant to sections 260.200 to 260.345 shall be considered to be a permit to
7 operate for purposes of this section for all solid waste disposal areas and processing facilities
8 existing on August 28, 1995. A permit shall not be issued for a sanitary landfill to be located in
9 a flood area, as determined by the department, where flood waters are likely to significantly
10 erode final cover. A permit shall not be required to operate a waste stabilization lagoon, settling
11 pond or other water treatment facility which has a valid permit from the Missouri clean water
12 commission even though the facility may receive solid or semisolid waste materials.

13 2. No person or operator may apply for or obtain a permit to construct a solid waste
14 disposal area unless the person has requested the department to conduct a preliminary site
15 investigation and obtained preliminary approval from the department. The department shall,
16 within sixty days of such request, conduct a preliminary investigation and approve or disapprove
17 the site.

18 3. All proposed solid waste disposal areas for which a preliminary site investigation
19 request pursuant to subsection 2 of this section is received by the department on or after August
20 28, 1999, shall be subject to a public involvement activity as part of the permit application
21 process. The activity shall consist of the following:

22 (1) The applicant shall notify the public of the preliminary site investigation approval
23 within thirty days after the receipt of such approval. Such public notification shall be by certified
24 mail to the governing body of the county or city in which the proposed disposal area is to be
25 located and by certified mail to the solid waste management district in which the proposed
26 disposal area is to be located;

27 (2) Within ninety days after the preliminary site investigation approval, the department
28 shall conduct a public awareness session in the county in which the proposed disposal area is to
29 be located. The department shall provide public notice of such session by both printed and
30 broadcast media at least thirty days prior to such session. Printed notification shall include
31 publication in at least one newspaper having general circulation within the county in which the
32 proposed disposal area is to be located. Broadcast notification shall include public service
33 announcements on radio stations that have broadcast coverage within the county in which the
34 proposed disposal area is to be located. The intent of such public awareness session shall be to
35 provide general information to interested citizens on the design and operation of solid waste
36 disposal areas;

37 (3) At least sixty days prior to the submission to the department of a report on the results
38 of a detailed site investigation pursuant to subsection 4 of this section, the applicant shall conduct
39 a community involvement session in the county in which the proposed disposal area is to be

40 located. Department staff shall attend any such session. The applicant shall provide public
41 notice of such session by both printed and broadcast media at least thirty days prior to such
42 session. Printed notification shall include publication in at least one newspaper having general
43 circulation within the county in which the proposed disposal area is to be located. Broadcast
44 notification shall include public service announcements on radio stations that have broadcast
45 coverage within the county in which the proposed disposal area is to be located. Such public
46 notices shall include the addresses of the applicant and the department and information on a
47 public comment period. Such public comment period shall begin on the day of the community
48 involvement session and continue for at least thirty days after such session. The applicant shall
49 respond to all persons submitting comments during the public comment period no more than
50 thirty days after the receipt of such comments;

51 (4) If a proposed solid waste disposal area is to be located in a county or city that has
52 local planning and zoning requirements, the applicant shall not be required to conduct a
53 community involvement session if the following conditions are met:

54 (a) The local planning and zoning requirements include a public meeting;

55 (b) The applicant notifies the department of intent to utilize such meeting in lieu of the
56 community involvement session at least thirty days prior to such meeting;

57 (c) The requirements of such meeting include providing public notice by printed or
58 broadcast media at least thirty days prior to such meeting;

59 (d) Such meeting is held at least thirty days prior to the submission to the department of
60 a report on the results of a detailed site investigation pursuant to subsection 4 of this section;

61 (e) The applicant submits to the department a record of such meeting;

62 (f) A public comment period begins on the day of such meeting and continues for at least
63 fourteen days after such meeting, and the applicant responds to all persons submitting comments
64 during such public comment period no more than fourteen days after the receipt of such
65 comments.

66 4. No person may apply for or obtain a permit to construct a solid waste disposal area
67 unless the person has submitted to the department a plan for conducting a detailed surface and
68 subsurface geologic and hydrologic investigation and has obtained geologic and hydrologic site
69 approval from the department. The department shall approve or disapprove the plan within thirty
70 days of receipt. The applicant shall conduct the investigation pursuant to the plan and submit
71 the results to the department. The department shall provide approval or disapproval within sixty
72 days of receipt of the investigation results.

73 5. (1) Every person desiring to construct a solid waste processing facility or solid waste
74 disposal area shall make application for a permit on forms provided for this purpose by the
75 department. Every applicant shall submit evidence of financial responsibility with the

76 application. Any applicant who relies in part upon a parent corporation for this demonstration
77 shall also submit evidence of financial responsibility for that corporation and any other
78 subsidiary thereof.

79 (2) Every applicant shall provide a financial assurance instrument or instruments to the
80 department prior to the granting of a construction permit for a solid waste disposal area. The
81 financial assurance instrument or instruments shall be irrevocable, meet all requirements
82 established by the department and shall not be canceled, revoked, disbursed, released or allowed
83 to terminate without the approval of the department. After the cessation of active operation of
84 a sanitary landfill, or other solid waste disposal area as designed by the department, neither the
85 guarantor nor the operator shall cancel, revoke or disburse the financial assurance instrument or
86 allow the instrument to terminate until the operator is released from postclosure monitoring and
87 care responsibilities pursuant to section 260.227.

88 (3) The applicant for a permit to construct a solid waste disposal area shall provide the
89 department with plans, specifications, and such other data as may be necessary to comply with
90 the purpose of sections 260.200 to 260.345.

91
92 The application shall demonstrate compliance with all applicable local planning and zoning
93 requirements. The department shall make an investigation of the solid waste disposal area and
94 determine whether it complies with the provisions of sections 260.200 to 260.345 and the rules
95 and regulations adopted pursuant to sections 260.200 to 260.345. Within twelve consecutive
96 months of the receipt of an application for a construction permit the department shall approve
97 or deny the application. The department shall issue rules and regulations establishing time limits
98 for permit modifications and renewal of a permit for a solid waste disposal area. The time limit
99 shall be consistent with this chapter.

100 (4) The applicant for a permit to construct a solid waste processing facility shall provide
101 the department with plans, specifications and such other data as may be necessary to comply with
102 the purpose of sections 260.200 to 260.345. Within one hundred eighty days of receipt of the
103 application, the department shall determine whether it complies with the provisions of sections
104 260.200 to 260.345. Within twelve consecutive months of the receipt of an application for a
105 permit to construct an incinerator as defined in section 260.200 or a material recovery facility
106 as defined in section 260.200, and within six months for permit modifications, the department
107 shall approve or deny the application. Permits issued for solid waste facilities shall be for the
108 anticipated life of the facility. **Any person who has received a permit to construct a solid**
109 **waste processing facility and who has failed to commence construction of the facility within**
110 **sixty months of receiving the permit shall obtain approval from the local jurisdiction**
111 **signifying that the activity which is the subject of such permit is in compliance with all**

applicable local zoning, building, and health codes, ordinances, and orders. Such local approval must be given prior to the construction of any such facility.

(5) If the department fails to approve or deny an application for a permit or a permit modification within the time limits specified in subdivisions (3) and (4) of this subsection, the applicant may maintain an action in the circuit court of Cole County or that of the county in which the facility is located or is to be sited. The court shall order the department to show cause why it has not acted on the permit and the court may, upon the presentation of evidence satisfactory to the court, order the department to issue or deny such permit or permit modification. Permits for solid waste disposal areas, whether issued by the department or ordered to be issued by a court, shall be for the anticipated life of the facility.

(6) The applicant for a permit to construct a solid waste processing facility shall pay an application fee of one thousand dollars. Upon completion of the department's evaluation of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of four thousand dollars. The applicant for a permit to construct a solid waste disposal area shall pay an application fee of two thousand dollars. Upon completion of the department's evaluations of the application, but before receiving a permit, the applicant shall reimburse the department for all reasonable costs incurred by the department up to a maximum of eight thousand dollars. Applicants who withdraw their application before the department completes its evaluation shall be required to reimburse the department for costs incurred in the evaluation. The department shall not collect the fees authorized in this subdivision unless it complies with the time limits established in this section.

(7) When the review reveals that the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall approve the application and shall issue a permit for the construction of each solid waste processing facility or solid waste disposal area as set forth in the application and with any permit terms and conditions which the department deems appropriate. In the event that the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a report to the applicant stating the reason for denial of a permit.

6. Plans, designs, and relevant data for the construction of solid waste processing facilities and solid waste disposal areas shall be submitted to the department by a registered professional engineer licensed by the state of Missouri for approval prior to the construction, alteration or operation of such a facility or area.

7. Any person or operator as defined in section 260.200 who intends to obtain a construction permit in a solid waste management district with an approved solid waste management plan shall request a recommendation in support of the application from the

executive board created in section 260.315. The executive board shall consider the impact of the proposal on, and the extent to which the proposal conforms to, the approved district solid waste management plan prepared pursuant to section 260.325. The executive board shall act upon the request for a recommendation within sixty days of receipt and shall submit a resolution to the department specifying its position and its recommendation regarding conformity of the application to the solid waste plan. The board's failure to submit a resolution constitutes recommendation of the application. The department may consider the application, regardless of the board's action thereon and may deny the construction permit if the application fails to meet the requirements of sections 260.200 to 260.345, or if the application is inconsistent with the district's solid waste management plan.

8. If the site proposed for a solid waste disposal area is not owned by the applicant, the owner or owners of the site shall acknowledge that an application pursuant to sections 260.200 to 260.345 is to be submitted by signature or signatures thereon. The department shall provide the owner with copies of all communication with the operator, including inspection reports and orders issued pursuant to section 260.230.

9. The department shall not issue a permit for the operation of a solid waste disposal area designed to serve a city with a population of greater than four hundred thousand located in more than one county, if the site is located within one-half mile of an adjoining municipality, without the approval of the governing body of such municipality. The governing body shall conduct a public hearing within fifteen days of notice, shall publicize the hearing in at least one newspaper having general circulation in the municipality, and shall vote to approve or disapprove the land disposal facility within thirty days after the close of the hearing.

10. Upon receipt of an application for a permit to construct a solid waste processing facility or disposal area, the department shall notify the public of such receipt:

(1) By legal notice published in a newspaper of general circulation in the area of the proposed disposal area or processing facility;

(2) By certified mail to the governing body of the county or city in which the proposed disposal area or processing facility is to be located; and

(3) By mail to the last known address of all record owners of contiguous real property or real property located within one thousand feet of the proposed disposal area and, for a proposed processing facility, notice as provided in section 64.875, RSMo, or section 89.060, RSMo, whichever is applicable.

(4) If an application for a construction permit meets all statutory and regulatory requirements for issuance, a public hearing on the draft permit shall be held by the department in the county in which the proposed solid waste disposal area is to be located prior to the issuance of the permit. The department shall provide public notice of such hearing by both

184 printed and broadcast media at least thirty days prior to such hearing. Printed notification shall
185 include publication in at least one newspaper having general circulation within the county in
186 which the proposed disposal area is to be located. Broadcast notification shall include public
187 service announcements on radio stations that have broadcast coverage within the county in which
188 the proposed disposal area is to be located.

189 11. After the issuance of a construction permit for a solid waste disposal area, but prior
190 to the beginning of disposal operations, the owner and the department shall execute an easement
191 to allow the department, its agents or its contractors to enter the premises to complete work
192 specified in the closure plan, or to monitor or maintain the site or to take remedial action during
193 the postclosure period. After issuance of a construction permit for a solid waste disposal area,
194 but prior to the beginning of disposal operations, the owner shall submit evidence that he or she
195 has recorded, in the office of the recorder of deeds in the county where the disposal area is
196 located, a notice and covenant running with the land that the property has been permitted as a
197 solid waste disposal area and prohibits use of the land in any manner which interferes with the
198 closure and, where appropriate, postclosure plans filed with the department.

199 12. Every person desiring to obtain a permit to operate a solid waste disposal area or
200 processing facility shall submit applicable information and apply for an operating permit from
201 the department. The department shall review the information and determine, within sixty days
202 of receipt, whether it complies with the provisions of sections 260.200 to 260.345 and the rules
203 and regulations adopted pursuant to sections 260.200 to 260.345. When the review reveals that
204 the facility or area does conform with the provisions of sections 260.200 to 260.345 and the rules
205 and regulations adopted pursuant to sections 260.200 to 260.345, the department shall issue a
206 permit for the operation of each solid waste processing facility or solid waste disposal area and
207 with any permit terms and conditions which the department deems appropriate. In the event that
208 the facility or area fails to meet the rules and regulations adopted pursuant to sections 260.200
209 to 260.345, the department shall issue a report to the applicant stating the reason for denial of
210 a permit.

211 13. Each solid waste disposal area, except utility waste landfills unless otherwise and to
212 the extent required by the department, and those solid waste processing facilities designated by
213 rule, shall be operated under the direction of a certified solid waste technician in accordance with
214 sections 260.200 to 260.345 and the rules and regulations promulgated pursuant to sections
215 260.200 to 260.345.

216 14. Base data for the quality and quantity of groundwater in the solid waste disposal area
217 shall be collected and submitted to the department prior to the operation of a new or expansion
218 of an existing solid waste disposal area. Base data shall include a chemical analysis of
219 groundwater drawn from the proposed solid waste disposal area.

15. Leachate collection and removal systems shall be incorporated into new or expanded sanitary landfills which are permitted after August 13, 1986. The department shall assess the need for a leachate collection system for all types of solid waste disposal areas, other than sanitary landfills, and the need for monitoring wells when it evaluates the application for all new or expanded solid waste disposal areas. The department may require an operator of a solid waste disposal area to install a leachate collection system before the beginning of disposal operations, at any time during disposal operations for unfilled portions of the area, or for any portion of the disposal area as a part of a remedial plan. The department may require the operator to install monitoring wells before the beginning of disposal operations or at any time during the operational life or postclosure care period if it concludes that conditions at the area warrant such monitoring. The operator of a demolition landfill or utility waste landfill shall not be required to install a leachate collection and removal system or monitoring wells unless otherwise and to the extent the department so requires based on hazardous waste characteristic criteria or site specific geohydrological characteristics or conditions.

16. Permits granted by the department, as provided in sections 260.200 to 260.345, shall be subject to suspension for a designated period of time, civil penalty or revocation whenever the department determines that the solid waste processing facility or solid waste disposal area is, or has been, operated in violation of sections 260.200 to 260.345 or the rules or regulations adopted pursuant to sections 260.200 to 260.345, or has been operated in violation of any permit terms and conditions, or is creating a public nuisance, health hazard, or environmental pollution. In the event a permit is suspended or revoked, the person named in the permit shall be fully informed as to the reasons for such action.

17. Each permit for operation of a facility or area shall be issued only to the person named in the application. Permits are transferable as a modification to the permit. An application to transfer ownership shall identify the proposed permittee. A disclosure statement for the proposed permittee listing violations contained in subsection 19 of this section shall be submitted to the department. The operation and design plans for the facility or area shall be updated to provide compliance with the currently applicable law and rules. A financial assurance instrument in such an amount and form as prescribed by the department shall be provided for solid waste disposal areas by the proposed permittee prior to transfer of the permit. The financial assurance instrument of the original permittee shall not be released until the new permittee's financial assurance instrument has been approved by the department and the transfer of ownership is complete.

18. Those solid waste disposal areas permitted on January 1, 1996, shall, upon submission of a request for permit modification, be granted a solid waste management area operating permit if the request meets reasonable requirements set out by the department.

19. In case a permit required pursuant to this section is denied or revoked, the person may request a hearing in accordance with section 260.235.

20. Any person seeking a permit or renewal of a permit to operate a commercial solid waste processing facility, or a solid waste disposal area shall, concurrently with the filing of application for a permit, file a disclosure statement with the department of natural resources. The disclosure statement shall include, but not be limited to, a listing of any felony convictions by state or federal agencies, and a listing of other enforcement actions, sanctions, permit revocations or denials by any state or federal authority of every person seeking a permit, including officers, directors, partners and facility or location managers of each person seeking a permit, any violations of Missouri environmental statutes, violations of the environmental statutes of other states or federal statutes and a listing of convictions for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated pursuant to this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. The department shall by rule, define those environmental violations which must be reported pursuant to this section. For purposes of this section, additional persons as required by rule shall be named in the statement and violations or convictions of such persons shall be listed. The department or its representative shall verify the information provided on the disclosure statement prior to permit issuance. The disclosure statement shall be used by the department in determining whether a permit should be granted or denied on the basis of the applicant's status as a habitual violator; however, the department has the authority to make a habitual violator determination independent of the information contained in the disclosure statement. After permit issuance, each facility shall annually file an updated disclosure statement with the department of natural resources on or before March thirty-first of each year. Any county, district, municipality, authority or other political subdivision of this state which owns and operates a sanitary landfill shall be exempt from the provisions of this subsection.

21. Any person seeking a permit to operate a solid waste disposal area, a solid waste processing facility or a resource recovery facility shall, concurrently with the filing of the application for a permit, disclose any convictions in this state of municipal or county public health or land use ordinances related to the management of solid waste. If the department finds that there has been a continuing pattern of serious adjudicated violations by the applicant, the department may deny the application.

22. No permit to construct or permit to operate shall be required pursuant to this section for any utility waste landfill located in a county of the third classification with a township form

292 of government which has a population of at least eleven thousand inhabitants and no more than
293 twelve thousand five hundred inhabitants according to the most recent decennial census, if such
294 utility waste landfill complies with all design and operating standards and closure requirements
295 applicable to utility waste landfills pursuant to sections 260.200 to 260.345 and provided that
296 no waste disposed of at such utility waste landfill is considered hazardous waste pursuant to the
297 Missouri hazardous waste law.

347.015. As used in sections 347.010 to 347.187, the following terms mean:

- 2 (1) "Articles of organization", the articles referred to in section 347.039, filed with the
3 secretary for the purpose of forming a limited liability company, as the same may be amended
4 or restated from time to time as provided in sections 347.010 to 347.187;
- 5 (2) "Authorized person", manager, or member, if management of the limited liability
6 company is vested in the members;
- 7 (3) "Bankruptcy", the entry of an order for relief by the court in a proceeding under the
8 United States Bankruptcy Code, Title 11, U.S.C., as amended, or its equivalent under a state
9 insolvency act or a similar law of other jurisdictions;
- 10 (4) "Business" includes every trade, occupation or profession;
- 11 (5) "Contribution", cash, other property, the use of property, services rendered, a
12 promissory note or other binding obligation to contribute cash or property or perform services
13 or any other valuable consideration transferred by a person to the limited liability company as
14 a prerequisite for membership in the limited liability company and any subsequent transfer to the
15 limited liability company by a person in his capacity as a member;
- 16 (6) "Court" includes every court and judge having jurisdiction in the case;
- 17 (7) "Domestic limited liability company" or "limited liability company", a limited
18 liability company organized and existing under sections 347.010 to 347.187;
- 19 (8) "Event of withdrawal", an event that causes a person to cease to be a member as
20 provided in section 347.123;
- 21 (9) "Foreign limited liability company", a limited liability company formed under the
22 laws of any jurisdiction other than the state of Missouri;
- 23 (10) "Manager", with respect to a limited liability company whose articles of
24 organization state that management of the limited liability company is vested in one or more
25 managers, the person or persons designated, appointed or elected as such in the manner provided
26 in subsection 2 of section 347.079;
- 27 (11) "Member", any person that signs in person or by an attorney in fact, or otherwise
28 is a party to the operating agreement at the time the limited liability company is formed and is
29 identified as a member in that operating agreement and any person who is subsequently admitted
30 as a member in a limited liability company in accordance with sections 347.010 to 347.187 and

31 the operating agreement, until such time as an event of withdrawal occurs with respect to such
32 person;

33 (12) "Member's interest", a member's share of the profits and losses of a limited liability
34 company and the right to receive distributions of limited liability company assets;

35 (13) "Operating agreement", any valid agreement or agreements, written or oral, among
36 all members, or written declaration by the sole member concerning the conduct of the business
37 and affairs of the limited liability company and the relative rights, duties and obligations of the
38 members and managers, if any;

39 (14) "Organizer", any of the signers of the articles of organization;

40 (15) "Person" includes individuals, partnerships, domestic or foreign limited
41 partnerships, domestic or foreign limited liability companies, domestic or foreign corporations,
42 trusts, business trusts, employee stock ownership trusts, real estate investment trusts, estates,
43 associations, and other business or not-for-profit entities;

44 (16) **"Physical address", the street address of the office, building, home, or other**
45 **structure that serves as the location recognized and to which mail for the occupant or**
46 **tenant thereof may be delivered by the United States Post Office and where the registered**
47 **agent may be found; a post office box or an address with a post office box zip code or a**
48 **location where a post office box is rented is not alone sufficient to meet the meaning of the**
49 **term "physical address";**

50 (17) "Real property" includes land, any interest, leasehold or estate in land and any
51 improvements thereon;

52 [(17)] (18) "Secretary", the secretary of state for the state of Missouri and its delegates
53 responsible for the administration of sections 347.010 to 347.187;

54 [(18)] (19) "Surviving entity", the surviving or resulting person pursuant to a merger or
55 consolidation in which one or more domestic limited liability companies are parties.

347.030. 1. Each limited liability company shall have and continuously maintain in this
2 state:

3 (1) A registered office which may be, but need not be, the same as a place of its business
4 in this state;

5 (2) A registered agent for service of any process, notice or demand required or permitted
6 by law to be served upon the limited liability company, which agent may be either an individual,
7 resident of this state, whose business office **has a physical address which** is identical with such
8 registered office, or a domestic or foreign corporation authorized to do business in this state, and
9 whose business office **has a physical address which** is identical with such registered office.
10 Except as provided in this section and subdivision (5) of section 347.153, the secretary shall not
11 be appointed as the resident agent for any limited liability company.

12 2. A limited liability company may, from time to time, change its registered agent or the
13 address of its registered office. A limited liability company shall change its registered agent if
14 the office of its registered agent shall become vacant for any reason, if its registered agent
15 becomes disqualified or incapacitated to act, or if the limited liability company revokes the
16 appointment of its registered agent. A limited liability company may change its registered agent
17 or the address of its registered office, or both, by a filing with the secretary, a statement setting
18 forth:

19 (1) The name of the limited liability company;

20 (2) The **physical** address[, including street and number, if any,] of its then registered
21 office;

22 (3) If the address of its registered office is to be changed, the **physical** address[,
23 including street and number, if any,] to which the registered office is to be changed;

24 (4) The name of its then registered agent;

25 (5) If its registered agent is to be changed, the name of its successor registered agent and
26 the successor registered agent's written consent to the appointment either on the statement or
27 attached thereto;

28 (6) That the **physical** address of its registered office and the **physical** address of the
29 business office of its registered agent, as changed, will be identical; and

30 (7) That such change was authorized by the limited liability company.

31 3. The change of address of the registered office, or the change of the registered agent,
32 or both, as the case may be, shall become effective upon the filing of such statement by the
33 secretary.

34 4. If a registered agent changes the [street] **physical** address of his business office, he
35 may change the [street] **physical** address of the registered office of any limited liability company
36 for which he is the registered agent by notifying the limited liability company in writing of the
37 change and signing, either manually or in facsimile, and delivering to the secretary of state for
38 filing a statement of change that complies with the requirements of subdivisions (1) to (6) of
39 subsection 2 of this section and recites that the limited liability company has been notified of the
40 change.

41 5. The change of an address of the registered office shall become effective upon the
42 filing of the statement by the secretary.

43 6. Any registered agent of a limited liability company may resign as such agent by the
44 filing with the secretary duplicate originals of a statement, on a form approved by the secretary,
45 setting forth:

46 (1) The name of the limited liability company;

47 (2) The **physical** address[, including street and number, if any,] of its then registered
48 office;

49 (3) The name of such registered agent; and

50 (4) A representation that such registered agent has given written notice of such agent's
51 resignation and a copy of such statement to the limited liability company. Such resignation shall
52 become effective upon expiration of thirty days after receipt of such statement by the secretary,
53 or on the appointment of a new registered agent, whichever occurs earlier.

347.039. 1. The articles of organization shall set forth:

2 (1) The name of the limited liability company;

3 (2) The purpose or purposes for which the limited liability company is organized, which
4 may be stated to be, or to include, the transaction of any or all lawful business for which a
5 limited liability company may be organized under sections 347.010 to 347.187;

6 (3) The **physical** address[, including street and number, if any,] of the registered office
7 and the name of the registered agent at such office;

8 (4) A statement as to whether management of the limited liability company is vested in
9 managers or in members;

10 (5) The events by which the limited liability company is to dissolve or the number of
11 years the limited liability company is to exist, which may be any number or perpetual; and

12 (6) The name and [physical] **address of the** business or residence [address] of each
13 organizer.

14 2. The articles of organization may set forth any other provision, not inconsistent with
15 law or sections 347.010 to 347.187, which are in the operating agreement of the limited liability
16 company.

347.048. Any limited liability company that owns and rents or leases real property, or
2 owns unoccupied real property, located within any home rule city with a population of more than
3 four hundred thousand inhabitants which is located in more than one county, shall file with that
4 city's clerk an affidavit listing the name and **physical** address of at least one person who has
5 management control and responsibility for the real property owned and leased or rented by the
6 limited liability company, or owned by the limited liability company and unoccupied.

347.129. 1. The surviving limited liability company in the merger or the new limited
2 liability company in the consolidation shall file a notice of the merger or consolidation with the
3 secretary which shall set forth:

4 (1) The name of each party to the merger or consolidation;

5 (2) The effective date of the merger or consolidation which may not exceed ninety days
6 after the filing of the notice of merger or consolidation;

7 (3) The name of the surviving limited liability company in the merger or the new limited
8 liability company in the consolidation and the state of its formation;

9 (4) A statement that the merger or consolidation was authorized and approved by the
10 members of each party to the merger or consolidation in accordance with the laws of the
11 jurisdiction where it was organized;

12 (5) If applicable, the **physical** address of the registered office and the name of the
13 registered agent at such office for the surviving or new limited liability company;

14 (6) In the case of a merger in which a domestic limited liability company is the surviving
15 limited liability company, such amendments to the articles of organization of the surviving
16 limited liability company as are desired to be effected by the merger, or, if no such amendments
17 or changes are desired, a statement that the articles of organization of the surviving limited
18 liability company shall not be amended as a result of the merger;

19 (7) In the case of a consolidation in which a domestic limited liability company is the
20 continuing limited liability company, the articles of organization of the new domestic limited
21 liability company shall be set forth in an attachment to the notice of consolidation;

22 (8) A statement that the executed agreement of merger or consolidation is on file at the
23 principal place of business of the surviving or new limited liability company, stating the **physical**
24 address of the principal place of business; and

25 (9) A statement that a copy of the agreement of merger or consolidation will be furnished
26 by the surviving or new entity, on request and without cost, to any member of any entity that is
27 a party to the merger or consolidation.

28 2. The notice of the merger or consolidation shall be executed by at least one authorized
29 person of the domestic limited liability company and one authorized agent, or its equivalent, for
30 the other party to the merger or consolidation who is duly authorized to execute such notice.

31 3. In the event the merger or consolidation is not consummated for any reason, the
32 domestic limited liability company shall promptly file a notice of the abandonment of the merger
33 or consolidation with the secretary which shall set forth:

34 (1) The name of each party to the merger or consolidation;

35 (2) The date the notice of merger or consolidation was filed with the secretary; and

36 (3) A statement that the merger or consolidation was not consummated and has been
37 abandoned.

38 4. If the surviving or new limited liability company is a foreign limited liability
39 company, the effective date of such merger or consolidation shall be the date on which the same
40 becomes effective in the state of domicile of such surviving or new limited liability company;
41 provided a document from the state of domicile of the surviving limited liability company in the
42 case of merger or the case of consolidation certifying that the merger or consolidation has

43 become effective in such state shall be a requirement for the merger or consolidation becoming
44 effective in this state.

347.179. The secretary shall charge and collect:

2 (1) For filing the original articles of organization, a fee of one hundred dollars;

3 (2) **For filing the original articles of organization online in an electronic format**
4 **prescribed by the secretary of state, a fee of forty-five dollars;**

5 (3) Applications for registration of foreign limited liability companies and issuance of
6 a certificate of registration to transact business in this state, a fee of one hundred dollars;

7 [(3)] (4) Amendments to and restatements of articles of limited liability companies to
8 application for registration of a foreign limited liability company or any other filing otherwise
9 provided for, a fee of twenty dollars;

10 [(4)] (5) Articles of termination of limited liability companies or cancellation of
11 registration of foreign limited liability companies, a fee of twenty dollars;

12 [(5)] (6) For filing notice of merger or consolidation, a fee of twenty dollars;

13 [(6)] (7) For filing a notice of winding up, a fee of twenty dollars;

14 [(7)] (8) For issuing a certificate of good standing, a fee of five dollars;

15 [(8)] (9) For a notice of the abandonment of merger or consolidation, a fee of twenty
16 dollars;

17 [(9)] (10) For furnishing a copy of any document or instrument, a fee of fifty cents per
18 page;

19 [(10)] (11) For accepting an application for reservation of a name, or for filing a notice
20 of the transfer or cancellation of any name reservation, a fee of twenty dollars;

21 [(11)] (12) For filing a statement of change of address of registered office or registered
22 agent, or both, a fee of five dollars;

23 [(12)] (13) For any service of notice, demand, or process upon the secretary as resident
24 agent of a limited liability company, a fee of twenty dollars, which amount may be recovered as
25 taxable costs by the party instituting such suit, action, or proceeding causing such service to be
26 made if such party prevails therein;

27 [(13)] (14) For filing an amended certificate of registration a fee of twenty dollars; and

28 [(14)] (15) For filing a statement of correction a fee of five dollars.

347.189. Any limited liability company that owns and rents or leases real property, or
2 owns unoccupied real property, located within any home rule city with a population of more than
3 four hundred thousand inhabitants which is located in more than one county, shall file with that
4 city's clerk an affidavit listing the name and **physical** address of at least one person, who has
5 management control and responsibility for the real property owned and leased or rented by the
6 limited liability company, or owned by the limited liability company and unoccupied.

347.705. As used in sections 347.700 to 347.735, the following terms mean:

2 (1) "Constituent entity", each person that is a party to a merger or consolidation subject
3 to sections 347.700 to 347.735;

4 (2) "New entity", the person into which constituent entities consolidate, as identified in
5 the agreement of consolidation or articles of consolidation provided for in sections 347.700 to
6 347.735;

7 (3) "Organizational document", with respect to a corporation, its articles of corporation
8 or their equivalent, with respect to a general partnership, its fictitious name registration or its
9 equivalent, with respect to a limited partnership, its certificate of limited partnership or its
10 equivalent, with respect to a limited liability company, its articles of organization or their
11 equivalent, with respect to a limited liability partnership, its registration as a limited liability
12 partnership or its equivalent, with respect to a limited liability limited partnership, its certificate
13 of limited partnership and its registration as a limited liability partnership or their equivalent, and
14 with respect to any other type of person, the documents, if any, necessary to form and organize
15 such person under the laws of the jurisdiction under which such person was or is formed and
16 organized;

17 (4) "Person", a domestic or foreign general partnership, limited partnership, limited
18 liability partnership, limited liability limited partnership, limited liability company, corporation,
19 trust, business trust, real estate investment trust and other association or business entity;

20 (5) **"Physical address", the street address of the office, building, home, or other**
21 **structure that serves as the location recognized and to which mail for the occupant or**
22 **tenant thereof may be delivered by the United States Post Office and where a registered**
23 **agent may be found; a post office box or an address with a post office box zip code or a**
24 **location where a post office box is rented is not alone sufficient to meet the meaning of the**
25 **term "physical address";**

26 (6) "Surviving entity", the constituent entity surviving a merger, as identified in the
27 agreement of merger or articles of merger provided for in sections 347.700 to 347.735.

347.725. 1. After an agreement of merger or consolidation is authorized, approved, and
2 certified in accordance with section 347.720, the surviving or new entity shall file the agreement
3 of merger or consolidation with the secretary of state or, in lieu thereof, articles of merger or
4 consolidation, duly executed, by each constituent entity setting forth:

5 (1) The name, state or country of organization and nature or type of each of the
6 constituent entities;

7 (2) That an agreement of merger or consolidation has been authorized and approved by
8 each of the constituent entities in accordance with section 347.720;

9 (3) The effective date of the merger or consolidation which may not exceed ninety days
10 after the date of filing of the agreement of merger or consolidation or the articles of merger or
11 consolidation;

12 (4) The name of the surviving or new entity;

13 (5) If applicable, the **physical** address of the registered office and the name of the
14 registered agent at such office for the surviving or new entity;

15 (6) In the case of a merger, such amendments or changes to the organizational documents
16 of the surviving entity, as are desired to be effected by the merger, or, if no such amendments or
17 changes are desired, a statement that the organizational documents of the surviving entity shall
18 be its organizational documents;

19 (7) In the case of a consolidation, that the organizational documents of the new entity
20 shall be as set forth in an attachment to such agreement or articles of merger or consolidation;

21 (8) That the executed agreement of merger or consolidation is on file at the principal
22 place of business of the surviving or new entity, stating the address thereof; and

23 (9) That a copy of the agreement of merger or consolidation will be furnished by the
24 surviving or new entity, on request and without cost, to any partner, shareholder, member, or
25 their equivalent of any entity that is a party to the merger or consolidation.

26 2. An original of the agreement of merger or consolidation or articles of merger or
27 consolidation for each domestic constituent entity to the merger or consolidation shall be
28 delivered to the secretary of state for filing. A person who executes an agreement or articles of
29 merger or consolidation as an agent or fiduciary need not exhibit evidence of authority as a
30 prerequisite to filing. Unless the secretary of state finds that the agreement or articles of merger
31 or consolidation do not conform to law, upon receipt of all filing fees required by law, the
32 secretary of state shall:

33 (1) Endorse on the document the word "Filed" and the day, month and year of the filing
34 thereof;

35 (2) File the document in the secretary of state's office;

36 (3) Issue a certificate of merger or consolidation, which shall set forth the names of all
37 constituent entities, the name of the state or country under the laws of which each was formed,
38 whether a merger or consolidation is involved, the name of the surviving or new entity, the name
39 of the state or country under the laws of which the new entity is formed, the date of filing of the
40 agreement of merger or consolidation or articles of merger or consolidation with him, and the
41 effective date of the merger or consolidation;

42 (4) Return a copy of the certificate of merger or consolidation to the person who filed
43 the agreement or articles of merger or consolidation or his representative; and

44 (5) File a copy of the certificate of merger or consolidation in the records of the secretary
45 of state for each domestic constituent entity.

46 3. A merger or consolidation shall be effective when the requirements for effectiveness
47 of the laws under which any constituent entity was formed have been met and the certificate of
48 merger or consolidation has been filed by the secretary of state, unless a later date is specified
49 in the agreement of merger or consolidation or articles of merger or consolidation, in which case,
50 the effective date of the merger or consolidation will be the date so specified which shall, in no
51 event, exceed ninety days after the date the agreement of merger or consolidation or articles of
52 merger or consolidation is delivered to the secretary of state for filing.

351.015. As used in this chapter, unless the context otherwise requires:

2 (1) "Articles of incorporation" includes the original articles of incorporation and all
3 amendments thereto, and includes articles of merger or consolidation;

4 (2) "Authorized shares" means the aggregate number of shares of stock of all classes,
5 whether with or without par value, which the corporation is authorized to issue. Shares of its
6 own stock belonging to a corporation shall be deemed to be "issued" shares but not "outstanding"
7 shares;

8 (3) "Certificate of stock" means a written instrument signed by or bearing the facsimile
9 signature of the proper corporate officers, as required by this chapter, evidencing the fact that the
10 person therein named is the holder of record of the share or shares therein described;

11 (4) "Control share acquisition" means the acquisition, directly or indirectly, by any
12 person of ownership of, or the power to direct the exercise of voting power with respect to,
13 issued and outstanding control shares. For the purposes of this chapter, shares acquired within
14 ninety days of any acquisition of shares or shares acquired pursuant to a plan to make a control
15 share acquisition are considered to have been acquired in the same acquisition. For the purposes
16 of this chapter, a person who acquires shares in the ordinary course of business for the benefit
17 of others in good faith and not for the purpose of circumventing this chapter has voting power
18 only of shares in respect of which that person would be able to exercise or direct the exercise of
19 votes without further instruction from others. The acquisition of any shares of an issuing public
20 corporation does not constitute a control share acquisition if the acquisition is consummated in
21 any of the following circumstances:

22 (a) Prior to June 13, 1984;

23 (b) Pursuant to a contract in existence prior to June 13, 1984;

24 (c) Pursuant to a will or other testamentary disposition, the laws of descent and
25 distribution or by intervivos gift where such gift is made in good faith and not for the purpose
26 of circumventing section 351.407;

- 27 (d) Pursuant to a public offering, a private placement, or any other issuance of shares by
28 an issuing public corporation;
- 29 (e) By, on behalf of, or pursuant to any benefit or other compensation plan or
30 arrangement of an issuing public corporation;
- 31 (f) Pursuant to the conversion of debt securities into shares of an issuing public
32 corporation under the terms of such debt securities;
- 33 (g) Pursuant to a binding contract, other than any contract created by, pursuant to, or in
34 connection with a tender offer, whereby the holders of shares representing at least two-thirds of
35 the voting power of an issuing public corporation, such holders acting simultaneously, agreed
36 to sell such shares to any person;
- 37 (h) Pursuant to the satisfaction of a pledge or other security interest created in good faith
38 and not for the purpose of circumventing section 351.407;
- 39 (i) Pursuant to a merger or consolidation effected in compliance with sections 351.410
40 to 351.458 if the issuing public corporation is a party to the agreement of merger or
41 consolidation;
- 42 (j) Pursuant to a binding contract or other arrangement with any individual, foreign or
43 domestic corporation (whether or not for profit), partnership, limited liability company,
44 unincorporated society or association, or other entity which, at any time within one year prior to
45 the acquisition in question, owned shares representing more than fifty percent of the voting
46 power of the issuing public corporation;
- 47 (k) By or from any person whose shares have been previously accorded voting rights
48 pursuant to section 351.407; provided, the acquisition entitles the person making the acquisition,
49 directly or indirectly, alone or as a part of a group, to exercise or direct the exercise of voting
50 power of the corporation in the election of directors within a range of the voting power not in
51 excess of the range of voting power associated with the shares to which voting rights have been
52 previously accorded;
- 53 (5) "Control shares" means shares that, except for this chapter, would have voting power
54 with respect to shares of an issuing public corporation that, when added to all other shares of the
55 issuing public corporation owned by a person or in respect to which that person may exercise or
56 direct the exercise of voting power, would entitle that person, immediately after acquisition of
57 the shares, directly or indirectly, alone or as a part of a group, to exercise or direct the exercise
58 of the voting power of the issuing public corporation in the election of directors within any of
59 the following ranges of voting power:
- 60 (a) One-fifth or more but less than one-third of all voting power;
- 61 (b) One-third or more but less than a majority of all voting power;

62 (c) A majority or more of all voting power; provided, however, that shares which the
63 person or the group have owned or of which the person or the group could have exercised or
64 directed the voting for more than ten years shall not be deemed to be "control shares" and shall
65 not be aggregated for the purpose of determining inclusion within the above-stated ranges;

66 (6) "Corporation" or "domestic corporation" includes corporations organized under this
67 chapter or subject to some or all of the provisions of this chapter except a foreign corporation;

68 (7) "Foreign corporation" means a corporation for profit organized under laws other than
69 the laws of this state;

70 (8) "Incorporator" means a signer of the original articles of incorporation;

71 (9) "Interested shares" means the shares of an issuing public corporation in respect of
72 which any of the following persons may exercise or direct the exercise of the voting power of
73 the corporation in the election of directors:

74 (a) An acquiring person or member of a group with respect to a control share acquisition;

75 (b) Any officer of the issuing public corporation elected or appointed by the directors of
76 the issuing public corporation;

77 (c) Any employee of the issuing public corporation who is also a director of such
78 corporation;

79 (10) "Issuing public corporation" means either a corporation incorporated under the laws
80 of the state of Missouri, or, subdivision (2) of section 351.690 notwithstanding, any insurance
81 company organized pursuant to the laws of Missouri and doing business under the provisions of
82 chapter 376, RSMo, provided that the bylaws of such insurance company expressly state that
83 such insurance company shall, for the purposes of this chapter, be included within the definition
84 of "issuing public corporation", that has:

85 (a) One hundred or more shareholders;

86 (b) Its principal place of business, its principal office, or substantial assets within
87 Missouri; and

88 (c) One of the following:

89 a. More than ten percent of its shareholders resident in Missouri;

90 b. More than ten percent of its shares owned by Missouri residents; or

91 c. Ten thousand shareholders resident in Missouri. The residence of a shareholder is
92 presumed to be the address appearing in the records of the corporation. Shares held by banks
93 (except as trustee or guardian), brokers or nominees shall be disregarded for purposes of
94 calculating the percentages or numbers described above;

95 (11) "Net assets", for the purpose of determining the right of a corporation to purchase
96 its own shares and of determining the right of a corporation to declare and pay dividends and the

97 liabilities of directors therefor, shall not include shares of its own stock belonging to a
98 corporation;

99 (12) "Paid-in surplus" means all that part of the consideration received by the corporation
100 for, or on account of, all shares issued which does not constitute stated capital minus such formal
101 reductions from said sum as may have been effected in a manner permitted by this chapter;

102 (13) "Person" includes, without limitation, an individual, a foreign or domestic
103 corporation whether not for profit or for profit, a partnership, a limited liability company, an
104 unincorporated society or association, two or more persons having a joint or common interest,
105 or any other entity;

106 (14) **"Physical address", the street address of the office, building, home, or other**
107 **structure that serves as the location recognized and to which mail for the occupant or**
108 **tenant thereof may be delivered by the United States Post Office and where a registered**
109 **agent may be found; a post office box or an address with a post office box zip code or a**
110 **location where a post office box is rented is not alone sufficient to meet the meaning of the**
111 **term "physical address";**

112 (15) "Registered office" means that office maintained by the corporation in this state, the
113 **physical** address of which is on file in the office of the secretary of state;

114 [(15)] (16) "Shareholder" means one who is a holder of record of shares in a corporation;

115 [(16)] (17) "Shares" are the units into which the shareholders' rights to participate in the
116 control of the corporation, in its surplus or profits, or in the distribution of its assets, are divided;

117 [(17)] (18) "Stated capital" means at any particular time the sum of:

118 (a) The par value of all shares then issued having a par value; and

119 (b) The consideration received by the corporation for all shares then issued without par
120 value except such part thereof as may have been allocated otherwise than to stated capital in a
121 manner permitted by law; and

122 (c) Such amounts not included in paragraphs (a) and (b) of this subdivision as may have
123 been transferred to the stated capital account of the corporation, whether upon the issue of shares
124 as a share dividend or otherwise, minus such formal reductions from said sum as may have been
125 effected in a manner permitted by this chapter;

126 [(18)] (19) "Subscriber" means one who subscribes for shares in a corporation, whether
127 before or after incorporation.

351.047. The secretary of state may prescribe and furnish on request forms for all
2 documents required or permitted to be filed by this chapter. The use of the following forms is
3 mandatory:

4 (1) A foreign corporation's application for a certificate of authority to do business in this
5 state;

6 (2) A foreign corporation's application for a certificate of withdrawal;

7 (3) A corporation's [annual] **corporate registration** report.

351.055. 1. The articles of incorporation shall set forth:

2 (1) The name of the corporation;

3 (2) The **physical** address[, including street and number, if any,] of its initial registered
4 office in this state, and the name of its initial registered agent at such address;

5 (3) If the aggregate number of shares which the corporation shall have the authority to
6 issue exceeds thirty thousand shares or the par value exceeds thirty thousand dollars the
7 corporation shall indicate the number of shares of each class, if any, that are to have a par value
8 and the par value of each share of each such class, and the number of shares of each class, if any,
9 that are to be without par value and also a statement of the preferences, qualifications,
10 limitations, restrictions, and the special or relative rights including convertible rights, if any, in
11 respect of the shares of each class;

12 (4) The name and **physical address of the** business or residence [address] of each
13 incorporator;

14 (5) The number of years the corporation is to continue, which may be any number or
15 perpetual;

16 (6) The purposes for which the corporation is formed.

17 2. The articles of incorporation may set forth:

18 (1) The number of directors to constitute the board of directors;

19 (2) The extent if any to which the preemptive right of a shareholder to acquire additional
20 shares is limited or denied;

21 (3) If the incorporators, the directors pursuant to subsection 1 of section 351.090 or the
22 shareholders pursuant to subsection 2 of section 351.090 choose to do so, a provision eliminating
23 or limiting the personal liability of a director to the corporation or its shareholders for monetary
24 damages for breach of fiduciary duty as a director, provided that such provision shall not
25 eliminate or limit the liability of a director:

26 (a) For any breach of the director's duty of loyalty to the corporation or its shareholders,

27 (b) For acts or omissions not in subjective good faith or which involve intentional
28 misconduct or a knowing violation of law,

29 (c) Pursuant to section 351.345 or

30 (d) For any transaction from which the director derived an improper personal benefit.

31

32 No such provision shall eliminate or limit the liability of a director for any act or omission
33 occurring prior to the date when such provision becomes effective. On motion to dismiss, a
34 person challenging the applicability of such a provision shall plead facts challenging such

35 applicability with particularity, and there shall be no discovery until such motion to dismiss has
36 been determined. All references in this subdivision to a director shall also be deemed to refer
37 (e) to a member of the governing body of a corporation which is not authorized to issue capital
38 stock and (f) to such other person or persons, if any, who, pursuant to a provision of the articles
39 of incorporation in accordance with this chapter, exercise or perform any of the powers or duties
40 otherwise conferred or imposed upon the board of directors by this chapter;

41 (4) Any other provisions, not inconsistent with law, which the incorporators, the
42 directors pursuant to subsection 1 of section 351.090 or the shareholders pursuant to subsection
43 2 of section 351.090 may choose to insert.

351.120. 1. Every corporation organized pursuant to the laws of this state, including
2 corporations organized pursuant to or subject to this chapter, and every foreign corporation
3 licensed to do business in this state, whether such license shall have been issued pursuant to this
4 chapter or not, other than corporations exempted from taxation by the laws of this state, shall file
5 [an annual corporation] **a corporate** registration report.

6 2. The [annual] corporate registration report shall state the corporate name, the name of
7 its registered agent and such agent's Missouri **physical** address, giving street and number, or
8 building and number, or both, as the case may require, the name and correct business or
9 residence address of its officers and directors, and the mailing address of the corporation's
10 principal place of business or corporate headquarters.

11 3. The [annual] corporate registration report shall be **filed annually, except as provided**
12 **in section 351.122, and shall be** due the month that the corporation incorporated or qualified,
13 **unless changed under subsection 8 of this section.** Corporations existing prior to July 1, 2003,
14 shall file the [annual] **corporate** registration report on the month indicated on the corporation's
15 last [annual] **corporate registration** report. Corporations formed on or after July 1, 2003, shall
16 file [an annual] **a corporate** registration report within thirty days of the date of incorporation or
17 qualification and every year thereafter, **except as provided in section 351.122, in the month that**
18 **they were incorporated or qualified, unless such month is changed under subsection 8 of this**
19 **section.**

20 4. The [annual] **corporate** registration report shall be signed by an officer or authorized
21 person.

22 5. In the event of any error in the names and addresses of the officers and directors set
23 forth in [an annual] **a corporate** registration report, the corporation may correct such information
24 by filing a certificate of correction pursuant to section 351.049.

25 6. A corporation may change the corporation's registered office or registered agent with
26 the filing of the corporation's [annual] **corporate** registration report. To change the corporation's
27 registered agent with the filing of the [annual] **corporate** registration report, the corporation must

28 include the new registered agent's written consent to the appointment as registered agent and a
29 written consent stating that such change in registered [agents] **agent** was authorized by resolution
30 duly adopted by the board of directors. The written consent must be signed by the new registered
31 agent and must include such agent's address. If the [annual] corporate registration report is not
32 completed correctly, the secretary of state may reject the filing of such report.

33 7. A corporation's [annual] **corporate** registration report must be filed in a format as
34 prescribed by the secretary of state.

35 **8. A corporation may change the month of its corporate registration report in the**
36 **corporation's initial corporate registration report or a subsequent report. To change its**
37 **filing month, a corporation shall designate the desired month in its corporate registration**
38 **report and include with that report an additional fee of twenty dollars. After a corporate**
39 **registration report designating a new filing month is filed by the secretary of state, the**
40 **corporation's next corporate registration report shall be filed in the newly designated**
41 **month in the next year in which a report is due under subsection 3 of this section or under**
42 **section 351.122.**

351.122. 1. Notwithstanding the provisions of section 351.120 to the contrary,
2 **beginning January 1, 2007, the secretary of state may provide corporations the option of**
3 **biennially filing corporate registration reports. Any corporation incorporated or qualified**
4 **in an even-numbered year may file a biennial corporate registration report in, and only in,**
5 **an even-numbered calendar year, and any corporation incorporated or qualified in an odd-**
6 **numbered year may file a biennial corporate registration report in, and only in, an odd-**
7 **numbered calendar year, subject to the following requirements:**

8 (1) The fee paid at the time of the biennial registration shall be eighty dollars if the
9 report is filed in a written format, and shall be thirty dollars if the report is filed via an
10 electronic format prescribed by the secretary of state;

11 (2) A corporation's biennial corporate registration report shall be filed in a format
12 as prescribed by the secretary of state;

13 (3) The secretary of state may collect an additional fee of ten dollars on each and
14 every biennial corporate registration report filed under this section, and such fee shall be
15 deposited into the state treasury and credited to the secretary of state's technology trust
16 fund account.

17 2. Once a corporation chooses the option of biennial registration, such registration
18 shall be maintained for the full twenty-four month period. Once such twenty-four month
19 period has expired, and another corporate registration report is due, a corporation may
20 choose to file an annual registration report under section 351.120, but upon making such
21 choice may later only choose to file a biennial corporate registration report in a year

22 appropriate under subsection 1 of this section, based upon the year in which the
23 corporation was incorporated.

24 3. The secretary of state may promulgate rules to implement the provisions of this
25 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
26 that is created under the authority delegated in this section shall become effective only if
27 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
28 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
29 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
30 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
31 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
32 adopted after August 28, 2006, shall be invalid and void.

351.125. Every corporation required to register under the provisions of this chapter shall
2 pay to the state a fee of forty dollars for its [annual] corporate registration if the report is filed
3 in a written format. The fee is fifteen dollars for each [annual] corporate registration report filed
4 via an electronic format prescribed by the secretary of state. **Biennial corporate registration**
5 **reports filed under section 351.122 shall require the fee prescribed in that section.** If a
6 corporation fails to file a corporation registration report when due, it shall be assessed, in
7 addition to its regular registration fee, a late fee of fifteen dollars for each thirty-day period
8 within which the registration report is filed whether in writing or in an electronic format. If the
9 registration report is not filed within ninety days, the corporation shall forfeit its charter **and the**
10 **secretary of state may proceed with administrative dissolution of such corporation under**
11 **sections 351.484 and 351.486.**

351.127. The secretary of state may collect an additional fee of five dollars on each and
2 every fee required in this chapter, **provided that the secretary of state may collect an**
3 **additional fee of ten dollars on each and every corporate registration report fee filed under**
4 **section 351.122.** All fees collected as provided in this section shall be deposited in the state
5 treasury and credited to the secretary of state's technology trust fund account. The provisions of
6 this section shall expire on December 31, 2009.

351.145. It shall be the duty of the secretary of state to send notice that the [annual]
2 corporate registration report is due to each corporation in this state required to register. The
3 notice shall be directed to its registered office as disclosed originally by its articles of
4 incorporation or by its application for a certificate of authority to transact business in this state
5 and thereafter as disclosed by its **immediately preceding corporate** registration [for the year
6 preceding] **report**, as provided by law. The secretary of state may provide a form of the [annual]
7 corporate registration report for filing in a format and medium prescribed by the secretary of
8 state.

351.155. It shall be the duty of the secretary of state to furnish forms of [annual] corporate registration reports to any corporation upon request to any representative of the corporation, but no such form of the [annual] corporate registration report shall be furnished unless the name of the corporation for which [they are] **it is** desired shall accompany the request.

351.215. 1. Each corporation shall keep correct and complete books and records of account, including the amount of its assets and liabilities, minutes of the proceedings of its shareholders and board of directors, and the names and **physical address of the** business or residence [addresses] of its officers; and it shall keep at its registered office or principal place of business in this state, or at the office of its transfer agent in this state, if any, books and records in which shall be recorded the number of shares subscribed, the names of the owners of the shares, the numbers owned by them respectively, the amount of shares paid, and by whom, and the transfer of such shares with the date of transfer. Each shareholder may at all proper times have access to the books of the company, to examine the same, and under such regulations as may be prescribed by the bylaws. Any written demand by an acquiring person to examine the books and records of account of each issuing public corporation for the purpose of communicating with the shareholders of an issuing public corporation in connection with a meeting of shareholders called pursuant to section 351.407 shall be deemed to have been made by a shareholder of the issuing public corporation for a reasonable and proper purpose.

2. If any officer of a corporation having charge of the books of the corporation shall, upon the demand of a shareholder, refuse or neglect to exhibit and submit them to examination, the officer shall, for each offense, forfeit the sum of two hundred and fifty dollars.

351.370. 1. Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its place of business;

(2) A registered agent, which agent may be either an individual, resident in this state, whose business office **has a physical address which** is identical with such registered office, or a corporation authorized to transact business in this state having a business office **which has a physical address that is** identical with such registered office.

2. The **physical** address[, including street and number, if any,] of the initial registered office, and the name of the initial registered agent of each corporation organized under this chapter shall be stated in its articles of incorporation.

351.375. 1. A corporation may from time to time change the address of its registered office. A corporation shall change its registered agent if the office of registered agent shall become vacant for any reason, if its registered agent becomes disqualified or incapacitated to act, or if the corporation revokes the appointment of its registered agent. A corporation may change the address of its registered office or change its registered agent, or both, by filing in the office of the secretary of state a statement setting forth:

7 (1) The name of the corporation;

8 (2) The **physical** address[, including street and number, if any,] of its then registered
9 office;

10 (3) If the address of its registered office be changed, the **physical** address[, including
11 street and number, if any,] to which the registered office is to be changed;

12 (4) The name of its then registered agent;

13 (5) If its registered agent be changed, the name of its successor registered agent and the
14 successor registered agent's written consent to the appointment either on the statement or
15 attached thereto;

16 (6) That the **physical** address of its registered office and the **physical** address of the
17 business office of its registered agent, as changed, will be identical;

18 (7) That such change was authorized by resolution duly adopted by the board of
19 directors.

20 2. The change of address of the registered office, or the change of the registered agent,
21 or both, as the case may be, shall become effective upon the filing of such statements by the
22 secretary of state. The location or residence of any corporation shall be deemed for all purposes
23 to be in the county where its registered office is maintained.

24 3. If a registered agent changes the [street] **physical** address of his business office, he
25 may change the [street] **physical** address of the registered office of any corporation for which
26 he is the registered agent by notifying the corporation in writing of the change and signing, either
27 manually or in facsimile, and delivering to the secretary of state for filing a statement of change
28 that complies with the requirements of subdivisions (1) to (6) of subsection 1 of this section and
29 recites that the corporation has been notified of the change. The change of address of the
30 registered office shall become effective upon the filing of the statement to the secretary of state.

351.430. After a plan of merger or consolidation is authorized in accordance with
2 sections 351.420 and 351.425, the surviving corporation shall file a summary articles of merger
3 or summary articles of consolidation with the secretary of state. Such summary articles shall
4 state:

5 (1) The name and state or country of incorporation of each of the corporations;

6 (2) That a plan of merger or consolidation has been approved and authorized by each of
7 the corporations in accordance with sections 351.420 and 351.425;

8 (3) The effective date of the merger or consolidation which shall not exceed ninety days
9 after the date of filing of the summary articles of merger or summary articles of consolidation
10 by the secretary of state;

11 (4) The name of the surviving corporation in the case of a merger or the new corporation
12 in the case of a consolidation;

13 (5) In the case of a consolidation, the new **physical** address of the registered office and
14 the name of the registered agent at such office for the new corporation;

15 (6) In the case of a merger, such amendments or changes in the articles of the surviving
16 corporation as are desired to be effected by the merger, or, if no such amendments or changes
17 are desired, a statement that the articles of incorporation of the surviving corporation shall be the
18 articles of incorporation;

19 (7) In the case of a consolidation, that the articles of incorporation of the new corporation
20 shall be as set forth in an attachment to the summary articles;

21 (8) That the executed plan of merger or consolidation is on file at the principal place of
22 business of the surviving corporation in the case of a merger, or new corporation in the case of
23 a consolidation stating the **physical** address thereof; and

24 (9) That a copy of a plan of merger or consolidation will be furnished by the surviving
25 corporation in the case of a merger or the new corporation in the case of a consolidation, on
26 request and without cost, to any shareholder of any corporation that is a party to the merger or
27 consolidation.

351.484. The secretary of state may commence a proceeding pursuant to section 351.486
2 to dissolve a corporation administratively if:

3 (1) The corporation fails to pay any final assessment of Missouri corporation franchise
4 tax as provided in chapter 147, RSMo, and the director of revenue has notified the secretary of
5 state of such failure;

6 (2) The corporation fails or neglects to file the Missouri corporation franchise tax report
7 required pursuant to chapter 147, RSMo, provided the director of revenue has provided a place
8 on both the individual and corporation income tax return to indicate no such tax is due and
9 provided the director has delivered or mailed at least two notices of such failure to file to the
10 usual place of business of such corporation or the corporation's last known address and the
11 corporation has failed to respond to such second notice within thirty days of the date of mailing
12 of the second notice and the director of revenue has notified the secretary of state of such failure;

13 (3) The corporation fails to file any corporation income tax return or pay any final
14 assessment of corporation income tax as provided in chapter 143, RSMo, and the director of
15 revenue has notified the secretary of state of such failure;

16 (4) The corporation does not deliver its [annual] **corporate registration** report to the
17 secretary of state within [thirty] **ninety** days after it is due;

18 (5) The corporation is without a registered agent or registered office in this state for
19 thirty days or more;

20 (6) The corporation does not notify the secretary of state within thirty days that its
21 registered agent or registered office has been changed, that its registered agent has resigned, or
22 that its registered office has been discontinued;

23 (7) The corporation's period of duration stated in its articles of incorporation expires;

24 (8) The corporation procures its franchise through fraud practiced upon the state;

25 (9) The corporation has continued to exceed or abuse the authority conferred upon it by
26 law, or has continued to violate any section or sections of the criminal law of the state of
27 Missouri after a written demand to discontinue the same has been delivered by the secretary of
28 state to the corporation, either personally or by mail;

29 (10) The corporation fails to pay any final assessment of employer withholding tax, as
30 provided in sections 143.191 to 143.265, RSMo, and the director of revenue has notified the
31 secretary of state of such failure; or

32 (11) The corporation fails to pay any final assessment of sales and use taxes, as provided
33 in chapter 144, RSMo, and the director of revenue has notified the secretary of state of such
34 failure.

351.576. 1. A foreign corporation may apply for a certificate of authority to transact
2 business in this state by delivering an application to the secretary of state for filing. The
3 application must set forth:

4 (1) The name of the foreign corporation or, if its name is unavailable for use in this state,
5 a corporate name that satisfies the requirements of section 351.584;

6 (2) The name of the state or country under whose law it is incorporated;

7 (3) Its date of incorporation and period of duration;

8 (4) The street address of its principal office;

9 (5) The **physical** address of its registered office in this state and the name of its
10 registered agent at that office;

11 (6) The names and [usual business] **physical** addresses of the businesses of each of its
12 current directors and officers; and

13 (7) Such other information as the secretary of state shall determine is necessary to
14 calculate any fees or taxes associated with the issuance of a certificate of authority under section
15 351.572.

16 2. The foreign corporation shall deliver with the completed application a certificate of
17 existence, or a document of similar import, duly authenticated by the secretary of state or other
18 official having custody of corporate records in the state or country under whose law it is
19 incorporated. Such corporation shall be required to pay into the state treasury a fee of one
20 hundred fifty dollars for issuing the certificate of authority to do business in this state.

351.588. 1. A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(1) Its name;

(2) The [street] **physical** address of its current registered office;

(3) If the current registered office is to be changed, the [street] **physical** address of its new registered office;

(4) The name of its current registered agent;

(5) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(6) That after the change or changes are made, the [street] **physical** addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the [street] **physical** address of his business office, he may change the [street] **physical** address of the registered office of any foreign corporation for which he is the registered agent by notifying the corporation in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 1 of this section and recites that the corporation has been notified of the change.

351.592. 1. The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the secretary of state for filing the original and two exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

2. After filing the statement, the secretary of state shall attach the filing receipt to one copy, and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy to the foreign corporation at its principal office address shown in its most recent [annual] **corporate registration** report.

3. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

351.594. 1. The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

2. A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent [annual] **corporate registration** report, if the foreign corporation:

8 (1) Has no registered agent or its registered agent cannot with reasonable diligence be
9 served;

10 (2) Has withdrawn from transacting business in this state as provided in section 351.596;
11 or

12 (3) Has had its certificate of authority revoked under section 351.602.
13

14 If the corporation has no secretary or if the secretary cannot, after the exercise of reasonable
15 diligence, be served, then service on the corporation may be obtained by registered or certified
16 mail, return receipt requested, addressed to any person designated as a director or officer of the
17 corporation at any place of business of the corporation, or at the residence of or any usual
18 business address of such director or officer.

19 3. Service is perfected as provided in subsection 2 of this section at the earliest of:

20 (1) The date the foreign corporation receives the mail;

21 (2) The date shown on the return receipt, if signed on behalf of the foreign corporation;
22 or

23 (3) Five days after its deposit in the United States mail, as evidenced by the postmark,
24 if mailed postpaid and correctly addressed.

25 4. This section does not prescribe the only means, or necessarily the required means, of
26 serving a foreign corporation.

351.598. The secretary of state may commence a proceeding pursuant to section 351.602
2 to revoke the certificate of a foreign corporation authorized to transact business in this state if:

3 (1) The foreign corporation does not deliver its [annual] **corporate registration** report
4 to the secretary of state within thirty days after it is due;

5 (2) The foreign corporation fails to pay any final assessment of Missouri corporation
6 franchise tax, as provided in chapter 147, RSMo, and the director of revenue has notified the
7 secretary of state of such failure;

8 (3) The foreign corporation is without a registered agent or registered office in this state
9 for thirty days or more;

10 (4) The foreign corporation does not inform the secretary of state pursuant to section
11 351.588 or 351.592 that its registered agent or registered office has changed, that its registered
12 agent has resigned, or that its registered office has been discontinued within thirty days of the
13 change, resignation, or discontinuance;

14 (5) An incorporator, director, officer, or agent of the foreign corporation signed a
15 document the person knew was false in any material respect with intent that the document be
16 delivered to the secretary of state for filing;

17 (6) [The secretary of state receives] A duly authenticated certificate **is received** from the
18 secretary of state or other official having custody of corporate records in the state or country
19 under whose law the foreign corporation is incorporated stating that it has been dissolved or has
20 disappeared as the result of a merger;

21 (7) The foreign corporation fails to pay any final assessment of employer withholding
22 tax, as provided in sections 143.191 to 143.265, RSMo, and the director of revenue has notified
23 the secretary of state of such failure; or

24 (8) The foreign corporation fails to pay any final assessment of sales and use taxes, as
25 provided in chapter 144, RSMo, and the director of revenue has notified the secretary of state of
26 such failure.

351.602. 1. If the secretary of state determines that one or more grounds exist under
2 section 351.598 for revocation of a certificate of authority, he shall serve the foreign corporation
3 with written notice of his determination as provided in section 351.594.

4 2. If the foreign corporation does not correct each ground for revocation or demonstrate
5 to the reasonable satisfaction of the secretary of state that each ground determined by the
6 secretary of state does not exist within sixty days after service of the notice is perfected under
7 section 351.594, the secretary of state may revoke the foreign corporation's certificate of
8 authority by signing a certificate of revocation that recites the ground or grounds for revocation
9 and its effective date. The secretary of state shall file the original of the certificate and serve a
10 copy on the foreign corporation as provided in section 351.594.

11 3. The authority of a foreign corporation to transact business in this state ceases on the
12 date shown on the certificate revoking its certificate of authority.

13 4. The secretary of state's revocation of a foreign corporation's certificate of authority
14 appoints the secretary of state the foreign corporation's agent for service of process in any
15 proceeding based on a cause of action which arose during the time the foreign corporation was
16 authorized to transact business in this state. Service of process on the secretary of state under
17 this subsection is service on the foreign corporation. Upon receipt of process, the secretary of
18 state shall mail a copy of the process to the secretary of the foreign corporation at its principal
19 office shown in its most recent [annual] **corporate registration** report or in any subsequent
20 communication received from the corporation specifically advising the secretary of state of the
21 current mailing address of its principal office, or, if none are on file, in its application for a
22 certificate of authority.

23 5. Revocation of a foreign corporation's certificate of authority does not terminate the
24 authority of the registered agent of the corporation.

351.690. The provisions of this chapter shall be applicable to existing corporations and
2 corporations not formed pursuant to this chapter as follows:

3 (1) Those provisions of this chapter requiring reports, registration statements and the
4 payment of taxes and fees, shall be applicable, to the same extent and with the same effect, to
5 all existing corporations, domestic and foreign, which were required to make such reports and
6 registration statements and to pay such taxes and fees, prior to November 21, 1943;

7 (2) The provisions of this chapter shall be applicable to banks, trust companies and safe
8 deposit companies when such provisions relating to the internal affairs of a corporation
9 supplement the existing provisions of chapter 362, RSMo, or when the provisions of chapter 362,
10 RSMo, do not deal with a matter involving the internal affairs of a corporation organized
11 pursuant to the provisions of chapter 362, RSMo, as well as those provisions mentioned in
12 subdivision (1) of this section, to the extent applicable. For the purposes of this chapter, the
13 "internal affairs of a corporation" shall include, but not be limited to, matters of corporate
14 governance, director and officer liability, and financial structure;

15 (3) No provisions of this chapter, other than those mentioned in subdivision (1) of this
16 section, and then only to the extent required by the statutes pursuant to which they are
17 incorporated, or other than the provisions of section 351.347, or section 351.355, shall be
18 applicable to insurance companies, savings and loan associations, corporations formed for
19 benevolent, religious, scientific or educational purposes, and nonprofit corporations;

20 (4) Only those provisions of this chapter which supplement the existing laws applicable
21 to railroad corporations, union stations, cooperative companies for profit, credit unions, street
22 railroads, telegraph and telephone companies, booming and rafting companies, urban
23 redevelopment corporations, professional corporations, development finance corporations, and
24 loan and investment companies, and which are not inconsistent with, or in conflict with the
25 purposes of, or are not in derogation or limitation of, such existing laws, shall be applicable to
26 the type of corporations mentioned above in this subdivision; and without limiting the generality
27 of the foregoing, those provisions of this chapter which permit the issuance of shares without par
28 value and the amendment of articles of incorporation for such purpose shall be applicable to
29 railroad corporations, union stations, street railroads, telegraph and telephone companies, and
30 booming and rafting companies, professional corporations, development finance corporations,
31 and loan and investment companies, and those provisions of this chapter mentioned in
32 subdivisions (1) and (2) of this section will apply to all corporations mentioned in this
33 subdivision; except that, the [annual] **corporate registration** report and fee of a professional
34 corporation pursuant to section 356.211, RSMo, shall suffice in lieu of the [annual] **corporate**
35 **registration report** and fee required of a business corporation;

36 (5) All of the provisions of this chapter to the extent provided shall apply to all other
37 corporations existing pursuant to general laws of this state enacted prior to November 21, 1943,
38 and not specifically mentioned in subdivisions (1), (2) and (3) of this section.

355.016. 1. The secretary of state may prescribe and furnish on request, forms for:

(1) A foreign corporation's application for a certificate of authority to transact business in this state;

(2) A foreign corporation's application for a certificate of withdrawal; and

(3) The [annual] **corporate registration** report.

If the secretary of state so requires, use of these forms is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use is not mandatory.

355.021. 1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered for filing:

(1) Articles of incorporation, twenty dollars;

(2) Application for reserved name, twenty dollars;

(3) Notice of transfer of reserved name, two dollars;

(4) Application for renewal of reserved name, twenty dollars;

(5) Corporation's statement of change of registered agent or registered office or both, five dollars;

(6) Agent's statement of change of registered office for each affected corporation, five dollars;

(7) Agent's statement of resignation, five dollars;

(8) Amendment of articles of incorporation, five dollars;

(9) Restatement of articles of incorporation with amendments, five dollars;

(10) Articles of merger, five dollars;

(11) Articles of dissolution, five dollars;

(12) Articles of revocation of dissolution, five dollars;

(13) Application for reinstatement following administrative dissolution, twenty dollars;

(14) Application for certificate of authority, twenty dollars;

(15) Application for amended certificate of authority, five dollars;

(16) Application for certificate of withdrawal, five dollars;

(17) [Annual] **Corporate registration** report **filed annually**, ten dollars if filed in a written format or five dollars if filed electronically in a format prescribed by the secretary of state;

(18) **Corporate registration report filed biennially, twenty dollars if filed in a written format or ten dollars if filed electronically in a format prescribed by the secretary of state;**

(19) Articles of correction, five dollars;

[(19)] **(20)** Certificate of existence or authorization, five dollars;

29 [(20)] **(21)** Any other document required or permitted to be filed by this chapter, five
30 dollars.

31 2. The secretary of state shall collect a fee of ten dollars upon being served with process
32 under this chapter. The party to a proceeding causing service of process is entitled to recover the
33 fee paid the secretary of state as costs if the party prevails in the proceeding.

34 3. The secretary of state shall collect the following fees for copying and certifying the
35 copy of any filed document relating to a domestic or foreign corporation: in a written format
36 fifty cents per page plus five dollars for certification, or in an electronic format five dollars for
37 certification and copies.

355.066. Unless the context otherwise requires or unless otherwise indicated, as used
2 in this chapter the following terms mean:

3 (1) "Approved by or approval by the members", approved or ratified by the affirmative
4 vote of a majority of the voters represented and voting at a duly held meeting at which a quorum
5 is present, which affirmative votes also constitute a majority of the required quorum, or by a
6 written ballot or written consent in conformity with this chapter, or by the affirmative vote,
7 written ballot or written consent of such greater proportion, including the votes of all the
8 members of any class, unit or grouping as may be provided in the articles, bylaws or this chapter
9 for any specified member action;

10 (2) "Articles of incorporation" or "articles", amended and restated articles of
11 incorporation and articles of merger;

12 (3) "Board" or "board of directors", the board of directors except that no person or group
13 of persons is the board of directors because of powers delegated to that person or group pursuant
14 to section 355.316;

15 (4) "Bylaws", the code or codes of rules, other than the articles, adopted pursuant to this
16 chapter for the regulation or management of the affairs of the corporation, irrespective of the
17 name or names by which such rules are designated. Bylaws shall not include legally enforceable
18 covenants, declarations, indentures or restrictions imposed upon members by validly recorded
19 indentures, declarations, covenants, restrictions or other recorded instruments, as they apply to
20 real property;

21 (5) "Class", a group of memberships which have the same rights with respect to voting,
22 dissolution, redemption and transfer. For the purpose of this section, "rights" shall be considered
23 the same if they are determined by a formula applied uniformly;

24 (6) "Corporation", public benefit and mutual benefit corporations;

25 (7) "Delegates", those persons elected or appointed to vote in a representative assembly
26 for the election of a director or directors or on other matters;

27 (8) "Deliver" includes mail;

- 28 (9) "Directors", individuals, designated in the articles or bylaws or elected by the
29 incorporator or incorporators, and their successors and individuals elected or appointed by any
30 other name or title to act as members of the board;
- 31 (10) "Distribution", the payment of a dividend or any part of the income or profit of a
32 corporation to its members, directors or officers;
- 33 (11) "Domestic corporation", a Missouri corporation;
- 34 (12) "Effective date of notice" is defined in section 355.071;
- 35 (13) "Employee" does not include an officer or director who is not otherwise employed
36 by the corporation;
- 37 (14) "Entity", domestic corporations and foreign corporations, business corporations and
38 foreign business corporations, for-profit and nonprofit unincorporated associations, business
39 trusts, estates, partnerships, trusts, and two or more persons having a joint or common economic
40 interest, and a state, the United States, and foreign governments;
- 41 (15) "File", "filed" or "filing", filed in the office of the secretary of state;
- 42 (16) "Foreign corporation", a corporation organized under a law other than the laws of
43 this state which would be a nonprofit corporation if formed under the laws of this state;
- 44 (17) "Governmental subdivision" includes authority, county, district, and municipality;
- 45 (18) "Includes" denotes a partial definition;
- 46 (19) "Individual", a natural person;
- 47 (20) "Means" denotes a complete definition;
- 48 (21) "Member", without regard to what a person is called in the articles or bylaws, any
49 person or persons who on more than one occasion, pursuant to a provision of a corporation's
50 articles or bylaws, have the right to vote for the election of a director or directors; but a person
51 is not a member by virtue of any of the following:
- 52 (a) Any rights such person has as a delegate;
- 53 (b) Any rights such person has to designate a director or directors; or
- 54 (c) Any rights such person has as a director;
- 55 (22) "Membership", the rights and obligations a member or members have pursuant to
56 a corporation's articles, bylaws and this chapter;
- 57 (23) "Mutual benefit corporation", a domestic corporation which is formed as a mutual
58 benefit corporation pursuant to sections 355.096 to 355.121 or is required to be a mutual benefit
59 corporation pursuant to section 355.881;
- 60 (24) "Notice" is defined in section 355.071;
- 61 (25) "Person" includes any individual or entity;

62 (26) "Principal office", the office, in or out of this state, so designated in the [annual]
63 **corporate registration** report filed pursuant to section 355.856 where the principal offices of
64 a domestic or foreign corporation are located;

65 (27) "Proceeding" includes civil suits and criminal, administrative, and investigatory
66 actions;

67 (28) "Public benefit corporation", a domestic corporation which is formed as a public
68 benefit corporation pursuant to sections 355.096 to 355.121, or is required to be a public benefit
69 corporation pursuant to section 355.881;

70 (29) "Record date", the date established pursuant to sections 355.181 to 355.311 on
71 which a corporation determines the identity of its members for the purposes of this chapter;

72 (30) "Resident", a full-time resident of a long-term care facility or residential care
73 facility;

74 (31) "Secretary", the corporate officer to whom the board of directors has delegated
75 responsibility pursuant to subsection 2 of section 355.431 for custody of the minutes of the
76 directors' and members' meetings and for authenticating the records of the corporation;

77 (32) "State", when referring to a part of the United States, includes a state or
78 commonwealth, and its agencies and governmental subdivisions, and any territory or insular
79 possession, and its agencies and governmental subdivisions, of the United States;

80 (33) "United States" includes any agency of the United States;

81 (34) "Vote" includes authorization by written ballot and written consent; and

82 (35) "Voting power", the total number of votes entitled to be cast for the election of
83 directors at the time the determination of voting power is made, excluding a vote which is
84 contingent upon the happening of a condition or event that has not occurred at the time. Where
85 a class is entitled to vote as a class for directors, the determination of voting power of the class
86 shall be based on the percentage of the number of directors the class is entitled to elect out of the
87 total number of authorized directors.

355.071. 1. For purposes of this chapter, notice may be oral or written.

2 2. Notice may be communicated in person, by telephone, telegraph, teletype, or other
3 form of wire or wireless communication, or by mail or private carrier; if these forms of personal
4 notice are impracticable, notice may be communicated by a newspaper of general circulation in
5 the area where published, or by radio, television, or other form of public broadcast
6 communication.

7 3. Oral notice is effective when communicated if communicated in a comprehensible
8 manner.

9 4. Written notice, if in a comprehensible form, is effective at the earliest of the
10 following:

- 11 (1) When received;
- 12 (2) Five days after its deposit in the United States mail, as evidenced by the postmark,
13 if mailed correctly addressed and with first class postage affixed;
- 14 (3) On the date shown on the return receipt, if sent by registered or certified mail, return
15 receipt requested, and the receipt is signed by or on behalf of the addressee;
- 16 (4) Thirty days after its deposit in the United States mail, as evidenced by the postmark,
17 if mailed correctly addressed and with other than first class, registered or certified postage
18 affixed.
- 19 5. Written notice is correctly addressed to a member of a domestic or foreign corporation
20 if addressed to the member's address shown in the corporation's current list of members.
- 21 6. A written notice or report delivered as part of a newsletter, magazine or other
22 publication regularly sent to members shall constitute a written notice or report if addressed or
23 delivered to the member's address shown in the corporation's current list of members, or in the
24 case of members who are residents of the same household and who have the same address in the
25 corporation's current list of members, if addressed or delivered to one of such members, at the
26 address appearing on the current list of members.
- 27 7. Written notice is correctly addressed to a domestic or foreign corporation, authorized
28 to transact business in this state, other than in its capacity as a member, if addressed to its
29 registered agent or to its secretary at its principal office shown in its most recent [annual]
30 **corporate registration** report or, in the case of a foreign corporation that has not yet delivered
31 [an annual] **a corporate registration** report, in its application for a certificate of authority.
- 32 8. If subsection 2 of section 355.251 or any other provision of this chapter prescribes
33 notice requirements for particular circumstances, those requirements govern. If the articles or
34 bylaws prescribe notice requirements, not inconsistent with this section or other provisions of
35 this chapter, those requirements govern. Failure to comply with the terms of this section shall
36 not invalidate the terms of the notice delivered.
- 355.096. 1. One or more individuals may act as the incorporator or incorporators of a
2 corporation by delivering articles of incorporation to the secretary of state for filing.
- 3 2. The articles of incorporation adopted after July 1, 1995, must set forth:
- 4 (1) A corporate name for the corporation that satisfies the requirements of section
5 355.146;
- 6 (2) One of the following statements:
- 7 (a) This corporation is a public benefit corporation; or
- 8 (b) This corporation is a mutual benefit corporation;
- 9 (3) The [street] **physical** address of the corporation's initial registered office and the
10 name of its initial registered agent at that office;

- 11 (4) The name and **physical** address of each incorporator;
12 (5) Whether or not the corporation will have members; and
13 (6) Provisions not inconsistent with law regarding the distribution of assets on
14 dissolution.
- 15 3. The articles of incorporation may set forth:
- 16 (1) The purpose or purposes for which the corporation is organized, which may be, either
17 alone or in combination with other purposes, the transaction of any lawful activity;
18 (2) The names and addresses of the individuals who are to serve as the initial directors;
19 (3) Provisions not inconsistent with law regarding:
20 (a) Managing and regulating the affairs of the corporation;
21 (b) Defining, limiting, and regulating the powers of the corporation, its board of
22 directors, and members, or any class of members; and
23 (c) The characteristics, qualifications, rights, limitations and obligations attaching to
24 each or any class of members;
25 (4) Any provision that under this chapter is required or permitted to be set forth in the
26 bylaws.

355.161. Each corporation must continuously maintain in this state:

- 2 (1) A registered office with the same **physical** address as that of the registered agent; and
3 (2) A registered agent, who may be:
4 (a) An individual who resides in this state and whose office **has a physical address**
5 **which** is identical with the registered office;
6 (b) A domestic business or nonprofit corporation whose office **has a physical address**
7 **which** is identical with the registered office; or
8 (c) A foreign business or nonprofit corporation authorized to transact business in this
9 state whose office **has a physical address which** is identical with the registered office.

- 355.166. 1. A corporation may change its registered office or registered agent by
2 delivering to the secretary of state for filing a statement of change that sets forth:
3 (1) The name of the corporation;
4 (2) The [street] **physical** address of its current registered office;
5 (3) If the current registered office is to be changed, the [street] **physical** address of the
6 new registered office;
7 (4) The name of its current registered agent;
8 (5) If the current registered agent is to be changed, the name of the new registered agent
9 and the new agent's written consent, either on the statement or attached to it, to the appointment;
10 and

11 (6) That after the change or changes are made, the [street] **physical** addresses of its
12 registered office and the office of its registered agent will be identical.

13 2. If the [street] **physical** address of a registered agent's office is changed, the registered
14 agent may change the [street] **physical** address of the registered office of any corporation for
15 which the registered agent is the registered agent by notifying the corporation in writing of the
16 change and by signing, either manually or in facsimile, and delivering to the secretary of state
17 for filing a statement that complies with the requirements of subsection 1 of this section and
18 recites that the corporation has been notified of the change.

355.176. 1. A corporation's registered agent is the corporation's agent for service of
2 process, notice, or demand required or permitted by law to be served on the corporation.

3 2. If a corporation has no registered agent, or the agent cannot with reasonable diligence
4 be served, the corporation may be served by registered or certified mail, return receipt requested,
5 addressed to the secretary of the corporation at its principal office shown in the most recent
6 [annual] **corporate registration** report filed under section 355.856. Service is perfected under
7 this subsection on the earliest of:

- 8 (1) The date the corporation receives the mail;
9 (2) The date shown on the return receipt, if signed on behalf of the corporation; or
10 (3) Five days after its deposit in the United States mail, if mailed and correctly addressed
11 with first class postage affixed.

12 3. This section does not prescribe the only means, or necessarily the required means, of
13 serving a corporation.

355.556. 1. Unless the articles provide otherwise, a corporation's board of directors may
2 adopt one or more amendments to the corporation's articles without member approval:

- 3 (1) To extend the duration of the corporation if it was incorporated at a time when limited
4 duration was required by law;
5 (2) To delete the names and addresses of the initial directors;
6 (3) To delete the name and **physical** address of the initial registered agent or registered
7 office, if a statement of change is on file with the secretary of state;
8 (4) To change the corporate name by substituting the word "corporation", "incorporated",
9 "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or
10 abbreviation in the name, or by adding, deleting or changing a geographical attribution to the
11 name; or
12 (5) To make any other change expressly permitted by this chapter to be made by director
13 action.

14 2. If a corporation has no members, its incorporators, until directors have been chosen,
15 and thereafter its board of directors may adopt one or more amendments to the corporation's

16 articles subject to any approval required pursuant to section 355.606. The corporation shall
17 provide notice of any meeting at which an amendment is to be voted upon. The notice shall be
18 in accordance with subsection 3 of section 355.386. The notice must also state that the purpose,
19 or one of the purposes, of the meeting is to consider a proposed amendment to the articles and
20 contain or be accompanied by a copy or summary of the amendment or state the general nature
21 of the amendment. The amendment must be approved by a majority of the directors in office at
22 the time the amendment is adopted.

355.688. A voluntarily dissolved corporation must continue to file the [annual]
2 **corporate** registration report and pay all required taxes due the state of Missouri until the
3 effective date of articles of termination.

355.706. The secretary of state may commence a proceeding under section 355.711 to
2 administratively dissolve a corporation if:

3 (1) The corporation does not pay within thirty days after they are due fees or penalties
4 imposed by this chapter;

5 (2) The corporation does not deliver its [annual] **corporate registration** report to the
6 secretary of state within [thirty] **ninety** days after it is due;

7 (3) The corporation is without a registered agent or registered office in this state for thirty
8 days or more;

9 (4) The corporation does not notify the secretary of state within thirty days that its
10 registered agent or registered office has been changed, that its registered agent has resigned, or
11 that its registered office has been discontinued;

12 (5) The corporation's period of duration, if any, stated in its articles of incorporation
13 expires; or

14 (6) The corporation has procured its charter through fraud practiced upon the state.

355.761. 1. A foreign corporation may apply for a certificate of authority to transact
2 business in this state by delivering an application to the secretary of state. The application must
3 set forth:

4 (1) The name of the foreign corporation or, if its name is unavailable for use in this state,
5 a corporate name that satisfies the requirements of section 355.776;

6 (2) The name of the state or country under whose law it is incorporated;

7 (3) The date of incorporation and period of duration;

8 (4) The [street] **physical** address of its principal office;

9 (5) The **physical** address of its registered office in this state and the name of its registered
10 agent at that office;

11 (6) The name and [usual] **physical address of the** business or home [addresses] of **each**
12 **of** its current directors and officers;

- 13 (7) Whether the foreign corporation has members; and
14 (8) Whether the corporation, if it had been incorporated in this state, would be a public
15 benefit or mutual benefit corporation.

16 2. The foreign corporation shall deliver with the completed application a certificate of
17 existence, or a document of similar import, duly authenticated by the secretary of state or other
18 official having custody of corporate records in the state or country under whose law it is
19 incorporated.

355.781. Each foreign corporation authorized to transact business in this state must
2 continuously maintain in this state:

3 (1) A registered office with the same **physical** address as that of its registered agent; and

4 (2) A registered agent, who may be:

5 (a) An individual who resides in this state and whose office **has a physical address**
6 **which** is identical with the registered office;

7 (b) A domestic business or nonprofit corporation whose office **has a physical address**
8 **which** is identical with the registered office; or

9 (c) A foreign business or nonprofit corporation authorized to transact business in this
10 state whose office **has a physical address which** is identical with the registered office.

355.786. 1. A foreign corporation authorized to transact business in this state may
2 change its registered office or registered agent by delivering to the secretary of state for filing a
3 statement of change that sets forth:

4 (1) Its name;

5 (2) The [street] **physical** address of its current registered office;

6 (3) If the current registered office is to be changed, the [street] **physical** address of its
7 new registered office;

8 (4) If the current registered agent is to be changed, the name of its new registered agent
9 and the new agent's written consent, either on the statement or attached to it, to the appointment;
10 and

11 (5) That after the change or changes are made, the [street] **physical** addresses of its
12 registered office and the office of its registered agent will be identical.

13 2. If a registered agent changes the [street] **physical** address of its business office, the
14 agent may change the **physical** address of the registered office of any foreign corporation for
15 which the agent is the registered agent by notifying the corporation in writing of the change and
16 signing, either manually or in facsimile, and delivering to the secretary of state for filing a
17 statement of change that complies with the requirements of subsection 1 of this section and
18 recites that the corporation has been notified of the change.
19

355.796. 1. The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

2. A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its more recent [annual] **corporate registration** report filed under section 355.856 if the foreign corporation:

(1) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(2) Has withdrawn from transacting business in this state under section 355.801; or

(3) Has had its certificate of authority revoked under section 355.811.

3. Service is perfected under subsection 2 of this section at the earliest of:

(1) The date the foreign corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the foreign corporation;

or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed.

4. This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

355.801. 1. A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the secretary of state.

2. A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must set forth:

(1) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(2) That it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(3) That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state;

(4) A mailing address to which the secretary of state may mail a copy of any process served on him under subdivision (3) of this subsection; and

(5) A commitment to notify the secretary of state in the future of any change in the mailing address.

18 3. After the withdrawal of the corporation is effective, service of process on the secretary
19 of state under this section is service on the foreign corporation. Upon receipt of process, the
20 secretary of state shall mail a copy of the process to the foreign corporation at the [post office]
21 **mailing** address set forth in its application for withdrawal.
22

 355.806. 1. The secretary of state may commence a proceeding under section 355.811
2 to revoke the certificate of authority of a foreign corporation authorized to transact business in
3 this state if:

4 (1) The foreign corporation does not deliver the [annual] **corporate registration** report
5 to the secretary of state within thirty days after it is due;

6 (2) The foreign corporation does not pay within thirty days after they are due any fees or
7 penalties imposed by this chapter;

8 (3) The foreign corporation is without a registered agent or registered office in this state
9 for thirty days or more;

10 (4) The foreign corporation does not inform the secretary of state under section 355.786
11 or 355.791 that its registered agent or registered office has changed, that its registered agent has
12 resigned, or that its registered office has been discontinued within thirty days of the change,
13 resignation, or discontinuance;

14 (5) An incorporator, director, officer or agent of the foreign corporation signed a
15 document such person knew was false in any material respect with intent that the document be
16 delivered to the secretary of state for filing;

17 (6) The secretary of state receives a duly authenticated certificate from the secretary of
18 state or other official having custody of corporate records in the state or country under whose law
19 the foreign corporation is incorporated stating that it has been dissolved or disappeared as the
20 result of a merger; or

21 (7) The corporation procured its certificate of authority through fraud practiced on the
22 state.

23 2. The attorney general may commence a proceeding under section 355.811 to revoke
24 the certificate of authority of a foreign corporation authorized to transact business in this state
25 if:

26 (1) The corporation has continued to exceed or abuse the authority conferred upon it by
27 law;

28 (2) The corporation would have been a public benefit corporation other than a church or
29 convention or association of churches had it been incorporated in this state and that its corporate
30 assets in this state are being misapplied or wasted; or

31 (3) The corporation would have been a public benefit corporation other than a church or
32 convention or association of churches had it been incorporated in this state and it is no longer
33 able to carry out its purposes.

355.811. 1. The secretary of state upon determining that one or more grounds exist
2 under section 355.806 for revocation of a certificate of authority shall serve the foreign
3 corporation with written notice of that determination under section 355.796.

4 2. The attorney general upon determining that one or more grounds exist under
5 subsection 2 of section 355.806 for revocation of a certificate of authority shall request the
6 secretary of state to serve, and the secretary of state shall serve the foreign corporation with
7 written notice of that determination under section 355.796.

8 3. If the foreign corporation does not correct each ground for revocation or demonstrate
9 to the reasonable satisfaction of the secretary of state or attorney general that each ground for
10 revocation determined by the secretary of state or attorney general does not exist within sixty
11 days after service of the notice is perfected under section 355.796, the secretary of state may
12 revoke the foreign corporation's certificate of authority by signing a certificate of revocation that
13 recites the ground or grounds for revocation and its effective date. The secretary of state shall
14 file the original of the certificate and serve a copy on the foreign corporation under section
15 355.796.

16 4. The authority of a foreign corporation to transact business in this state ceases on the
17 date shown on the certificate revoking its certificate of authority.

18 5. The secretary of state's revocation of a foreign corporation's certificate of authority
19 appoints the secretary of state the foreign corporation's agent for service of process in any
20 proceeding based on a cause of action which arose during the time the foreign corporation was
21 authorized to transact business in this state. Service of process on the secretary of state under
22 this subsection is service on the foreign corporation. Upon receipt of process, the secretary of
23 state shall mail a copy of the process to the secretary of the foreign corporation at its principal
24 office shown in its most recent [annual] **corporate registration** report or in any subsequent
25 communications received from the corporation stating the current mailing address of its principal
26 office, or, if none are on file, in its application for a certificate of authority.

27 6. Revocation of a foreign corporation's certificate of authority does not terminate the
28 authority of the registered agent of the corporation.

355.821. 1. A corporation shall keep as permanent records minutes of all meetings of
2 its members and board of directors, a record of all actions taken by the members or directors
3 without a meeting, and a record of all actions taken by committees of the board of directors as
4 authorized by subsection 4 of section 355.406.

5 2. A corporation shall maintain appropriate accounting records.

6 3. A corporation or its agent shall maintain a record of its members in a form that
7 permits preparation of a list of the names and addresses of all members, in alphabetical order by
8 class showing the number of votes each member is entitled to vote.

9 4. A corporation shall maintain its records in written form or in another form capable of
10 conversion into written form within a reasonable time.

11 5. A corporation shall keep a copy of the following records at its principal office:

12 (1) Its articles or restated articles of incorporation and all amendments to them currently
13 in effect;

14 (2) Its bylaws or restated bylaws and all amendments to them currently in effect;

15 (3) Resolutions adopted by its board of directors relating to the characteristics,
16 qualifications, rights, limitations and obligations of members or any class or category of
17 members;

18 (4) The minutes of all meetings of members and records of all actions approved by the
19 members for the past three years;

20 (5) All written communications to all members or any specific class of members
21 generally within the past three years, including the financial statements furnished for the past
22 three years under section 355.846;

23 (6) A list of the names and business or home addresses of its current directors and
24 officers;

25 (7) Its most recent [annual] **corporate registration** report delivered to the secretary of
26 state under section 355.856; and

27 (8) Appropriate financial statements of all income and expenses. Public benefit
28 corporations shall not be required, under this chapter, to disclose any information with respect
29 to donors, gifts, contributions or the purchase or sale of art objects.

355.856. 1. Each domestic corporation, and each foreign corporation authorized
2 pursuant to this chapter to transact business in this state, shall file with the secretary of state [an
3 annual] a corporate registration report on a form prescribed and furnished by the secretary of
4 state that sets forth:

5 (1) The name of the corporation and the state or country under whose law it is
6 incorporated;

7 (2) The address of its registered office and the name of its registered agent at the office
8 in this state;

9 (3) The address of its principal office;

10 (4) The names and physical business or residence addresses of its directors and principal
11 officers.

12 2. The information in the [annual] corporate registration report must be current on the
13 date the [annual] corporate registration report is executed on behalf of the corporation.

14 3. The [first annual] **initial** corporate registration report must be delivered to the
15 secretary of state no later than August thirty-first of the year following the calendar year in which
16 a domestic corporation was incorporated or a foreign corporation was authorized to transact
17 business. Subsequent [annual] corporate registration reports must be delivered to the secretary
18 of state no later than August thirty-first of the following calendar years, **except as provided in**
19 **section 355.857**. If [an annual] a corporate registration report is not filed within the time limits
20 prescribed by this section, the secretary of state shall not accept the report unless it is
21 accompanied by a fifteen dollar fee. Failure to file the [annual] **corporate** registration report as
22 required by this section will result in the administrative dissolution of the corporation as set forth
23 in section 355.706.

24 4. If [an annual] a corporate registration report does not contain the information required
25 by this section, the secretary of state shall promptly notify the reporting domestic or foreign
26 corporation in writing and return the report to it for correction.

27 5. A corporation may change the corporation's registered office or registered agent with
28 the filing of the corporation's [annual] **corporate** registration report. To change the corporation's
29 registered agent with the filing of the [annual] **corporate** registration report, the corporation must
30 include the new registered agent's written consent to the appointment as registered agent and a
31 written consent stating that such change in registered [agents] **agent** was authorized by resolution
32 duly adopted by the board of directors. The written consent must be signed by the new registered
33 agent and must include such agent's address. If the [annual] corporate registration report is not
34 completed correctly, the secretary of state may reject the filing of such report.

35 6. A corporation's [annual] **corporate** registration report must be filed in a format and
36 medium prescribed by the secretary of state.

37 7. The [annual] **corporate** registration report shall be signed by an officer or authorized
38 person and pursuant to this section represents that the signer believes the statements are true and
39 correct to the best knowledge and belief of the person signing, subject to the penalties of section
40 575.040, RSMo.

355.857. 1. Notwithstanding the provisions of section 355.856 to the contrary,
2 **beginning January 1, 2007, the secretary of state may provide corporations the option of**
3 **biennially filing corporate registration reports. Any corporation incorporated or qualified**
4 **in an even-numbered year may file a biennial corporate registration report in, and only in,**
5 **an even-numbered calendar year, and any corporation incorporated or qualified in an odd-**
6 **numbered year may file a biennial corporate registration report in, and only in, an odd-**
7 **numbered calendar year, subject to the following requirements:**

8 **(1) The fee paid at the time of the biennial registration shall be that specified in**
9 **section 355.021;**

10 **(2) A corporation's biennial corporate registration report shall be filed in a format**
11 **as prescribed by the secretary of state;**

12 **(3) The secretary of state may collect an additional fee of ten dollars on each and**
13 **every biennial corporate registration report filed under this section, and such fee shall be**
14 **deposited into the state treasury and credited to the secretary of state's technology trust**
15 **fund account.**

16 **2. Once a corporation chooses the option of biennial registration, such registration**
17 **shall be maintained for the full twenty-four month period. Once such twenty-four month**
18 **period has expired, and another corporate registration report is due, a corporation may**
19 **choose to file an annual registration report under 355.856, but upon making such choice,**
20 **may later only choose to file a biennial corporate registration report in a year appropriate**
21 **under subsection 1 of this section, based upon the year in which the corporation was**
22 **incorporated.**

23 **3. The secretary of state may promulgate rules to implement the provisions of this**
24 **section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
25 **that is created under the authority delegated in this section shall become effective only if**
26 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
27 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
28 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
29 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
30 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
31 **adopted after August 28, 2006, shall be invalid and void.**

356.041. 1. One or more natural persons, each of whom is licensed to render the same
2 type of professional service within this state, may incorporate a professional corporation to
3 practice that same type of professional service by filing articles of incorporation with the
4 secretary of state; except that, if more than one type of professional service is permitted to be
5 practiced by the professional corporation pursuant to the provisions of sections 356.011 to
6 356.261, then one or more natural persons so licensed to practice any of the permitted
7 professional services may act as incorporators, and the professional corporation may be
8 incorporated to practice all of the professional services permitted to be practiced by one
9 professional corporation.

10 **2. The articles of incorporation shall set forth as its purpose the type or types of**
11 **professional service to be practiced through the professional corporation; shall state the [street]**
12 **physical address of its initial principal place of business, if any; and shall otherwise meet the**

13 requirements of chapter 351, RSMo. A certificate by the licensing authority of the profession,
14 or of each of the professions involved if more than one profession is to be practiced, shall be
15 filed in the office of the secretary of state prior to issuance of the articles of incorporation, which
16 certificate or certificates shall state that each of the incorporators is duly licensed in this state to
17 practice a professional service for which the corporation is organized to practice, that at least one
18 incorporator is licensed in this state to practice each professional service for which the
19 corporation is organized to practice; if applicable, that the professional services for which the
20 corporation is organized to practice are permitted to be practiced together in one corporate entity
21 by the licensing authority of each such professional service; and that the proposed corporate
22 name has been approved by each such licensing authority if required by the rules or regulations
23 of the licensing authority. **For purposes of this section, the term "physical address" shall**
24 **have the same meaning defined in section 351.015, RSMo.**

25 3. Any amendment to the articles of incorporation of a professional corporation that
26 changes the corporate name of the corporation shall be accompanied by, and the certificate of
27 amendment shall make reference to, the attachment of a certificate by the licensing authority of
28 the profession, or of each of the professions involved if more than one profession is to be
29 practiced, approving the change of corporate name and the use of the new corporate name by the
30 professional corporation, in addition to fulfilling all other requirements for the amendment to
31 articles of incorporation stated in chapter 351, RSMo.

32 4. Each licensing authority is hereby authorized to promulgate rules that set reasonable
33 fees for the issuance of the certificate that is required pursuant to this section.

356.211. 1. Each professional corporation and each foreign professional corporation
2 shall file with the secretary of state [an annual] a corporation registration report pursuant to
3 section 351.120 **or 351.122**, RSMo. The corporate registration report shall set forth the
4 following information: the names and residence or physical business addresses of all officers,
5 directors and shareholders of that professional corporation as of the date of the report.

6 2. The report shall be made on a form to be prescribed and furnished by the secretary of
7 state, and shall be executed by an officer of the corporation or authorized person.

8 3. A filing fee in the amount set out in section 351.125, RSMo, shall be paid with the
9 filing of each report, and no other fees shall be charged therefor; except that, penalty fees may
10 be imposed by the secretary of state for late filings. The report shall be filed subject to the time
11 requirements of section 351.120 **or 351.122**, RSMo.

12 4. If a professional corporation or foreign professional corporation shall fail to file a
13 report qualifying with the provisions of this section when such a filing is due, then the
14 corporation shall be subject to the provisions of chapter 351, RSMo, that are applicable to a

15 corporation that has failed to timely file the [annual] report required to be filed under chapter
16 351, RSMo.

356.233. The secretary of state may collect an additional fee of five dollars on each and
2 every fee required in this chapter, **provided that the secretary of state may collect an**
3 **additional fee of ten dollars on each and every corporate registration report fee filed as**
4 **described in section 351.122, RSMo.** All fees collected as provided in this section shall be
5 deposited in the state treasury and credited to the secretary of state's technology trust fund
6 account. The provisions of this section shall expire on December 31, 2009.

358.020. In this chapter:

2 (1) "Bankrupt" includes a debtor pursuant to a voluntary or involuntary petition filed
3 under the Federal Bankruptcy Code or a person or entity subject to an insolvency or similar
4 proceeding under state law;

5 (2) "Business" includes every trade, occupation, or profession;

6 (3) "Conveyance" includes every assignment, lease, mortgage, or encumbrance;

7 (4) "Court" includes every court and judge having jurisdiction in the case;

8 (5) "Foreign registered limited liability partnership" means a limited liability partnership
9 formed pursuant to an agreement governed by the laws of another jurisdiction and registered as
10 a limited liability partnership under the laws of such jurisdiction;

11 (6) "Person" includes individuals, partnerships, domestic or foreign limited partnerships,
12 domestic or foreign limited liability companies, domestic or foreign corporations, trusts, business
13 trusts, real estate investment trusts, estates and other associations or business entities;

14 (7) **"Physical address", the street address of the office, building, home, or other**
15 **structure that serves as the location recognized and to which mail for the occupant or**
16 **tenant thereof may be delivered by the United States Post Office and where the registered**
17 **agent may be found; a post office box or an address with a post office box zip code or a**
18 **location where a post office box is rented is not alone sufficient to meet the meaning of the**
19 **term "physical address";**

20 (8) "Real property" includes land and any interest or estate in land; and

21 [(8)] (9) "Registered limited liability partnership" means a partnership formed pursuant
22 to an agreement governed by the laws of this state, registered pursuant to section 358.440 and
23 complying with sections 358.450 and 358.460.

358.440. 1. To register as a limited liability partnership pursuant to this section, a
2 written application shall be filed with the office of the secretary of state. The application shall
3 set forth:

4 (1) The name of the partnership;

5 (2) The **physical** address of a registered office and the name and **physical** address of a
6 registered agent for service of process required to be maintained by section 358.470;

7 (3) The number of partners in the partnership at the date of application;

8 (4) A brief statement of the principal business in which the partnership engages;

9 (5) That the partnership thereby applies for registration as a registered limited liability
10 partnership; and

11 (6) Any other information the partnership determines to include in the application.

12 2. The application shall be signed on behalf of the partnership by a majority of the
13 partners or by one or more partners authorized by a majority in interest of the partners to sign the
14 application on behalf of the partnership.

15 3. The application shall be accompanied by a fee payable to the secretary of state of
16 twenty-five dollars for each partner of the partnership, but the fee shall not exceed one hundred
17 dollars. All moneys from the payment of this fee shall be deposited into the general revenue
18 fund.

19 4. A person who files a document according to this section as an agent or fiduciary need
20 not exhibit evidence of the partner's authority as a prerequisite to filing. Any signature on such
21 document may be a facsimile. If the secretary of state finds that the filing conforms to law, the
22 secretary of state shall:

23 (1) Endorse on the copy the word "Filed" and the month, day and year of the filing;

24 (2) File the original in the secretary of state's office; and

25 (3) Return the copy to the person who filed it or to the person's representative.

26 5. A partnership becomes a registered limited liability partnership on the date of the
27 filing in the office of the secretary of state of an application that, as to form, meets the
28 requirements of subsections 1 and 2 of this section and that is accompanied by the fee specified
29 in subsection 3 of this section, or at any later time specified in the application.

30 6. An initial application filed under subsection 1 of this section by a partnership
31 registered by the secretary of state as a limited liability partnership expires one year after the date
32 of registration unless earlier withdrawn or revoked or unless renewed in accordance with
33 subsection 9 of this section.

34 7. If a person is included in the number of partners of a registered limited liability
35 partnership set forth in an application, a renewal application or a certificate of amendment of an
36 application or a renewal application, the inclusion of such person shall not be admissible as
37 evidence in any action, suit or proceeding, whether civil, criminal, administrative or
38 investigative, for the purpose of determining whether such person is liable as a partner of such
39 registered limited liability partnership. The status of a partnership as a registered limited liability
40 partnership and the liability of a partner of such registered limited liability partnership shall not

41 be adversely affected if the number of partners stated in an application, a renewal application or
42 a certificate of amendment of an application or a renewal application is erroneously stated
43 provided that the application, renewal application or certificate of amendment of an application
44 or a renewal application was filed in good faith.

45 8. Any person who files an application or a renewal application in the office of the
46 secretary of state pursuant to this section shall not be required to file any other documents
47 pursuant to chapter 417, RSMo, which requires filing for fictitious names.

48 9. An effective registration may be renewed before its expiration by filing [in duplicate]
49 with the secretary of state an application containing current information of the kind required in
50 an initial application, including the registration number as assigned by the secretary of state. The
51 renewal application shall be accompanied by a fee of one hundred dollars on the date of renewal
52 plus, if the renewal increases the number of partners, fifty dollars for each partner added, but the
53 fee shall not exceed two hundred dollars. All moneys from such fees shall be deposited into the
54 general revenue fund. A renewal application filed under this section continues an effective
55 registration for one year after the date the effective registration would otherwise expire.

56 10. A registration may be withdrawn by filing with the secretary of state a written
57 withdrawal notice signed on behalf of the partnership by a majority of the partners or by one or
58 more partners authorized by a majority of the partners to sign the notice on behalf of the
59 partnership. A withdrawal notice shall include the name of the partnership, the date of
60 registration of the partnership's last application under this section, and a current [street] **physical**
61 address of the partnership's principal office in this state or outside the state, as applicable. A
62 withdrawal notice terminates the registration of the partnership as a limited liability partnership
63 as of the date of filing the notice in the office of the secretary of state. The withdrawal notice
64 shall be accompanied by a filing fee of twenty dollars.

65 11. If a partnership that has registered pursuant to this section ceases to be registered as
66 provided in subsection 6 or 10 of this section, that fact shall not affect the status of the
67 partnership as a registered limited liability partnership prior to the date the partnership ceased
68 to be registered pursuant to this section.

69 12. A document filed under this section may be amended or corrected by filing with the
70 secretary of state articles of amendment, signed by a majority of the partners or by one or more
71 partners authorized by a majority of the partners. The articles of amendment shall contain:

- 72 (1) The name of the partnership;
73 (2) The identity of the document being amended;
74 (3) The part of the document being amended; and
75 (4) The amendment or correction.
76

77 The articles of amendment shall be accompanied by a filing fee of twenty dollars plus, if the
78 amendment increases the number of partners, fifty dollars for each partner added, but the fee
79 shall not exceed two hundred dollars; provided that no amendment of an application or a renewal
80 application is required as a result of a change after the application or renewal application is filed
81 in the number of partners of the registered limited liability partnership or in the business in which
82 the registered limited liability partnership engages. All moneys from such fees shall be deposited
83 into the general revenue fund. The status of a partnership as a registered limited liability
84 partnership shall not be affected by changes after the filing of an application or a renewal
85 application in the information stated in the application or renewal application.

86 13. No later than ninety days after the happening of any of the following events, an
87 amendment to an application or a renewal application reflecting the occurrence of the event or
88 events shall be executed and filed by a majority in interest of the partners or by one or more
89 partners authorized by a majority of the partners to execute an amendment to the application or
90 renewal application:

91 (1) A change in the name of the registered limited liability partnership;

92 (2) Except as provided in subsections 2 and 3 of section 358.470, a change in the
93 **physical** address of the registered office or a change in the name or **physical** address of the
94 registered agent of the registered limited liability partnership.

95 14. Unless otherwise provided in this chapter or in the certificate of amendment of an
96 application or a renewal application, a certificate of amendment of an application or a renewal
97 application or a withdrawal notice of an application or a renewal application shall be effective
98 at the time of its filing with the secretary of state.

99 15. The secretary of state may provide forms for the application specified in subsection
100 1 of this section, the renewal application specified in subsection 9 of this section, the withdrawal
101 notice specified in subsection 10 of this section, and the amendment or correction specified in
102 subsection 12 of this section.

103 16. The secretary of state may remove from its active records the registration of a
104 partnership whose registration has been withdrawn, revoked or has expired.

105 17. The secretary of state may revoke the filing of a document filed under this section
106 if the secretary of state determines that the filing fee for the document was paid by an instrument
107 that was dishonored when presented by the state for payment. The secretary of state shall return
108 the document and give notice of revocation to the filing party by regular mail. Failure to give
109 or receive notice does not invalidate the revocation. A revocation of a filing does not affect an
110 earlier filing.

111 18. If any person signs a document required or permitted to be filed pursuant to sections
112 358.440 to 358.500 which the person knows is false in any material respect with the intent that

113 the document be delivered on behalf of a partnership to the secretary of state for filing, such
114 person shall be guilty of a class A misdemeanor. Unintentional errors in the information set forth
115 in an application filed pursuant to subsection 1 of this section, or changes in the information after
116 the filing of the application, shall not affect the status of a partnership as a registered limited
117 liability partnership.

118 19. Before transacting business in this state, a foreign registered limited liability
119 partnership shall:

120 (1) Comply with any statutory or administrative registration or filing requirements
121 governing the specific type of business in which the partnership is engaged; and

122 (2) Register as a limited liability partnership as provided in this section by filing an
123 application which shall, in addition to the other matters required to be set forth in such
124 application, include a statement:

125 (a) That the secretary is irrevocably appointed the agent of the foreign limited liability
126 partnership for service of process if the limited liability partnership fails to maintain a registered
127 agent in this state or if the agent cannot be found or served with the exercise of reasonable
128 diligence; and

129 (b) Of the address of the office required to be maintained in the jurisdiction of its
130 organization by the laws of that jurisdiction or, if not so required, of the principal office of the
131 foreign limited liability partnership.

132 20. A partnership that registers as a limited liability partnership shall not be deemed to
133 have dissolved as a result thereof and is for all purposes the same partnership that existed before
134 the registration and continues to be a partnership under the laws of this state. If a registered
135 limited liability partnership dissolves, a partnership which is a successor to such registered
136 limited liability partnership and which intends to be a registered limited liability partnership shall
137 not be required to file a new registration and shall be deemed to have filed any documents
138 required or permitted under this chapter which were filed by the predecessor partnership.

358.470. 1. Each registered limited liability partnership and each foreign registered
2 limited liability partnership shall have and maintain in the state of Missouri:

3 (1) A registered office, which may, but need not be, a place of its business in the state
4 of Missouri; and

5 (2) A registered agent for service of process on the registered limited liability partnership
6 or foreign registered limited liability partnership, which agent may be either an individual
7 resident of the state of Missouri whose business office **has a physical address which** is identical
8 with the registered limited liability partnership's or foreign registered limited liability
9 partnership's registered office, or a domestic corporation, or a foreign corporation authorized to
10 do business in the state of Missouri, having a business office **which has a physical address that**

11 is identical with such registered office or the registered limited liability partnership or foreign
12 registered limited liability partnership itself.

13 2. A registered agent may change the **physical** address of the registered office of the
14 registered limited liability partnerships or foreign registered limited liability partnerships for
15 which the agent is the registered agent to another **physical** address in the state of Missouri by
16 paying a fee in the amount of ten dollars, and a further fee in the amount of two dollars for each
17 registered limited liability partnership or foreign registered limited liability partnership affected
18 thereby, to the secretary of state and filing with the secretary of state a certificate, executed by
19 such registered agent, setting forth the names of all the registered limited liability partnerships
20 or foreign registered limited liability partnerships represented by such registered agent, and the
21 **physical** address at which such registered agent has maintained the registered office for each of
22 such registered limited liability partnerships or foreign registered limited liability partnerships,
23 and further certifying to the new **physical** address to which such registered office will be
24 changed on a given day, and at which new **physical** address such registered agent will thereafter
25 maintain the registered office for each of the registered limited liability partnerships or foreign
26 registered limited liability partnerships recited in the certificate. Upon the filing of such
27 certificate, the secretary of state shall furnish to the registered agent a certified copy of the same
28 under the secretary of state's hand and seal of office, and thereafter, or until further change of
29 address, as authorized by law, the registered office in the state of Missouri of each of the
30 registered limited liability partnerships or foreign registered limited liability partnerships recited
31 in the certificate shall be located at the new **physical** address of the registered agent thereof as
32 given in the certificate. In the event of a change of name of any person acting as a registered
33 agent of a registered limited liability partnership or foreign registered limited liability
34 partnership, such registered agent shall file with the secretary of state a certificate, executed by
35 such registered agent, setting forth the new name of such registered agent, the name of such
36 registered agent before it was changed, the names of all the registered limited liability
37 partnerships or foreign registered limited liability partnerships represented by such registered
38 agent, and the **physical** address at which such registered agent has maintained the registered
39 office for each of such registered limited liability partnerships or foreign registered limited
40 liability partnerships, and shall pay a fee in the amount of twenty-five dollars, and a further fee
41 in the amount of two dollars for each registered limited liability partnership or foreign registered
42 limited liability partnership affected thereby, to the secretary of state. Upon the filing of such
43 certificate, the secretary of state shall furnish to the registered agent a certified copy of the same
44 under the secretary of state's hand and seal of office. Filing a certificate under this section shall
45 be deemed to be an amendment of the application, renewal application or notice filed pursuant
46 to subsection 19 of section 358.440, as the case may be, of each registered limited liability

47 partnership or foreign registered limited liability partnership affected thereby, and each such
48 registered limited liability partnership or foreign registered limited liability partnership shall not
49 be required to take any further action with respect thereto to amend its application, renewal
50 application or notice filed, as the case may be, pursuant to section 358.440. Any registered agent
51 filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such
52 certificate to each registered limited liability partnership or foreign registered limited liability
53 partnership affected thereby.

54 3. The registered agent of one or more registered limited liability partnerships or foreign
55 registered limited liability partnerships may resign and appoint a successor registered agent by
56 paying a fee in the amount of fifty dollars, and a further fee in the amount of two dollars for each
57 registered limited liability partnership or foreign registered limited liability partnership affected
58 thereby, to the secretary of state and filing a certificate with the secretary of state, stating that it
59 resigns and the name and **physical** address of the successor registered agent. There shall be
60 attached to such certificate a statement executed by each affected registered limited liability
61 partnership or foreign registered limited liability partnership ratifying and approving such change
62 of registered agent. Upon such filing, the successor registered agent shall become the registered
63 agent of such registered limited liability partnerships or foreign registered limited liability
64 partnerships as have ratified and approved such substitution and the successor registered agent's
65 **physical** address, as stated in such certificate, shall become the **physical** address of each such
66 registered limited liability partnership's or foreign registered limited liability partnership's
67 registered office in the state of Missouri. The secretary of state shall furnish to the successor
68 registered agent a certified copy of the certificate of resignation. Filing of such certificate of
69 resignation shall be deemed to be an amendment of the application, renewal application or notice
70 filed pursuant to subsection 19 of section 358.440, as the case may be, of each registered limited
71 liability partnership or foreign registered limited liability partnership affected thereby, and each
72 such registered limited liability partnership or foreign registered limited liability partnership shall
73 not be required to take any further action with respect thereto, to amend its application, renewal
74 application or notice filed pursuant to subsection 19 of section 358.440, as the case may be,
75 pursuant to section 358.440.

76 4. The registered agent of a registered limited liability partnership or foreign registered
77 limited liability partnership may resign without appointing a successor registered agent by paying
78 a fee in the amount of ten dollars to the secretary of state and filing a certificate with the
79 secretary of state stating that it resigns as registered agent for the registered limited liability
80 partnership or foreign registered limited liability partnership identified in the certificate, but such
81 resignation shall not become effective until one hundred twenty days after the certificate is filed.
82 There shall be attached to such certificate an affidavit of such registered agent, if an individual,

83 or the president, a vice president or the secretary thereof if a corporation, that at least thirty days
84 prior to and on or about the date of the filing of the certificate, notices were sent by certified or
85 registered mail to the registered limited liability partnership or foreign registered limited liability
86 partnership for which such registered agent is resigning as registered agent, at the principal office
87 thereof within or outside the state of Missouri, if known to such registered agent or, if not, to the
88 last known address of the attorney or other individual at whose request such registered agent was
89 appointed for such registered limited liability partnership or foreign registered limited liability
90 partnership, of the resignation of such registered agent. After receipt of the notice of the
91 resignation of its registered agent, the registered limited liability partnership or foreign registered
92 limited liability partnership for which such registered agent was acting shall obtain and designate
93 a new registered agent, to take the place of the registered agent so resigning. If such registered
94 limited liability partnership or foreign registered limited liability partnership fails to obtain and
95 designate a new registered agent prior to the expiration of the period of one hundred twenty days
96 after the filing by the registered agent of the certificate of resignation, the application, renewal
97 application or notice filed pursuant to subsection 19 of section 358.440 of such registered limited
98 liability partnership or foreign registered limited liability partnership shall be deemed to be
99 canceled.

358.520. 1. Pursuant to an agreement of merger or consolidation, a domestic general
2 partnership may merge or consolidate with or into one or more general partnerships formed
3 under the laws of this state or any other jurisdiction, with such general partnership as the
4 agreement shall provide being the surviving or resulting general partnership. A domestic general
5 partnership may merge or consolidate with one or more domestic or foreign limited partnerships,
6 limited liability companies, trusts, business trusts, corporations, real estate investment trusts and
7 other associations or business entities at least one of which is not a general partnership, as
8 provided in sections 347.700 to 347.735, RSMo.

9 2. The agreement of merger or consolidation shall be approved by the number or
10 percentage of partners specified in the partnership agreement. If the partnership agreement fails
11 to specify the required partner approval for merger or consolidation of the general partnership,
12 then the agreement of merger or consolidation shall be approved by that number or percentage
13 of partners specified by the partnership agreement to approve an amendment to the partnership
14 agreement. However, if the merger effects a change for which the partnership agreement
15 requires a greater number or percentage of partners than that required to amend the partnership
16 agreement, then the merger or consolidation shall be approved by that greater number or
17 percentage. If the partnership agreement contains no provision specifying the vote required to
18 amend the partnership agreement, then the agreement of merger must be approved by all the
19 partners.

20 3. In the case of a merger or consolidation of one or more domestic partnerships into a
21 surviving partnership, the surviving partnership shall file articles of merger or consolidation with
22 the secretary of state setting forth:

23 (1) The name of each party to the merger or consolidation;

24 (2) The effective date of the merger or consolidation which shall be the date the articles
25 of merger or consolidation are filed with the secretary of state or on a later date set forth in the
26 articles of merger or consolidation not to exceed ninety days after the filing date;

27 (3) The name of the surviving partnership in a merger or the new partnership in a
28 consolidation and the state of its formation;

29 (4) A statement that the merger or consolidation was authorized and approved by the
30 partners of each party to the merger or consolidation in accordance with the laws of the
31 jurisdiction where it was organized;

32 (5) If applicable, the **physical** address of the registered office and the name of the
33 registered agent at such office for the surviving or new partnership;

34 (6) A statement that the executed agreement of merger or consolidation is on file at the
35 principal place of business of the surviving or new partnership, stating the **physical** address of
36 such place of business; and

37 (7) A statement that a copy of the agreement of merger or consolidation will be furnished
38 by the surviving or new partnership, on request and without cost, to any partner of any entity that
39 is a party to the merger or consolidation.

40 4. The certificate of merger or consolidation shall be executed by at least one general
41 partner of each domestic partnership and one authorized agent, or its equivalent, for the other
42 party to the merger or consolidation who is duly authorized to execute such notice.

43 5. If, following a merger or consolidation of one or more domestic partnerships and one
44 or more partnerships formed under the laws of any state, the surviving or resulting partnership
45 is not a domestic partnership, there shall be attached to the articles of merger or consolidation
46 filed pursuant to subsection 3 of this section a certificate executed by the surviving or resulting
47 partnership, stating that such surviving or resulting partnership may be served with process in
48 this state in any action, suit or proceeding for the enforcement of any obligation of such domestic
49 partnership, irrevocably appointing the secretary of state as such surviving or resulting
50 partnership's agent to accept service of process in any such action, suit or proceeding and
51 specifying the address to which a copy of such process shall be mailed to such surviving or
52 resulting partnership to the secretary of state.

53 6. When the articles of merger or consolidation required by subsection 3 of this section
54 shall have become effective, for all purposes of the laws of this state, all the rights, privileges,
55 franchises and powers of each of the partnerships that have merged or consolidated, and all

56 property, real, personal, and mixed, and all debts due to any of such partnerships, as well as all
57 other things and causes of action belonging to each of such partnerships shall be vested in the
58 surviving or resulting partnership, and shall thereafter be the property of the surviving or
59 resulting partnership as they were of each of the partnerships that have merged or consolidated,
60 and the title to any real property vested by deed or otherwise, under the laws of this state, in any
61 such partnerships, shall not revert or be in any way impaired by reason of this section; but all
62 rights of creditors and all liens upon any property of any such partnerships shall be preserved
63 unimpaired, and all debts, liabilities and duties of each of the partnerships that have merged or
64 consolidated shall thenceforth attach to the surviving or resulting partnership, and may be
65 enforced against such surviving or resulting partnership to the same extent as if such debts,
66 liabilities, and duties had been incurred or contracted by such surviving or resulting partnership.

359.011. As used in this chapter, the following terms mean:

- 2 (1) "Certificate of limited partnership", the certificate referred to in section 359.091, and
3 the certificate as amended or restated;
- 4 (2) "Contribution", any cash, property, services rendered, or a promissory note or other
5 binding obligation to contribute cash or property or to perform services, which a partner
6 contributes to a limited partnership in his capacity as a partner;
- 7 (3) "Event of withdrawal of a general partner", an event that causes a person to cease to
8 be a general partner as provided in section 359.241;
- 9 (4) "Foreign limited partnership", a partnership formed under the laws of any country
10 or of any state other than this state and having as partners one or more general partners and one
11 or more limited partners;
- 12 (5) "General partner", a person who has been admitted to a limited partnership as a
13 general partner in accordance with the partnership agreement and named in the certificate of
14 limited partnership as a general partner;
- 15 (6) "Limited partner", a person who has been admitted to a limited partnership as a
16 limited partner in accordance with the partnership agreement;
- 17 (7) "Limited partnership" and "domestic limited partnership", a partnership formed by
18 two or more persons under the laws of this state and having one or more general partners and one
19 or more limited partners;
- 20 (8) "Partner", a limited or general partner;
- 21 (9) "Partnership agreement", any valid agreement, written or oral, of the partners as to
22 the affairs of a limited partnership and the conduct of its business;
- 23 (10) "Partnership interest", a partner's share of the profits and losses of a limited
24 partnership and the right to receive distributions of partnership assets;

25 (11) "Person", a natural person, partnership, limited partnership (domestic or foreign),
26 domestic or foreign limited liability company, trust, estate, association, or corporation;

27 (12) **"Physical address", the street address of the office, building, home, or other**
28 **structure that serves as the location recognized and to which mail for the occupant or**
29 **tenant thereof may be delivered by the United States Post Office and where the registered**
30 **agent may be found; a post office box or an address with a post office box zip code or a**
31 **location where a post office box is rented is not alone sufficient to meet the meaning of the**
32 **term "physical address";**

33 (13) "Registered limited liability limited partnership", a limited partnership complying
34 with section 359.172;

35 [(13)] (14) "State", a state, territory, or possession of the United States, the District of
36 Columbia, or the Commonwealth of Puerto Rico.

359.041. 1. Each limited partnership shall continuously maintain in this state:

2 (1) A registered office which may be, but need not be, a place of its business in this state;
3 and

4 (2) A registered agent for service of process on the limited partnership, which agent may
5 be either an individual, resident in this state, whose business office **has a physical address**
6 **which** is identical with such registered office, or a domestic corporation or a foreign corporation
7 authorized to do business in this state, whose business office **has a physical address which** is
8 identical with such registered office.

9 2. A limited partnership may from time to time change the **physical** address of its
10 registered office. A limited partnership shall change its registered agent if the office of registered
11 agent shall become vacant for any reason, if its registered agent becomes disqualified or
12 incapacitated to act, or if the limited partnership revokes the appointment of its registered agent.
13 A limited partnership may change the **physical** address of its registered office or change its
14 registered agent, or both, by filing in the office of the secretary of state, on a form approved by
15 the secretary of state, a statement setting forth:

16 (1) The name of the limited partnership;

17 (2) The **physical** address, including street and number, if any, of its then registered
18 office;

19 (3) If the **physical** address of its registered office be changed, the **physical** address[,
20 including street and number, if any,] to which the registered office is to be changed;

21 (4) The name of its then registered agent;

22 (5) If its registered agent be changed, the name of its successor registered agent and the
23 successor registered agent's written consent to the appointment either on the statement or
24 attached thereto;

25 (6) That the **physical** address of its registered office and the **physical** address of the
26 business office of its registered agent, as changed, will be identical; and

27 (7) That such change was authorized by the limited partnership.

28 3. Such statement shall be executed [in duplicate] by the limited partnership by a general
29 partner, and delivered to the secretary of state. The execution of such a statement by a general
30 partner constitutes an affirmation under the penalties of section 575.040, RSMo, that the facts
31 stated therein are true. If the secretary of state finds that such statement conforms to the
32 provisions of this chapter, the secretary of state shall file the same, keeping the original and
33 returning [the other] a copy to the limited partnership or to its representative.

34 4. The change of address of the registered office, or the change of the registered agent,
35 or both, as the case may be, shall become effective upon the filing of such statement by the
36 secretary of state. The location or residence of any limited partnership shall be deemed for all
37 purposes to be in the county where its registered office is maintained.

38 5. If a registered agent changes the [street] **physical** address of his business office, he
39 may change the [street] **physical** address of the registered office of any limited partnership for
40 which he is the registered agent by notifying the limited partnership in writing of the change and
41 signing, either manually or in facsimile, and delivering to the secretary of state for filing a
42 statement of change that complies with the requirements of subsection 2 of this section and
43 recites that the limited partnership has been notified of the change. The change of address of the
44 registered office shall become effective upon the filing of the statement to the secretary of state.

45 6. In the event that a limited partnership shall fail to appoint or maintain a registered
46 agent in this state, then the secretary of state, as long as such default exists, shall be automatically
47 appointed as an agent of such limited partnership upon whom any process, notice, or demand
48 required or permitted by law to be served upon the limited partnership may be served. Service
49 on the secretary of state of any process, notice or demand against a limited partnership shall be
50 made by delivering to and leaving with the secretary of state, or with any clerk having charge of
51 the limited partnership department of the secretary of state's office, a copy of such process, notice
52 or demand. In the event that any process, notice, or demand is served on the secretary of state,
53 the secretary of state shall immediately cause a copy thereof to be forwarded by registered mail,
54 addressed to the limited partnership at its registered office in this state. Nothing herein contained
55 shall limit or affect the right to serve any process, notice, or demand required or permitted by law
56 to be served upon a limited partnership in any other manner now or hereafter permitted by law.

359.091. 1. In order to form a limited partnership, a certificate of limited partnership
2 shall be executed and filed in the office of the secretary of state. The certificate shall set forth:

3 (1) The name of the limited partnership;

4 (2) The **physical** address of the registered office and the name of the registered agent at
5 such office;

6 (3) The name and the mailing address of each general partner;

7 (4) The events, if any on which the limited partnership is to dissolve or the number of
8 years the limited partnership is to continue, which may be any number or perpetual;

9 (5) Any other matters the general partners determine to include therein.

10 2. A limited partnership is formed at the time of the filing of the certificate of limited
11 partnership in the office of the secretary of state or at any other time specified in the certificate
12 of limited partnership if, in either case, there has been substantial compliance with the
13 requirements of this section.

359.165. 1. Pursuant to an agreement of merger or consolidation, a domestic limited
2 partnership may merge or consolidate with or into one or more limited partnerships formed under
3 the laws of this state or any other jurisdiction, with such limited partnership as the agreement
4 shall provide being the surviving or resulting limited partnership. A domestic limited partnership
5 may merge or consolidate with one or more domestic or foreign general partnerships, limited
6 liability companies, trusts, business trusts, corporations, real estate investment trusts and other
7 associations or business entities at least one of which is not a limited partnership, as provided
8 in sections 347.700 to 347.735, RSMo.

9 2. The agreement of merger or consolidation shall be approved by the number or
10 percentage of general and limited partners specified in the partnership agreement. If the
11 partnership agreement fails to specify the required partner approval for merger or consolidation
12 of the limited partnership, then the agreement of merger or consolidation shall be approved by
13 that number or percentage of general and limited partners specified by the partnership agreement
14 to approve an amendment to the partnership agreement. However, if the merger effects a change
15 for which the partnership agreement requires a greater number or percentage of general and
16 limited partners than that required to amend the partnership agreement, then the merger or
17 consolidation shall be approved by that greater number or percentage. If the partnership
18 agreement contains no provision specifying the vote required to amend the partnership
19 agreement, then the agreement of merger must be approved by all the general and limited
20 partners.

21 3. In the case of a merger or consolidation of one or more domestic limited partnerships
22 into a surviving limited partnership, the surviving limited partnership shall file articles of merger
23 or consolidation with the secretary of state setting forth:

24 (1) The name of each party to the merger or consolidation;

25 (2) The effective date of the merger or consolidation which shall be the date the articles
26 of merger or consolidation are filed with the secretary or on a later date set forth in the articles
27 of merger or consolidation not to exceed ninety days after the filing date;

28 (3) The name of the surviving limited partnership in a merger or the new limited
29 partnership in a consolidation and the state of its formation;

30 (4) A statement that the merger or consolidation was authorized and approved by the
31 partners of each party to the merger or consolidation in accordance with the laws of the
32 jurisdiction where it was organized;

33 (5) If applicable, the **physical** address of the registered office and the name of the
34 registered agent at such office for the surviving or new limited partnership;

35 (6) In the case of a merger in which a domestic limited partnership is the surviving
36 entity, such amendments or changes to the certificate of limited partnership of the surviving
37 limited partnership as are desired to be effected by the merger, or, if no such amendments or
38 changes are desired, a statement that the certificate of limited partnership of the surviving limited
39 partnership shall not be amended or changed as a result of the merger;

40 (7) In the case of a consolidation in which a domestic limited partnership is the
41 continuing limited partnership, the certificate of limited partnership of the new domestic limited
42 partnership shall be set forth in an attachment to the certificate of consolidation;

43 (8) A statement that the executed agreement of merger or consolidation is on file at the
44 principal place of business of the surviving or new limited partnership, stating the **physical**
45 address of such place of business; and

46 (9) A statement that a copy of the agreement of merger or consolidation will be furnished
47 by the surviving or new limited partnership, on request and without cost, to any partner of any
48 entity that is a party to the merger or consolidation.

49 4. The certificate of merger or consolidation shall be executed by at least one general
50 partner of each domestic limited partnership and one authorized agent, or its equivalent, for the
51 other party to the merger or consolidation who is duly authorized to execute such notice.

52 5. In the case of a merger of one or more domestic limited partnerships into a surviving
53 limited partnership, the certificate of limited partnership of the surviving domestic limited
54 partnership shall be amended to the extent provided in the articles of merger and the certificates
55 of limited partnership of each other domestic limited partnership shall be deemed canceled by
56 the filing of the articles of merger with the secretary of state.

57 6. If, following a merger or consolidation of one or more domestic limited partnerships
58 and one or more limited partnerships formed under the laws of any state, the surviving or
59 resulting limited partnership is not a domestic limited partnership, there shall be attached to the
60 articles of merger or consolidation filed pursuant to subsection 3 of this section a certificate

61 executed by the surviving or resulting limited partnership, stating that such surviving or resulting
62 limited partnership may be served with process in this state in any action, suit or proceeding for
63 the enforcement of any obligation of such domestic limited partnership, irrevocably appointing
64 the secretary of state as such surviving or resulting limited partnership's agent to accept service
65 of process in any such action, suit or proceeding and specifying the address to which a copy of
66 such process shall be mailed to such surviving or resulting limited partnership to the secretary
67 of state.

68 7. When the articles of merger or consolidation required by subsection 3 of this section
69 shall have become effective, for all purposes of the laws of this state, all of the rights, privileges,
70 franchises and powers of each of the limited partnerships that have merged or consolidated, and
71 all property, real, personal and mixed, and all debts due to any of such limited partnerships, as
72 well as all other things and causes of action belonging to each of such limited partnerships shall
73 be vested in the surviving or resulting limited partnership, and shall thereafter be the property
74 of the surviving or resulting limited partnership as they were of each of the limited partnerships
75 that have merged or consolidated, and the title to any real property vested by deed or otherwise,
76 under the laws of this state, in any such limited partnerships, shall not revert or be in any way
77 impaired by reason of this section; but all rights of creditors and all liens upon any property of
78 any of such limited partnerships shall be preserved unimpaired, and all debts, liabilities and
79 duties of each of the limited partnerships that have merged or consolidated shall thenceforth
80 attach to the surviving or resulting limited partnership, and may be enforced against such
81 surviving or resulting limited partnership to the same extent as if such debts, liabilities and duties
82 had been incurred or contracted by such surviving or resulting limited partnership.

359.501. Before transacting business in this state, a foreign limited partnership shall
2 register with the secretary of state. In order to register, a foreign limited partnership shall submit
3 to the secretary of state an application for registration as a foreign limited partnership, signed by
4 a general partner and setting forth:

5 (1) The name of the foreign limited partnership and, if different, the name under which
6 it proposes to register and transact business in this state;

7 (2) The state and date of its formation;

8 (3) The name and **physical** address of its registered agent and registered office in this
9 state which office and agent shall be subject to the same rights and limitations as provided in
10 section 359.041;

11 (4) A statement that the secretary of state is appointed the agent of the foreign limited
12 partnership for service of process if no agent has been appointed under subdivision (3) of this
13 section or, if appointed, the agent's authority has been revoked or if the agent cannot be found
14 or served with the exercise of reasonable diligence;

15 (5) The address of the office required to be maintained in the state of its organization by
16 the laws of that state or, if not so required, of the principal office of the foreign limited
17 partnership;

18 (6) The name and business address, **which may be or include a post office box**, of each
19 general partner;

20 (7) The **physical** address of the office at which is kept a list of the names and addresses
21 of the limited partners and their capital contributions, together with an undertaking by the foreign
22 limited partnership to keep those records until the foreign limited partnership's registration in this
23 state is canceled; and

24 (8) The application shall include a certificate of existence or document of similar import
25 duly authenticated by the secretary of state or other official having custody of the records in the
26 state or country whose laws it is registered[,]. Such document should be dated within sixty
27 calendar days from filing for acceptance.

359.531. 1. A foreign limited partnership authorized to transact business in this state
2 shall obtain an amended certificate of registration from the secretary of state if it changes:

3 (1) The name of the limited partnership;

4 (2) The state or country of its registration;

5 (3) The address of the office required to be maintained in the state of its organization by
6 the laws of that state or if not so required of the principal office of the foreign limited
7 partnership;

8 (4) The name and business address, **which may be or include a post office box**, of any
9 general partner; and

10 (5) The address of the office at which is kept a list of the names and addresses and
11 capital contributions of the limited partners.

12 2. The amendment shall include a certificate of existence or document of similar import
13 duly authenticated by the secretary of state or other official having custody of the records in the
14 state or country under whose laws it is registered, such document should be dated within sixty
15 calendar days from filing for acceptance.

16 3. The fee for filing an amended certificate of registration shall be twenty dollars.

385.200. As used in sections 385.200 to 385.212, the following terms mean:

2 (1) **"Administrator", the person other than a provider who is responsible for the**
3 **administration of the service contracts or the service contracts plan or for any filings**
4 **required by sections 385.200 to 385.212;**

5 (2) **"Consumer", a natural person who buys other than for purposes of resale any**
6 **tangible personal property that is distributed in commerce and that is normally used for**
7 **personal, family, or household purposes and not for business or research purposes;**

- 8 (3) "Dealers", any motor vehicle dealer or boat dealer licensed or required to be
9 licensed under the provisions of sections 301.550 to 301.573, RSMo;
- 10 (4) "Director", the director of the department of insurance;
- 11 (5) "Maintenance agreement", a contract of limited duration that provides for
12 scheduled maintenance only;
- 13 (6) "Manufacturer", any of the following:
- 14 (a) A person who manufactures or produces the property and sells the property
15 under the person's own name or label;
- 16 (b) A subsidiary of the person who manufactures or produces the property;
- 17 (c) A person who owns one hundred percent of the entity that manufactures or
18 produces the property;
- 19 (d) A person that does not manufacture or produce the property, but the property
20 is sold under its trade name label;
- 21 (e) A person who manufactures or produces the property and the property is sold
22 under the trade name or label of another person;
- 23 (f) A person who does not manufacture or produce the property but, under a
24 written contract, licenses the use of its trade name or label to another person who sells the
25 property under the licensor's trade name or label;
- 26 (7) "Mechanical breakdown insurance", a policy, contract, or agreement issued by
27 an authorized insurer who provides for the repair, replacement, or maintenance of a motor
28 vehicle or indemnification for repair, replacement, or service, for the operational or
29 structural failure of a motor vehicle due to a defect in materials or workmanship or to
30 normal wear and tear;
- 31 (8) "Motor vehicle extended service contract" or "service contract", a contract or
32 agreement for a separately stated consideration or for a specific duration to perform the
33 repair, replacement, or maintenance of a motor vehicle or indemnification for repair,
34 replacement, or maintenance, for the operational or structural failure due to a defect in
35 materials, workmanship, or normal wear and tear, with or without additional provision
36 for incidental payment of indemnity under limited circumstances, including but not limited
37 to towing, rental, and emergency road service, but does not include mechanical breakdown
38 insurance or maintenance agreements;
- 39 (9) "Non-original manufacturer's parts", replacement parts not made for or by the
40 original manufacturer of the property, commonly referred to as "after market parts";
- 41 (10) "Person", an individual, partnership, corporation, incorporated or
42 unincorporated association, joint stock company, reciprocal, syndicate, or any similar
43 entity or combination of entities acting in concert;

44 (11) "Premium", the consideration paid to an insurer for a reimbursement
45 insurance policy;

46 (12) "Provider", a person who is contractually obligated to the service contract
47 holder under the terms of a motor vehicle extended service contract;

48 (13) "Provider fee", the consideration paid for a motor vehicle extended service
49 contract by a service contract holder;

50 (14) "Reimbursement insurance policy", a policy of insurance issued to a provider
51 and under which the insurer agrees, for the benefit of the motor vehicle extended service
52 contract holders, to discharge all of the obligations and liabilities of the provider under the
53 terms of the motor vehicle extended service contracts in the event of nonperformance by
54 the provider. All obligations and liabilities include, but are not limited to, failure of the
55 provider to perform under the motor vehicle extended service contract and the return of
56 the unearned provider fee in the event of the provider's unwillingness or inability to
57 reimburse the unearned provider fee in the event of termination of a motor vehicle
58 extended service contract;

59 (15) "Service contract holder" or "contract holder", a person who is the purchaser
60 or holder of a motor vehicle extended service contract;

61 (16) "Warranty", a warranty made solely by the manufacturer, importer, or seller
62 of property or services without charge, that is not negotiated or separated from the sale of
63 the product and is incidental to the sale of the product, that guarantees indemnity for
64 defective parts, mechanical or electrical breakdown, labor, or other remedial measures,
65 such as repair or replacement of the property or repetition of services.

 385.201. 1. Motor vehicle extended service contracts shall not be issued, sold, or
2 offered for sale in this state unless the provider or its designee has:

3 (1) Provided a receipt for the purchase of the motor vehicle extended service
4 contract to the contract holder at the date of purchase;

5 (2) Provided a copy of the motor vehicle extended service contract to the service
6 contract holder within a reasonable period of time from the date of purchase; and

7 (3) Complied with the provisions of sections 385.200 to 385.212.

8 2. All providers of motor vehicle extended service contracts sold in this state shall
9 file a registration with the director on a form, at a fee and at a frequency prescribed by the
10 director.

11 3. In order to assure the faithful performance of a provider's obligations to its
12 contract holders, each provider who is contractually obligated to provide service under a
13 motor vehicle extended service contract shall:

- 14 **(1) Insure all motor vehicle extended service contracts under a reimbursement**
15 **insurance policy issued by an insurer authorized to transact insurance in this state; or**
16 **(2) (a) Maintain a funded reserve account for its obligation under its contracts**
17 **issued and outstanding in this state. The reserves shall not be less than forty percent of**
18 **gross consideration received, less claims paid, on the sale of the motor vehicle extended**
19 **service contract for all in-force contracts. The reserve account shall be subject to**
20 **examination and review by the director; and**
21 **(b) Place in trust with the director a financial security deposit, having a value of not**
22 **less than five percent of the gross consideration received, less claims paid, on the sale of the**
23 **motor vehicle extended service contract for all motor vehicle extended service contracts**
24 **issued and in force, but not less than twenty-five thousand dollars, consisting of one of the**
25 **following:**
26 **a. A surety bond issued by an authorized surety;**
27 **b. Securities of the type eligible for deposit by authorized insurers in this state;**
28 **c. Cash;**
29 **d. A letter of credit issued by a qualified financial institution; or**
30 **e. Another form of security prescribed by regulations issued by the director; or**
31 **(3) (a) Maintain a net worth of one hundred million dollars; and**
32 **(b) Upon request, provide the director with a copy of the provider's or, if the**
33 **provider's financial statements are consolidated with those of its parent company, the**
34 **provider's parent company's most recent Form 10-K filed with the Securities and**
35 **Exchange Commission (SEC) within the last calendar year, or if the company does not file**
36 **with the SEC, a copy of the company's audited financial statements, which shows a net**
37 **worth of the provider or its parent company of at least one hundred million dollars. If the**
38 **provider's parent company's Form 10-K or audited financial statements are filed to meet**
39 **the provider's financial stability requirement, then the parent company shall agree to**
40 **guarantee the obligations of the obligor relating to motor vehicle extended service contracts**
41 **sold by the provider in this state.**
42 **4. Provider fees collected on motor vehicle extended service contracts shall not be**
43 **subject to premium taxes. Premiums for reimbursement insurance policies shall be subject**
44 **to applicable premium taxes.**
45 **5. Except for the registration requirement in subsection 2 of this section, persons**
46 **marketing, selling, or offering to sell motor vehicle extended service contracts for providers**
47 **that comply with sections 385.200 to 385.212 are exempt from this state's licensing**
48 **requirements.**

49 **6. Providers complying with the provisions of sections 385.200 to 385.212 are not**
50 **required to comply with other provisions of chapter 374 or 375, or any other provisions**
51 **governing insurance companies, except as specifically provided.**

52 **385.203. Reimbursement insurance policies insuring motor vehicle extended service**
53 **contracts issued, sold, or offered for sale in this state shall conspicuously state that, upon**
54 **failure of the provider to perform under the contract, such as failure to return the**
55 **unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider**
56 **any sums the provider is legally obligated to pay or shall provide the service for which the**
57 **provider is legally obligated to perform according to the provider's contractual obligations**
58 **under the motor vehicle extended service contracts issued or sold by the provider.**

385.204. 1. No person, other than a dealer, manufacturer, federally insured
2 **depository institution, or a lender licensed and defined under the requirements of sections**
3 **367.100 to 367.215, RSMo, shall sell, offer for sale, or solicit the sale of a motor vehicle**
4 **extended service contract to a consumer.**

5 **2. No administrator or provider shall use a dealer as a fronting company, and no**
6 **dealer shall act as a fronting company. For purposes of this subsection, "fronting**
7 **company" means a dealer that authorizes a third-party administrator or provider to use**
8 **its name or business to evade or circumvent the provisions of subsection 1 of this section.**

9 **3. Motor vehicle extended service contracts issued, sold, or offered for sale in this**
10 **state shall be written in clear, understandable language, and the entire contract shall be**
11 **printed or typed in easy-to-read type and conspicuously disclose the requirements in this**
12 **section, as applicable.**

13 **4. Motor vehicle extended service contracts insured under a reimbursement**
14 **insurance policy under subsection 3 of section 385.201 shall contain a statement in**
15 **substantially the following form: "Obligations of the provider under this service contract**
16 **are guaranteed under a service contract reimbursement insurance policy. If the provider**
17 **fails to pay or provide service on a claim within sixty days after proof of loss has been filed,**
18 **the contract holder is entitled to make a claim directly against the insurance company."**
19 **A claim against the provider also shall include a claim for return of the unearned provider**
20 **fee. The motor vehicle extended service contract also shall state conspicuously the name**
21 **and address of the insurer.**

22 **5. Motor vehicle extended service contracts not insured under a reimbursement**
23 **insurance policy pursuant to subsection 3 of section 385.201 shall contain a statement in**
24 **substantially the following form: "Obligations of the provider under this service contract**
25 **are backed only by the full faith and credit of the provider (issuer) and are not guaranteed**
26 **under a service contract reimbursement insurance policy." A claim against the provider**

27 also shall include a claim for return of the unearned provider fee. The motor vehicle
28 extended service contract also shall state conspicuously the name and address of the
29 provider.

30 6. Motor vehicle extended service contracts shall identify any administrator, the
31 provider obligated to perform the service under the contract, the motor vehicle extended
32 service contract seller, and the service contract holder to the extent that the name and
33 address of the service contract holder has been furnished by the service contract holder.

34 7. Motor vehicle extended service contracts shall state conspicuously the total
35 purchase price and the terms under which the motor vehicle extended service contract is
36 sold. The purchase price is not required to be preprinted on the motor vehicle extended
37 service contract and may be negotiated at the time of sale with the service contract holder.

38 8. If prior approval of repair work is required, the motor vehicle extended service
39 contracts shall state conspicuously the procedure for obtaining prior approval and for
40 making a claim, including a toll-free telephone number for claim service and a procedure
41 for obtaining emergency repairs performed outside of normal business hours.

42 9. Motor vehicle extended service contracts shall state conspicuously the existence
43 of any deductible amount.

44 10. Motor vehicle extended service contracts shall specify the merchandise and
45 services to be provided and any limitations, exceptions, and exclusions.

46 11. Motor vehicle extended service contracts shall state the conditions upon which
47 the use of non-original manufacturer's parts, or substitute service, may be allowed.
48 Conditions stated shall comply with applicable state and federal laws.

49 12. Motor vehicle extended service contracts shall state any terms, restrictions, or
50 conditions governing the transferability of the motor vehicle extended service contract.

51 13. Motor vehicle extended service contracts shall state the terms, restrictions, or
52 conditions governing termination of the service contract by the service contract holder.
53 The provider of the motor vehicle extended service contract shall mail a written notice to
54 the contract holder within fifteen days of the date of termination.

55 14. Motor vehicle extended service contracts shall require every provider to permit
56 the service contract holder to return the contract within at least twenty business days of
57 mailing date of the motor vehicle extended service contract or within at least ten days if the
58 service contract is delivered at the time of sale or within a longer time period permitted
59 under the contract. If no claim has been made under the contract, the contract is void and
60 the provider shall refund to the contract holder the full purchase price of the contract. A
61 ten percent penalty per month shall be added to a refund that is not paid within thirty days

62 of return of the contract to the provider. The applicable free-look time periods on service
63 contracts shall apply only to the original service contract purchaser.

64 15. Motor vehicle extended service contracts shall set forth all of the obligations and
65 duties of the service contract holder, such as the duty to protect against any further
66 damage and the requirement for certain service and maintenance.

67 16. Motor vehicle extended service contracts shall state clearly whether or not the
68 service contract provides for or excludes consequential damages or preexisting conditions.

385.205. 1. A provider shall not use in its name the words insurance, casualty,
2 guaranty, surety, mutual, or any other words descriptive of the insurance, casualty,
3 guaranty, or surety business, nor shall such provider use a name deceptively similar to the
4 name or description of any insurance or surety corporation, or any other provider. This
5 section shall not apply to a company that was using any of the prohibited language in its
6 name prior to August 28, 2004. However, a company using the prohibited language in its
7 name shall disclose conspicuously in its motor vehicle extended service contract the
8 following statement: "This agreement is not an insurance contract."

9 2. A provider or its representative shall not in its motor vehicle extended service
10 contracts or literature make, permit, or cause to be made any false or misleading
11 statement, or deliberately omit any material statement that would be considered misleading
12 if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle
13 extended service contract.

14 3. A person, such as a bank, savings and loan association, lending institution,
15 manufacturer or seller of any product, shall not require the purchase of a service contract
16 as a condition of a loan or a condition for the sale of any property.

385.207. 1. An administrator, provider, or other intermediary shall keep accurate
2 accounts, books, and records concerning transactions regulated by sections 385.200 to
3 385.212.

4 2. An administrator's, provider's, or other intermediary's accounts, books, and
5 records shall include:

- 6 (1) Copies of each type of motor vehicle extended service contract issued;
7 (2) The name and address of each service holder to the extent that the name and
8 address have been furnished by the service contract holder;
9 (3) A list of the provider locations where motor vehicle extended service contracts
10 are marketed, sold, or offered for sale; and
11 (4) Claims files that shall contain at least the dates, amounts, and description of all
12 receipts, claims, and expenditures related to the motor vehicle extended service contracts.

13 3. Except as provided in this section, an administrator shall retain all records
14 pertaining to each motor vehicle extended service contract holder for at least three years
15 after the specified period of coverage has expired.

16 4. An administrator, provider, or other intermediary may keep all records required
17 under sections 385.200 to 385.212 on a computer disk or other similar technology. If an
18 administrator, provider, or other intermediary maintains records in other than hard copy,
19 records shall be accessible from a computer terminal available to the director and be
20 capable of duplication to legible hard copy.

21 5. An administrator, provider, or other intermediary discontinuing business in this
22 state shall maintain its records until it furnishes the director satisfactory proof that it has
23 discharged all obligations to contract holders in this state.

24 6. An administrator, provider, or other intermediary shall make all accounts,
25 books, and records concerning transactions regulated pursuant to sections 385.200 to
26 385.212 or other pertinent laws available to the director upon request.

 385.208. As applicable, an insurer that issued a reimbursement insurance policy
2 shall not terminate the policy until a notice of termination, in a form and time frame
3 prescribed by the director, has been mailed or delivered to the director. The termination
4 of a reimbursement insurance policy shall not reduce the issuer's responsibility for motor
5 vehicle extended service contracts issued by providers prior to the date of the termination.

 385.209. 1. Providers are considered to be the agent of the insurer that issued the
2 reimbursement insurance policy. In cases where a provider is acting as an administrator
3 and enlists other providers, the provider acting as the administrator shall notify the insurer
4 of the existence and identities of the other providers.

5 2. The provisions of sections 385.200 to 385.212 shall not prevent or limit the right
6 of an insurer that issued a reimbursement insurance policy to seek indemnification or
7 subrogation against a provider if the insurer pays or is obligated to pay the service contract
8 holder sums that the provider was obligated to pay under the provisions of the motor
9 vehicle extended service contract or under a contractual agreement.

 385.210. 1. The director may conduct investigations or examinations of providers,
2 administrators, insurers, or other persons to enforce the provisions of sections 385.200 to
3 385.212 and protect service contract holders in this state.

4 2. If the director determines that a person has engaged, is engaging, or is about to
5 engage in a violation of sections 385.200 to 385.212 or a rule adopted or order issued
6 pursuant thereto, or that a person has materially aided, is materially aiding, or is about to
7 materially aid an act, practice, omission or course of business constituting a violation of
8 sections 385.200 to 385.212 or a rule adopted or order issued pursuant thereto, the director

9 may issue such administrative orders as authorized under section 374.046, RSMo. A
10 violation of this section is a level two violation under section 374.049, RSMo.

11 3. If the director believes that a person has engaged, is engaging, or is about to
12 engage in a violation of sections 385.200 to 385.212 or a rule adopted or order issued
13 pursuant thereto, or that a person has materially aided, is materially aiding, or is about to
14 materially aid an act, practice, omission or course of business constituting a violation of
15 sections 385.200 to 385.212 or a rule adopted or order issued pursuant thereto, the director
16 may maintain a civil action for relief authorized under section 374.048, RSMo. A violation
17 of this section is a level two violation under section 374.049, RSMo.

18 4. The enforcement authority of the director under this section is cumulative to any
19 other statutory authority of the director.

385.211. The director may promulgate rules to effectuate sections 385.200 to
2 385.212. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
3 that is created under the authority delegated in this section shall become effective only if
4 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
5 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
6 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
7 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
8 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
9 adopted after August 28, 2006, shall be invalid and void.

385.212. 1. The provisions of sections 385.200 to 385.212 shall not apply to:

- 2 (1) Warranties;
- 3 (2) Maintenance agreements;
- 4 (3) Commercial transactions; and
- 5 (4) Service contracts sold or offered for sale to persons other than consumers.

6 2. Manufacturer's contracts on the manufacturer's products need only comply with
7 the provisions of sections 385.204, 385.205, and 385.210.

385.300. 1. As used in sections 385.300 to 385.312, the terms "consumer",
2 "director", "maintenance agreement", "manufacturer", "nonoriginal manufacturer's
3 parts", "person", "premium", and "warranty" shall have the same meaning as provided
4 in section 385.200.

5 2. As used in sections 385.300 to 385.312, the following terms mean:

- 6 (1) "Administrator", the person who is responsible for the handling and
7 adjudication of claims under the product service agreements;
- 8 (2) "Contract holder", a person who is the purchaser or holder of a service
9 contract;

- 10 (3) "Property", all forms of property;
- 11 (4) "Provider", a person who issues, makes, or directly underwrites a service
12 contract, or is contractually obligated to the service contract holder under the terms of the
13 service contract;
- 14 (5) "Provider fee", the consideration paid for a service contract, if any, by a service
15 contract holder;
- 16 (6) "Reimbursement insurance policy", a policy of insurance issued to a provider
17 to either provide reimbursement to the provider under the terms of the insured service
18 contract issued or sold by the provider, or alternatively, in the event of nonperformance
19 by the provider, to pay to service contract holders on behalf of the provider all covered
20 contractual obligations incurred by the provider under the terms of the insured service
21 contract issued or sold by the provider; and
- 22 (7) "Service contract", a contract for a specific duration and consideration to
23 perform the repair, replacement, or maintenance of property or indemnification for repair,
24 replacement, or maintenance, for the operational or structural failure of any residential
25 or other property due to a defect in materials, workmanship, or normal wear and tear,
26 with or without additional provision for incidental payment of indemnity under limited
27 circumstances, including, but not limited to, unavailability of parts, obsolescence, food
28 spoilage, rental, and shipping. Service contracts may provide for the repair, replacement
29 or maintenance of property for damage resulting from power surges or accidental damage.
30 Service contract providers and administrators are not deemed to be engaged in the
31 business of insurance in this state.

385.301. 1. It is unlawful for any person to issue, sell or offer for sale in this state
2 any service contract, unless each provider has registered with the director on a form
3 prescribed by the director. Each provider shall pay to the director a fee established by the
4 director by rule, but not to exceed three hundred dollars annually.

5 2. A provider may, but is not required to, appoint an administrator or other
6 designee to be responsible for any or all of the administration of service contracts and
7 compliance with sections 385.300 to 385.312.

8 3. A provider or its designee shall provide a copy of the service contract to the
9 service contract holder within a reasonable period of time following the date of purchase.

10 4. In order to assure the faithful performance of a provider's obligations to its
11 contract holders, each provider who contractually is obligated to provide service under a
12 service contract shall comply with one of the following subdivisions:

13 (1) (a) Maintain a funded reserve account for its obligations under its contracts
14 issues and outstanding in this state. The reserve shall not be less than forty percent of

15 gross consideration received, less claims paid, on the sale of the service contract for all in-
16 force contracts. The reserve account shall be subject to examination and review by the
17 director; and

18 (b) Place in trust with the director a financial security deposit, having a value of not
19 less than five percent of the gross consideration received, less claims paid, on the sale of the
20 service contract for all service contracts issued and in force, but not less than twenty-five
21 thousand dollars, consisting of one of the following:

- 22 a. A surety bond issued by an authorized surety;
- 23 b. Securities of the type eligible for deposit by authorized insurers in this state;
- 24 c. Cash;
- 25 d. A letter of credit issued by a qualified financial institution; or
- 26 e. Another form of security prescribed by regulations issued by the director; or

27 (2) (a) Maintain a net worth of one hundred million dollars; and

28 (b) Provide the director with a copy of the provider's or, if the provider's financial
29 statements are consolidated with those of its parent company, the provider's parent
30 company's most recent Form 10-K filed or Form 20-F with the Securities and Exchange
31 Commission (SEC) within the last calendar year, or if the company does not file with the
32 SEC, a copy of the company's audited financial statements, which shows a net worth of the
33 provider or its parent company of at least one hundred million dollars. If the provider's
34 parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet
35 the provider's financial stability requirement, then the parent company shall agree to
36 guarantee the obligations of the obligor relating to service contracts sold by the provider
37 in this state; or

38 (3) Obtain a reimbursement insurance policy that demonstrates to the satisfaction
39 of the director that one hundred percent of its service contract obligations to contract
40 holders is covered by such policy and satisfies the requirements of this section. For the
41 purposes of this subsection, the reimbursement insurance policy shall contain the following
42 provisions:

43 (a) In the event that the provider is unable to fulfill its obligation under contracts
44 issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the
45 insurer will pay losses and unearned fees under such plans directly to the contract holder
46 making a claim under the contract;

47 (b) The insurer issuing the contractual liability policy shall assume full
48 responsibility for the administration of claims in the event of the inability of the provider
49 to do so; and

50 (c) The policy may be canceled or not renewed by either the insurer or the provider
51 not less than sixty days after written notice thereof has been given to the director and
52 provider by the insurer;

53 (4) The reimbursement insurance referenced in subdivision (3) above shall be
54 obtained from an insurer that is authorized, registered or otherwise permitted to transact
55 insurance in this state or a surplus lines insurer authorized pursuant to the laws of this
56 state and which insurer meets one of the following requirements:

57 (a) Maintain, at the time the policy is filed with the director and continuously
58 thereafter:

59 a. Surplus as to policyholders and paid-in capital of at least fifteen million dollars;
60 and

61 b. Annually file copies of the insurer's financial statements, its National Association
62 of Insurance Commissioners annual statement, and the actuarial certification if required
63 and filed in the insurer's state of domicile; or

64 (b) Maintain, at the time the policy is filed with the director and continuously
65 thereafter:

66 a. Surplus as to policyholders and paid-in capital of less than fifteen million dollars
67 but at least equal to ten million dollars;

68 b. Demonstrate to the satisfaction of the director that the insurer maintains a ratio
69 of net written premiums, wherever written, to surplus as to policyholders and paid-in
70 capital of not greater than three to one; and

71 c. Annually file copies of the insurer's financial statements, its National Association
72 of Insurance Commissioners annual statement, and the actuarial certification if required
73 and filed in the insurer's state of domicile.

74 5. Provider fees collected on service agreements shall not be subject to premium
75 taxes. Premiums for reimbursement insurance policies shall be subject to applicable taxes.

76 6. Except for compliance with the provider's registration requirement in subsection
77 1 of this section, a person marketing, selling, or offering to sell service contracts for a
78 provider that is registered under this section is exempt from licensing as a producer under
79 the insurance laws of this state.

385.302. Reimbursement insurance policies insuring service contracts issued, sold
2 or offered for sale in this state shall state that, upon failure of the provider to perform
3 under the contract, including the failure to return the unearned provider fee, the insurer
4 that issued the policy shall pay or perform according to the provider's contractual
5 obligations under the service contracts insured by the insurer.

2 **385.303. 1. Service contracts marketed, issued, sold, or offered for sale in this state**
3 **shall be written in clear, conspicuous, and understandable language, and the entire**
4 **contract shall be printed or typed in easy-to-read type and conspicuously disclose the**
5 **requirements in this section, as applicable.**

6 **2. Service contracts insured under a reimbursement insurance policy under**
7 **subdivision (3) of subsection 4 of section 385.301 shall contain a statement in substantially**
8 **the following form: "Obligations of the provider under this service contract are**
9 **guaranteed under a reimbursement insurance policy. If the provider fails to pay or**
10 **provide service on a claim within sixty days after proof of loss has been filed, the contract**
11 **holder is entitled to make a claim directly against the insurance company." A claim**
12 **against the provider may also include a claim for return of the unearned provider fee. The**
13 **service contract also shall state the name and address of the insurer.**

14 **3. Service contracts not insured under a reimbursement insurance policy under**
15 **subdivision (3) of subsection 4 of section 385.301 shall contain a statement in substantially**
16 **the following form: "Obligations of the provider under this service contract are backed**
17 **only by the full faith and credit of the provider (issuer) and are not guaranteed under a**
18 **reimbursement insurance policy." A claim against the provider shall also include a claim**
19 **for return of the unearned provider fee. The service contract shall also state the name and**
20 **address of the provider.**

21 **4. Service contracts shall identify any administrator, the provider obligated to**
22 **perform under the contract, and the service contract seller, if different than the provider**
23 **or administrator. The identities of such parties are not required to be preprinted on the**
24 **service contract and may be added to the service contract prior to delivery to the contract**
25 **holder.**

26 **5. Service contracts shall state the total purchase price and the terms under which**
27 **the service contract is sold. The purchase price is not required to be pre-printed on the**
28 **service contract and may be negotiated at the time of sale with the service contract holder.**

29 **6. If prior approval of repair work is required, the service contracts shall state the**
30 **procedure for obtaining prior approval and for making a claim, including a toll-free**
31 **telephone number for claim service and a procedure for obtaining emergency repairs**
32 **performed outside of normal business hours.**

33 **7. Service contracts shall state the existence of any deductible amount.**

34 **8. Service contracts shall specify the merchandise and services to be provided and**
 any limitations, exceptions, or exclusions.

35 **9. Service contracts shall state the conditions upon which the use of non-original**
36 **manufacturers' parts, refurbished merchandise, or substitute service, may be allowed.**
37 **Conditions stated shall comply with applicable state and federal laws.**

38 **10. Service contracts shall state any terms, restrictions, or conditions governing the**
39 **transferability of the service contract.**

40 **11. Service contracts shall state any terms, restrictions, or conditions governing**
41 **termination of the service agreement by the service contract holder and provider.**

42 **12. Service contracts for which the service contract holder pays a separate,**
43 **identified consideration shall require every provider to permit the service contract holder**
44 **to return the contract within at least twenty days of the date of mailing of the service**
45 **contract or within at least ten days if the service contract is delivered at the time of sale or**
46 **within a longer time period permitted under the contract. If no claim has been made under**
47 **the contract, the contract is void and the provider shall refund to the contract holder the**
48 **full purchase price of the contract. A ten percent penalty per month shall be added to a**
49 **refund that is not paid within forty-five days of return of the contract to the provider. The**
50 **applicable free-look time periods on service contracts shall apply only to the original**
51 **service contract purchaser, and only if no claim has been made prior to its return to the**
52 **provider.**

53 **13. Service contracts shall set forth all of the obligations and duties of the service**
54 **contract holder, such as the duty to protect against any further damage and the**
55 **requirement for certain service and maintenance.**

56 **14. Service contracts shall state clearly whether or not the service contract provides**
57 **for or excludes consequential damages, preexisting conditions, or events covered under the**
58 **original manufacturer's warranty.**

59 **15. Service contracts shall state any limitations on the number or value of repairs,**
60 **replacements, or monetary settlements, as applicable, that will be provided during the term**
61 **of coverage.**

385.304. 1. It is unlawful for any provider to use in its name the words insurance,
2 **casualty, guaranty, surety, mutual, or any other words descriptive of the insurance,**
3 **casualty, guaranty, or surety business, or any name deceptively similar to the name or**
4 **description of any insurance or surety corporation, or other provider.**

5 **2. This section shall not apply to a company that was using any of the prohibited**
6 **language in its name prior to August 28, 2006. However, a company using the prohibited**
7 **language in its name shall disclose in its service contracts a statement in substantially the**
8 **following: "This contract is not an insurance contract."**

9 **3. It is unlawful for a provider or its representative in its service contracts or**
10 **literature to make, permit, or cause to be made any false or misleading statement, or**
11 **deliberately omit any material statement that would be considered misleading if omitted,**
12 **in connection with the sale, offer to sell or advertisement of a product service contract.**

13 **4. It is unlawful for a person, such as a bank, savings and loan association, or**
14 **lending institution, to require the purchase of a service contract as a condition of a loan or**
15 **other financing transaction.**

16 **5. It is unlawful for a person, such as a manufacturer or retailer, to require the**
17 **purchase of a service contract as a condition to the sale of goods or services, unless**
18 **consideration for the service contract is paid directly by such person and a service contract**
19 **is furnished without separate consideration to all similarly situated purchasers of the**
20 **related goods or services.**

385.305. 1. A provider or administrator shall keep accurate accounts, books, and
2 **records concerning transactions regulated under sections 385.300 to 385.312. However,**
3 **only one set of such accounts, books, and records is required to be maintained and may be**
4 **maintained by third parties provided the provisions of this section are met.**

5 **2. An administrator's or provider's accounts, books, and records shall include:**

6 **(1) Copies of each type of service contract issued;**

7 **(2) The name and address of each service contract holder to the extent that the**
8 **name and address have been furnished by the service contract holder;**

9 **(3) A list of the provider locations where service contracts are marketed, sold, or**
10 **offered for sale; and**

11 **(4) Claims files that shall contain at least the dates, amounts, and description of all**
12 **receipts, claims, and expenditures related to the service contracts.**

13 **3. Except as provided in subsection 5 of this section, an administrator or provider**
14 **shall retain or arrange for the retention of all records pertaining to each service contract**
15 **holder for at least three years after the specified period of coverage had expired.**

16 **4. An administrator or provider may keep all records required under sections**
17 **385.300 to 385.312 on a computer disk or other similar technology. If an administrator or**
18 **provider maintains records in other than hard copy, records shall be accessible from a**
19 **computer terminal available to the director and be capable of duplication to legible hard**
20 **copy.**

21 **5. An administrator or provider discontinuing business in this state shall maintain**
22 **or arrange for the maintenance of its records until it furnishes the director satisfactory**
23 **proof that it has discharged all obligations to contract holders in this state.**

24 **6. An administrator or provider shall make all accounts, books, and records**
25 **concerning transactions regulated under sections 385.300 to 385.312 or other pertinent**
26 **laws available to the director upon request.**

385.306. As applicable, an insurer that issued a reimbursement insurance policy
2 **shall not terminate or non-renew the policy until a notice of termination has been mailed**
3 **or delivered to the director. The termination or non-renewal of a reimbursement**
4 **insurance policy shall not reduce the issuer's responsibility for service contracts issued by**
5 **providers prior to the date of the termination.**

385.307. 1. Providers are considered to be the agent of the insurer which issued the
2 **reimbursement insurance policy for purposes of obligating the insurer to contract holders**
3 **under service contracts associated with the insurer's reimbursement policy, and the**
4 **payment of premium by the provider is not a condition to the insurer's obligations for**
5 **otherwise validly issued service contracts.**
6 **2. Sections 385.300 to 385.312 shall not prevent or limit the right of an insurer**
7 **which issued a reimbursement insurance policy to seek indemnification or subrogation**
8 **against a provider if the issuer pays or is obligated to pay the service contract holder sums**
9 **that the provider was obligated to pay pursuant to the provisions of the product service**
10 **contract.**

385.310. 1. The director may conduct investigations or examinations of providers,
2 **administrators, insurers, or other persons to enforce the provisions of sections 385.300 to**
3 **385.312 and protect service contract holders in this state.**

4 **2. If the director determines that a person has engaged, is engaging, or is about to**
5 **engage in a violation of sections 385.300 to 385.312 or a rule adopted or order issued**
6 **pursuant thereto, or that a person has materially aided, is materially aiding, or is about to**
7 **materially aid an act, practice, omission, or course of business constituting a violation of**
8 **sections 385.300 to 385.312 or a rule adopted or order issued pursuant thereto, the director**
9 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
10 **violation of this section is a level two violation under section 374.049, RSMo.**

11 **3. If the director believes that a person has engaged, is engaging, or is about to**
12 **engage in a violation of sections 385.300 to 385.312 or a rule adopted or order issued**
13 **pursuant thereto, or that a person has materially aided, is materially aiding, or is about to**
14 **materially aid an act, practice, omission, or course of business constituting a violation of**
15 **sections 385.300 to 385.312 or a rule adopted or order issued pursuant thereto, the director**
16 **may maintain a civil action for relief authorized under section 374.048, RSMo.**

17 **4. The enforcement authority of the director under this section is cumulative to any**
18 **other statutory authority of the director.**

385.311. The director may promulgate rules to effectuate sections 385.300 to
2 385.312. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
3 that is created under the authority delegated in this section shall become effective only if
4 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
5 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
6 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
7 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
8 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
9 adopted after August 28, 2006, shall be invalid and void.

385.312. 1. Sections 385.300 to 385.312 shall not apply to:

- 2 (1) Warranties;
- 3 (2) Maintenance agreements;
- 4 (3) Warranties, service contracts, or maintenance agreements offered by public
5 utilities on their transmission devices to the extent they are regulated under the laws of this
6 state;
- 7 (4) Service contracts sold or offered for sale to persons other than consumers;
- 8 (5) Service contracts sold or offered to nonresidents of this state regardless of
9 whether the entity selling or offering such contracts is located or doing business in this
10 state;
- 11 (6) Motor vehicle extended service contracts, as defined in section 385.200; and
- 12 (7) Agreements or warranties which provide for the service, repair, replacement,
13 or maintenance of the systems, appliances, and structural components of residential or
14 commercial real property.

15 2. Manufacturer's service contracts on the manufacturer's products need only
16 comply with the provisions of sections 385.301, 385.304, 385.307, and 385.310.

385.400. Sections 385.400 to 385.436 shall be known and may be cited as the
2 "Missouri Vehicle Protection Product Act".

385.403. As used in sections 385.400 to 385.436, the following terms shall mean:

- 2 (1) "Administrator", a third party other than the warrantor who is designated by
3 the warrantor to be responsible for the administration of vehicle protection product
4 warranties;
- 5 (2) "Department", the department of insurance;
- 6 (3) "Director", the director of the department of insurance;
- 7 (4) "Incidental costs", expenses specified in the warranty incurred by the warranty
8 holder related to the failure of the vehicle protection product to perform as provided in the
9 warranty. Incidental costs may include, without limitation, insurance policy deductibles,

10 rental vehicle charges, the difference between the actual value of the stolen vehicle at the
11 time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction
12 fees, and mechanical inspection fees;

13 (5) "Premium", the consideration paid to an insurer for a reimbursement
14 insurance policy;

15 (6) "Service contract", a contract or agreement for a separately stated
16 consideration or for a specific duration to perform the repair, replacement, or maintenance
17 of a motor vehicle or indemnification for repair, replacement, or maintenance, for the
18 operational or structural failure due to a defect in materials, workmanship, or normal
19 wear and tear, with or without additional provision for incidental payment of indemnity
20 under limited circumstances, including but not limited to towing, rental, and emergency
21 road service, but does not include mechanical breakdown insurance or maintenance
22 agreements;

23 (7) "Vehicle protection product", a vehicle protection device, system, or service
24 that:

25 (a) Is installed on or applied to a vehicle;

26 (b) Is designed to prevent loss or damage to a vehicle from a specific cause; and

27 (c) Includes a written warranty.

28 For purposes of sections 385.400 to 385.436, the term "vehicle protection product" shall
29 include, without limitation, alarm systems, body part marking products, steering locks,
30 window etch products, pedal and ignition locks, fuel and ignition kill switches, and
31 electronic, radio, and satellite tracking devices;

32 (8) "Vehicle protection product warranty" or "warranty", a written agreement by
33 a warrantor that provides that if the vehicle protection product fails to prevent loss or
34 damage to a vehicle from a specific cause, then the warranty holder shall be paid specified
35 incidental costs by the warrantor as a result of the failure of the vehicle protection product
36 to perform pursuant to the terms of the warranty. Incidental costs may be reimbursed
37 under the provisions of the warranty in either a fixed amount specified in the warranty or
38 sales agreement or by the use of a formula itemizing specific incidental costs incurred by
39 the warranty holder;

40 (9) "Vehicle protection product warrantor" or "warrantor", a person who is
41 contractually obligated to the warranty holder under the terms of the vehicle protection
42 product warranty agreement. "Warrantor" does not include an authorized insurer
43 providing a warranty reimbursement insurance policy;

44 (10) "Warranty holder", the person who purchases a vehicle protection product
45 or who is a permitted transferee;

46 (11) "Warranty reimbursement insurance policy", a policy of insurance that is
47 issued to the vehicle protection product warrantor to provide reimbursement to the
48 warrantor or to pay on behalf of the warrantor all covered contractual obligations
49 incurred by the warrantor under the terms and conditions of the insured vehicle protection
50 product warranties sold by the warrantor.

 385.406. 1. No vehicle protection product may be sold or offered for sale in this
2 state unless the seller, warrantor, and administrator, if any, comply with the provisions of
3 sections 385.400 to 385.436.

4 2. Vehicle protection product warrantors and related vehicle protection product
5 sellers and warranty administrators complying with sections 385.400 to 385.436 are not
6 required to comply with and are not subject to any other provisions of the state insurance
7 code.

8 3. Service contract providers who do not sell vehicle protection products are not
9 subject to the requirements of sections 385.400 to 385.436 and sales of vehicle protection
10 products are exempt from the requirements of sections 407.1200 to 407.1227, RSMo.

11 4. Warranties, indemnity agreements, and guarantees that are not provided as a
12 part of a vehicle protection product are not subject to the provisions of sections 385.400 to
13 385.436.

14 5. Notwithstanding the provisions of sections 408.140 and 408.233, RSMo, a
15 business which is licensed and regulated under sections 367.100 to 367.533, RSMo, may
16 offer and sell service contracts, as defined in section 384.403, in conjunction with other
17 transactions.

 385.409. 1. A person may not operate as a warrantor or represent to the public that
2 the person is a warrantor unless the person is registered with the department on a form
3 prescribed by the director.

4 2. Warrantor registration records shall be filed annually and shall be updated
5 within thirty days of any change. The registration records shall contain the following
6 information:

7 (1) The warrantor's name, any fictitious names under which the warrantor does
8 business in the state, principal office address, and telephone number;

9 (2) The name and address of the warrantor's agent for service of process in the
10 state if other than the warrantor;

11 (3) The names of the warrantor's executive officer or officers directly responsible
12 for the warrantor's vehicle protection product business;

13 (4) The name, address, and telephone number of any administrators designated by
14 the warrantor to be responsible for the administration of vehicle protection product
15 warranties in this state;

16 (5) A copy of the warranty reimbursement insurance policy or policies or other
17 financial information required by section 385.412;

18 (6) A copy of each warranty the warrantor proposes to use in this state; and

19 (7) A statement indicating under which provision of section 385.412 the warrantor
20 qualifies to do business in this state as a warrantor.

21 3. The director may charge each registrant a reasonable fee to offset the cost of
22 processing the registration and maintaining the records in an amount not to exceed five
23 hundred annually or as set by regulation. The information in subdivisions (1) and (2) of
24 subsection 2 of this section shall be made available to the public.

25 4. If a registrant fails to register by the renewal deadline, the director shall give him
26 or her written notice of the failure and the registrant will have thirty days to complete the
27 renewal of his or her registration before he or she is suspended from being registered in
28 this state.

29 5. An administrator or person who sells or solicits a sale of a vehicle protection
30 product but who is not a warrantor shall not be required to register as a warrantor or be
31 licensed under the insurance laws of this state to sell vehicle protection products.

 385.412. No vehicle protection product shall be sold or offered for sale in this state
2 unless the warrantor conforms to either subdivision (1) or (2) of this section in order to
3 ensure adequate performance under the warranty. No other financial security
4 requirements or financial standards for warrantors shall be required. The vehicle
5 protection product's warrantor may meet the requirements of this section by:

6 (1) Obtaining a warranty reimbursement insurance policy issued by an insurer
7 authorized to do business within this state which provides that the insurer will pay to, or
8 on behalf of, the warrantor one hundred percent of all sums that the warrantor is legally
9 obligated to pay according to the warrantor's contractual obligations under the
10 warrantor's vehicle protection product warranty. The warrantor shall file a true and
11 correct copy of the warranty reimbursement insurance policy with the director. The policy
12 shall contain the provisions required in section 385.415; or

13 (2) Maintaining a net worth or stockholder's equity of fifty million dollars. The
14 warrantor shall provide the director with a copy of the warrantor's or warrantor's parent
15 company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange
16 Commission within the last calendar year, or if the warrantor does not file with the
17 Securities and Exchange Commission, a copy of the warrantor or the warrantor's parent

18 company's audited financial statements that shows a net worth of the warrantor or its
19 parent company of at least fifty million dollars. If the warrantor's parent company's Form
20 10-K, Form 20-F, or audited financial statements are filed to meet the warrantor's financial
21 stability requirement, then the parent company shall agree to guarantee the obligations of
22 the warrantor relating to warranties issued by the warrantor in this state. The financial
23 information filed under this subdivision shall be confidential as a trade secret of the entity
24 filing the information and not subject to public disclosure if the entity is not required to
25 file with the Securities and Exchange Commission.

385.415. No warranty reimbursement insurance policy shall be issued, sold, or
2 offered for sale in this state unless the policy meets the following conditions:

3 (1) The policy states that the issuer of the policy will reimburse or pay on behalf of
4 the vehicle protection product warrantor all covered sums which the warrantor is legally
5 obligated to pay or will provide that all service that the warrantor is legally obligated to
6 perform according to the warrantor's contractual obligations under the provisions of the
7 insured warranties sold by the warrantor;

8 (2) The policy states that in the event payment due under the terms of the warranty
9 is not provided by the warrantor within sixty days after proof of loss has been filed
10 according to the terms of the warranty by the warranty holder, the warranty holder may
11 file directly with the warranty reimbursement insurance company for reimbursement;

12 (3) The policy provides that a warranty reimbursement insurance company that
13 insures a warranty shall be deemed to have received payment of the premium if the
14 warranty holder paid for the vehicle protection product and insurer's liability under the
15 policy shall not be reduced or relieved by a failure of the warrantor, for any reason, to
16 report the issuance of a warranty to the insurer; and

17 (4) The policy has the following provisions regarding cancellation of the policy:

18 (a) The issuer of a reimbursement insurance policy shall not cancel such policy
19 until a notice of cancellation in writing has been mailed or delivered to the director and
20 each insured warrantor sixty days prior to cancellation of the policy;

21 (b) The cancellation of a reimbursement insurance policy shall not reduce the
22 issuer's responsibility for vehicle protection products sold prior to the date of cancellation;
23 and

24 (c) In the event an insurer cancels a policy that a warrantor has filed with the
25 director, the warrantor shall do either of the following:

26 a. File a copy of a new policy with the director, before the termination of the prior
27 policy; or

28 **b. Discontinue acting as a warrantor as of the termination date of the policy until**
29 **a new policy becomes effective and is accepted by the director.**

385.418. 1. Every vehicle protection product warranty shall be written in clear,
2 **understandable language and shall be printed or typed in an easy-to-read point size and**
3 **font and shall not be issued, sold, or offered for sale in the state unless the warranty:**

4 **(1) States that the obligations of the warrantor to the warranty holder are**
5 **guaranteed under a warranty reimbursement insurance policy if the warrantor elects to**
6 **meet its financial responsibility obligations under subdivision (1) of section 385.412, or**
7 **states the obligations of the warrantor under this warranty are backed by the full faith and**
8 **credit of the warrantor if the warrantor elects to meet its financial responsibility under**
9 **subdivision (2) of section 385.412;**

10 **(2) States that in the event a warranty holder must make a claim against a party**
11 **other than the warrantor, the warranty holder is entitled to make a direct claim against**
12 **the warranty reimbursement insurer upon the failure of the warrantor to pay any claim**
13 **or meet any obligation under the terms of the warranty within sixty days after proof of loss**
14 **has been filed with the warrantor, if the warrantor elects to meet its financial responsibility**
15 **obligations under subdivision (1) of section 385.412;**

16 **(3) States the name and address of the insurer of the warranty reimbursement**
17 **insurance policy, and this information need not be preprinted on the warranty form but**
18 **may be stamped on the warranty, if the warrantor elects to meet its financial responsibility**
19 **obligations under subdivision (1) of section 385.412;**

20 **(4) Identifies the warrantor, the seller, and the warranty holder;**

21 **(5) Sets forth the total purchase price and the terms under which it is to be paid;**
22 **however, the purchase price is not required to be preprinted on the vehicle protection**
23 **product warranty and may be negotiated with the consumer at the time of sale;**

24 **(6) Sets forth the procedure for making a claim, including a telephone number;**

25 **(7) States the existence of a deductible amount, if any;**

26 **(8) Specifies the payments or performance to be provided under the warranty**
27 **including payments for incidental costs, the manner of calculation or determination of**
28 **payments or performance, and any limitations, exceptions, or exclusions;**

29 **(9) Sets forth all of the obligations and duties of the warranty holder such as the**
30 **duty to protect against further damage to the vehicle, the obligation to notify the warrantor**
31 **in advance of any repair, or other similar requirements, if any;**

32 **(10) Sets forth any terms, restrictions, or conditions governing transferability of the**
33 **warranty, if any; and**

34 **(11) Contains a disclosure that reads substantially as follows: "This agreement is**
35 **a product warranty and is not insurance".**

36 **2. At the time of sale, the seller or warrantor shall provide to the purchaser:**

37 **(1) A copy of the vehicle protection product warranty; or**

38 **(2) A receipt or other written evidence of the purchase of the vehicle protection**
39 **product and a copy of the warranty within thirty days of the date of purchase.**

385.421. 1. No vehicle protection product may be sold or offered for sale in this
2 **state unless the vehicle protection product warranty states the terms and conditions**
3 **governing the cancellation of the sale and warranty, if any.**

4 **2. The warrantor may only cancel the warranty if the warranty holder does any of**
5 **the following:**

6 **(1) Fails to pay for the vehicle protection product;**

7 **(2) Makes a material misrepresentation to the seller or warrantor;**

8 **(3) Commits fraud; or**

9 **(4) Substantially breaches the warranty holder's duties under the warranty.**

10 **3. A warrantor canceling a warranty shall mail written notice of cancellation to the**
11 **warranty holder at the last known address of the warranty holder in the warrantor's**
12 **records at least thirty days prior to the effective date of the cancellation. The notice shall**
13 **state the effective date of the cancellation and the reason for the cancellation.**

385.424. 1. Unless licensed as an insurance company, a vehicle protection product
2 **warrantor shall not use in its name, contracts, or literature the words "insurance",**
3 **"casualty", "surety", "mutual", or any other word that is descriptive of the insurance,**
4 **casualty, or surety business or that is deceptively similar to the name or description of any**
5 **insurance or surety corporation or any other vehicle protection product warrantor. A**
6 **warrantor may use the term "guaranty" or a similar word in the warrantor's name. A**
7 **warrantor or its representative shall not in its vehicle protection product warranties or**
8 **literature make, permit, or cause to be made any false or misleading statement, or**
9 **deliberately omit any material statement that would be considered misleading if omitted,**
10 **in connection with the sale, offer to sell, or advertisement of a vehicle protection product**
11 **warranty.**

12 **2. A vehicle protection product seller or warrantor may not require as a condition**
13 **of financing that a retail purchaser of a motor vehicle purchase a vehicle protection**
14 **product.**

385.427. 1. All vehicle protection product warrantors shall keep accurate accounts,
2 **books, and records concerning transactions regulated under sections 385.400 to 385.436.**

3 **2. A vehicle protection product warrantor's accounts, books, and records shall**
4 **include:**

5 **(1) Copies of all vehicle protection product warranties;**

6 **(2) The name and address of each warranty holder; and**

7 **(3) Claims files which shall contain at least the dates, amounts, and descriptions of**
8 **all receipts, claims, and expenditures.**

9 **3. A vehicle protection product warrantor shall retain all required accounts, books,**
10 **and records pertaining to each warranty holder for at least three years after the specified**
11 **period of coverage has expired. A warrantor discontinuing business in the state shall**
12 **maintain its records until it furnishes the director satisfactory proof that it has discharged**
13 **all obligations to warranty holders in this state.**

14 **4. Vehicle protection product warrantors shall make all accounts, books, and**
15 **records concerning transactions regulated under sections 385.400 to 385.436 available to**
16 **the director for examination.**

385.430. 1. The director may conduct examinations of warrantors, administrators,
2 **or other persons to enforce sections 385.400 to 385.436 and protect warranty holders in this**
3 **state. Upon request of the director, a warrantor shall make available to the director all**
4 **accounts, books, and records concerning vehicle protection products provided by the**
5 **warrantor that are necessary to enable the director to reasonably determine compliance**
6 **or noncompliance with sections 385.400 to 385.436.**

7 **2. If the director determines that a person has engaged, is engaging, or is about to**
8 **engage in a violation of sections 385.400 to 385.436 or a rule adopted or order issued**
9 **pursuant thereto, or a person has materially aided, is materially aiding, or is about to**
10 **materially aid an act, practice, omission, or course of business constituting a violation of**
11 **sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, the director**
12 **may issue such administrative orders as authorized under section 374.046, RSMo. A**
13 **violation of these sections is a level two violation under section 374.049, RSMo.**

14 **3. If the director believes that a person has engaged, is engaging, or is about to**
15 **engage in a violation of sections 385.400 to 385.436 or a rule adopted or order issued**
16 **pursuant thereto, or that a person has materially aided, is materially aiding, or is about to**
17 **materially aid an act, practice, omission, or course of business constituting a violation of**
18 **sections 385.400 to 385.436 or a rule adopted or order issued pursuant thereto, the director**
19 **may maintain a civil action for relief authorized under section 374.048, RSMo. A violation**
20 **of these sections is a level two violation under section 374.049, RSMo.**

385.433. The director may promulgate rules and regulations to implement the
2 **provisions of sections 385.400 to 385.436. Such rules and regulations shall include**

3 disclosures for the benefit of the warranty holder, record keeping, and procedures for
4 public complaints. Any rule or portion of a rule, as that term is defined in section 536.010,
5 RSMo, that is created under the authority delegated in sections 385.400 to 385.436 shall
6 become effective only if it complies with and is subject to all of the provisions of chapter
7 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
8 RSMo, are nonseverable and if any of the powers vested with the general assembly
9 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
10 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
11 authority and any rule proposed or adopted after August 28, 2006, shall be invalid and
12 void.

385.436. Sections 385.400 to 385.436 applies to all vehicle protection products sold
2 or offered for sale on or after January 1, 2007. The failure of any person to comply with
3 sections 385.400 to 385.436 prior to January 1, 2007, shall not be admissible in any court
4 proceeding, administrative proceeding, arbitration, or alternative dispute resolution
5 proceeding and may not otherwise be used to prove that the action of any person or the
6 affected vehicle protection product was unlawful or otherwise improper. The adoption of
7 sections 385.400 to 385.436 does not imply that a vehicle protection product warranty was
8 insurance prior to January 1, 2007. The penalty provision of sections 385.400 to 385.436
9 do not apply to any violation of sections 385.400 to 385.436 relating to or in connection with
10 the sale or failure to disclose in a retail installment contract or lease, or contract or
11 agreement that provides for payments under a vehicle protection product warranty so long
12 as the sale of such product, contract, or agreement was otherwise disclosed to the
13 purchaser in writing at the time of the purchase or lease.

404.051. 1. The custodian shall collect, hold, maintain, manage, invest and reinvest the
2 custodial property. The custodian may accept a transfer of additional property for the same
3 minor into the custodianship and may consolidate into a single custodianship custodial property
4 received for the same minor from multiple transfers or transferors.

5 2. The custodian may deliver, pay over to the minor for expenditure by the minor, or
6 expend for the minor's benefit, so much of the custodial property as the custodian determines
7 advisable for the use and benefit of the minor, without court order and without regard to the duty
8 or ability of the custodian in the custodian's individual capacity or of any other person to support
9 the minor, or any other income or property of the minor.

10 3. Upon the petition of a parent, guardian or conservator of a minor, an adult member
11 of the minor's family, any person interested in the welfare of the minor, or of the minor if the
12 minor has attained the age of fourteen years, the court may order the custodian to expend or to

13 pay over to the minor or the minor's parent, guardian or conservator so much of the custodial
14 property as the court determines advisable for the use and benefit of the minor.

15 4. Any delivery, payment or expenditure pursuant to subsections 2 and 3 of this section
16 is in addition to, not in substitution for, and does not affect, the obligation of any person to
17 support the minor.

18 5. (1) To the extent that the custodial property has not been expended, the custodian
19 shall deliver the custodial property in an appropriate manner, free of the custodianship, as
20 follows:

21 (a) To the minor on attaining the age of twenty-one years, or on attaining the age of
22 eighteen years for custodial property created by a transfer of property from a person other than
23 a donor and the minor requests the property; or

24 (b) On the minor's death, to the minor's estate.

25 (2) If the custodian does not deliver the custodial property to the minor or the minor's
26 estate as prescribed in subdivision (1) of this subsection, the minor or the minor's personal
27 representative may petition the court to declare the custodianship terminated and to order
28 delivery of the custodial property to the minor or to the minor's estate free of the custodianship.

29

30 (3) To the extent the custodial property is real property, a conveyance and delivery of the
31 real property by the minor after attaining the age at which the minor is entitled to the property
32 free of the custodianship, or by the minor's heirs, or by the minor's personal representative, shall
33 terminate the custodian's powers, duties and rights with respect to the real property.

34 (4) If the minor is an incapacitated person at the time the minor would otherwise be
35 entitled to receive the custodial property free of the custodianship, the custodian shall deliver the
36 custodial property to the incapacitated person's conservator. If the incapacitated person has no
37 conservator, the custodian may transfer the custodial property to any adult person or financial
38 institution, including the custodian, as personal custodian for the incapacitated person under any
39 law providing for custodianship of property for incapacitated adult persons.

40 6. The custodian is under a duty to act in the interest of the minor and to avoid conflicts
41 of interest that impair the custodian's ability to so act. In dealing with the custodial property, the
42 custodian shall observe the degree of care that would be observed by a prudent person dealing
43 with the property and conducting the affairs of another, except that all investments made on or
44 after August 28, 1998, shall be in accordance with the provisions of the Missouri prudent
45 investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. The custodian is not
46 limited by any other statute restricting investments or expenditures by fiduciaries. If the
47 custodian has special skills or is named custodian on the basis of representations of special skills
48 or expertise, the custodian is under a duty to use those skills. The custodian, in the custodian's

49 discretion and without liability to the minor or the minor's estate, may retain any custodial
50 property received under sections 404.005 to 404.094, and may hold money or securities in the
51 financial institution or brokerage company to which the property was delivered by the transferor.
52

53 7. The custodian may invest in and pay premiums out of custodial property for life or
54 endowment insurance policies on the life of the minor or the life of another person in whom the
55 minor has an insurable interest, provided the insurance proceeds will be distributed on the death
56 of the insured life to the minor, the minor's estate or the custodian in the custodian's
57 representative capacity.

58 8. Subject to the degree of care prescribed in subsection 6 of this section, the custodian,
59 acting in the capacity of custodian for the benefit of the minor, has all rights, power and authority
60 over the custodial property that unmarried, nonincapacitated adult owners have over their own
61 property, except the power to make a gift of the minor's property unless the gift to be made is
62 approved by a court.

63 9. The custodian at all times shall keep custodial property separate and distinct from all
64 other property in a manner to identify it clearly as custodial property of the minor. Custodial
65 property consisting of an undivided interest in property is sufficiently separate and distinct if the
66 custodian's interest in the property is held as a tenant in common with the other owners of the
67 property and the minor's proportional interest in the property is fixed. Custodial property is
68 sufficiently so identified if it is held in the name of the custodian in the manner prescribed in
69 section 404.707.

70 10. The custodian may establish checking, savings or other similar accounts with
71 financial institutions and brokers whereby both the custodian and the minor may withdraw
72 money from the account or draw checks against the account. Money withdrawn from an account
73 or checks written against an account by the minor shall be treated as a delivery of custodial
74 property from the custodian to the minor.

75 11. Subject to the degree of care prescribed in subsection 6 of this section, the custodian,
76 acting in the capacity of custodian and for the benefit of the minor, may borrow money, lend
77 money, acquire by lease the use of property for the minor, lease custodial property and enter into
78 contracts under which the performance required by such agreements may extend beyond the date
79 the custodianship terminates. The custodian shall hold property that is borrowed or leased for
80 the minor as custodial property in the name of the custodian in the manner prescribed in section
81 404.047.

82 12. The custodian shall keep records of all transactions with respect to the custodial
83 property, including information necessary for preparation of the minor's tax returns, and make
84 them available for inspection at reasonable intervals by a parent, the minor if the minor has

85 attained the age of fourteen years, an adult member of the minor's family if the minor has no
86 living parent, and a legal representative of the minor.

87 13. The minor's custodian may comply with an agreement with a transferor of property
88 to the minor, including an agreement respecting investment objectives, expenses, compensation,
89 resignation and naming of successor custodians, to the extent that such agreement does not
90 conflict with the custodian's obligations to the minor under sections 404.005 to 404.094.

404.550. 1. The personal custodian shall collect, hold, maintain, manage, invest and
2 reinvest the custodial property. The personal custodian may accept a transfer of additional
3 property for the same beneficiary into the personal custodianship and may consolidate into a
4 single custodianship custodial property received for the same beneficiary from multiple transfers
5 or transferors.

6 2. The personal custodian shall deliver, pay over to the beneficiary for expenditure by
7 the beneficiary or expend for the beneficiary's benefit, so much of the custodial property as the
8 beneficiary may from time to time direct. If the beneficiary is an incapacitated person, the
9 personal custodian may deliver, pay over to the beneficiary for expenditure by the beneficiary
10 or expend for the beneficiary's benefit, so much of the custodial property as the personal
11 custodian determines advisable for the use and benefit of the beneficiary and those members of
12 the beneficiary's family who are legally entitled to support by the beneficiary or who were
13 supported by the beneficiary at the time the beneficiary became incapacitated, without court
14 order and without regard to the duty or ability of the personal custodian in the personal
15 custodian's individual capacity or of any other person to support the beneficiary, or any other
16 income or property of the beneficiary.

17 3. (1) Upon the petition of the beneficiary, guardian or conservator of an incapacitated
18 beneficiary, an adult member of a beneficiary's family or any person interested in the welfare of
19 the beneficiary, the court may order the personal custodian to expend or to pay over to the
20 beneficiary or the beneficiary's guardian or conservator so much of the custodial property as the
21 court determines advisable for the use and benefit of the beneficiary.

22 (2) Upon petition of a personal custodian, the beneficiary, an adult member of the
23 beneficiary's family or any person interested in the welfare of the beneficiary, the probate
24 division of the circuit court shall determine and declare whether the beneficiary is a disabled or
25 incapacitated person.

26 4. Any delivery, payment or expenditure under subsections 2 and 3 of this section is in
27 addition to, not in substitution for, and does not affect the obligation of any person to support the
28 incapacitated beneficiary or the incapacitated beneficiary's dependents.

29 5. The personal custodian is under a duty to act in the interest of the beneficiary and to
30 avoid conflicts of interest that impair the personal custodian's ability to so act. In dealing with

31 the custodial property, the personal custodian shall follow the investment and other directions
32 of a beneficiary who is not incapacitated and shall observe the degree of care that would be
33 observed by a prudent person dealing with the property and conducting the affairs of another,
34 except that all investments made on or after August 28, 1998, shall be in accordance with the
35 provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to**
36 **469.913**, RSMo. The personal custodian is not limited by any other statute restricting
37 investments or expenditures by fiduciaries. If the personal custodian has special skills or is
38 named personal custodian on the basis of representation of special skills or expertise, the
39 custodian is under a duty to use those skills. The personal custodian, in the custodian's discretion
40 and without liability to the beneficiary or the beneficiary's estate, may retain any custodial
41 property received under sections 404.400 to 404.650, and may hold money or securities in the
42 financial institution or brokerage company to which the property was delivered by the transferor.

43

44 6. The personal custodian may invest in and pay premiums out of custodial property for
45 life or endowment insurance policies on the life of the beneficiary or the life of another person
46 in whom the beneficiary has an insurable interest, provided the insurance proceeds will be
47 distributed on the death of the insured life to the beneficiary, the persons designated by an adult
48 nonincapacitated beneficiary, the beneficiary's estate or the personal custodian in the personal
49 custodian's representative capacity.

50 7. Subject to the degree of care prescribed in subsection 5 of this section, the personal
51 custodian, acting in the capacity of personal custodian for the benefit of the beneficiary, has all
52 rights, power and authority over the custodial property that unmarried, nonincapacitated adult
53 owners have over their own property, except the power to make a gift of the beneficiary's
54 property (i) unless granted such power by a nonincapacitated beneficiary in a writing signed and
55 dated, and acknowledged or proved and certified in the manner provided by law for conveyances
56 of real estate, or (ii) unless the gift to be made is approved by a court under section 475.094,
57 RSMo.

58 8. The personal custodian at all times shall keep custodial property separate and distinct
59 from all other property in a manner to identify it clearly as custodial property of the beneficiary.
60 Custodial property consisting of an undivided interest in property is sufficiently separate and
61 distinct if the personal custodian's interest in the property is held as a tenant in common with the
62 other owners of the property and the beneficiary's proportional interest in the property is fixed.
63 Custodial property is sufficiently so identified if it is held in the name of the personal custodian
64 in the manner prescribed in section 404.540.

65 9. The personal custodian may establish checking, savings or other similar accounts with
66 financial institutions and brokers whereby both the personal custodian and the beneficiary may

67 withdraw money from the account or draw or issue checks or drafts against the account. Money
68 withdrawn from an account or checks written against an account by the beneficiary shall be
69 treated as a delivery of custodial property from the personal custodian to the beneficiary.

70 10. Subject to the degree of care prescribed in subsection 5 of this section, the personal
71 custodian, acting in the capacity of personal custodian and for the benefit of the beneficiary, may
72 borrow money, lend money, acquire by lease the use of property for the beneficiary, lease
73 custodial property and enter into contracts under which the performance required by such
74 agreements may extend beyond the date the personal custodianship terminates. The personal
75 custodian shall hold property that is borrowed or leased for the beneficiary as custodial property
76 in the name of the personal custodian in the manner prescribed in section 404.540.

77 11. The personal custodian shall keep records of all transactions with respect to the
78 custodial property, including information necessary for preparation of the beneficiary's tax
79 returns, and make them available for inspection at reasonable intervals by the beneficiary, an
80 adult member of the beneficiary's family if the beneficiary is incapacitated, and a legal
81 representative of the beneficiary.

82 12. The power, authority, duties and responsibilities of a personal custodian, as provided
83 in sections 404.400 to 404.650, may be modified by the provisions of a written agreement
84 between the transferor or beneficiary and personal custodian.

404.714. 1. An attorney in fact who elects to act under a power of attorney is under a
2 duty to act in the interest of the principal and to avoid conflicts of interest that impair the ability
3 of the attorney in fact so to act. A person who is appointed an attorney in fact under a power of
4 attorney, either durable or not durable, who undertakes to exercise the authority conferred in the
5 power of attorney, has a fiduciary obligation to exercise the powers conferred in the best interests
6 of the principal, and to avoid self-dealing and conflicts of interest, as in the case of a trustee with
7 respect to the trustee's beneficiary or beneficiaries; and in the absence of explicit authorization,
8 the attorney in fact shall exercise a high degree of care in maintaining, without modification, any
9 estate plan which the principal may have in place, including, but not limited to, arrangements
10 made by the principal for disposition of assets at death through beneficiary designations,
11 ownership by joint tenancy or tenancy by the entirety, trust arrangements or by will or codicil.
12 Unless otherwise provided in the power of attorney or in a separate agreement between the
13 principal and attorney in fact, an attorney in fact who elects to act shall exercise the authority
14 granted in a power of attorney with that degree of care that would be observed by a prudent
15 person dealing with the property and conducting the affairs of another, except that all
16 investments made on or after August 28, 1998, shall be in accordance with the provisions of the
17 Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. If the
18 attorney in fact has special skills or was appointed attorney in fact on the basis of representations

19 of special skills or expertise, the attorney in fact has a duty to use those skills in the principal's
20 behalf.

21 2. On matters undertaken or to be undertaken in the principal's behalf and to the extent
22 reasonably possible under the circumstances, an attorney in fact has a duty to keep in regular
23 contact with the principal, to communicate with the principal and to obtain and follow the
24 instructions of the principal.

25 3. If the principal is not available to communicate in person with the attorney in fact
26 because:

27 (1) The principal is missing under such circumstances that it is not known whether the
28 principal is alive or dead; or

29 (2) The principal is captured, interned, besieged or held hostage or prisoner in a foreign
30 country;

31
32 the authority of the attorney in fact under a power of attorney, whether durable or not, shall not
33 terminate and the attorney in fact may continue to exercise the authority conferred, faithfully and
34 in the best interests of the principal, until the principal returns or is publicly declared dead by a
35 governmental agency, domestic or foreign, or is presumed dead because of continuous absence
36 of five years as provided in section 472.290, RSMo 1986, or a similar law of the place of the last
37 known domicile of the person whose absence is in question.

38 4. If, following execution of a power of attorney, the principal is absent or becomes
39 wholly or partially disabled or incapacitated, or if there is a question with regard to the ability
40 or capacity of the principal to give instructions to and supervise the acts and transactions of the
41 attorney in fact, an attorney in fact exercising authority under a power of attorney, either durable
42 or not durable, may consult with any person or persons previously designated by the principal
43 for such purpose, and may also consult with and obtain information from the principal's spouse,
44 physician, attorney, accountant, any member of the principal's family or other person, corporation
45 or government agency with respect to matters to be undertaken in the principal's behalf and
46 affecting the principal's personal affairs, welfare, family, property and business interests.

47 5. If, following execution of a durable power of attorney, a court appoints a legal
48 representative for the principal, the attorney in fact shall follow the instructions of the court or
49 of the legal representative, and shall communicate with and be accountable to the principal's
50 guardian on matters affecting the principal's personal welfare and to the principal's conservator
51 on matters affecting the principal's property and business interests, to the extent that the
52 responsibilities of the guardian or conservator and the authority of the attorney in fact involve
53 the same subject matter.

54 6. The authority of an attorney in fact, under a power of attorney that is not durable, is
55 suspended during any period that the principal is disabled or incapacitated to the extent that the
56 principal is unable to receive or evaluate information or to communicate decisions with respect
57 to the subject of the power of attorney; and an attorney in fact exercising authority under a power
58 of attorney that is not durable shall not act in the principal's behalf during any period that the
59 attorney in fact knows the principal is so disabled or incapacitated.

60 7. An attorney in fact shall exercise authority granted by the principal in accordance with
61 the instrument setting forth the power of attorney, any modification made therein by the principal
62 or the principal's legal representative or a court, and the oral and written instructions of the
63 principal, or the written instructions of the principal's legal representative or a court.

64 8. An attorney in fact may be instructed in a power of attorney that the authority granted
65 shall not be exercised until, or shall terminate on, the happening of a future event, condition or
66 contingency, as determined in a manner prescribed in the instrument.

67 9. On the death of the principal, the attorney in fact shall follow the instructions of the
68 court, if any, having jurisdiction over the estate of the principal, or any part thereof, and shall
69 communicate with and be accountable to the principal's personal representative, or if none, the
70 principal's successors; and the attorney in fact shall promptly deliver to and put in the possession
71 and control of the principal's personal representative or successors, any property of the principal
72 and copies of any records of the attorney in fact relating to transactions undertaken in the
73 principal's behalf that are deemed by the personal representative or the court to be necessary or
74 helpful in the administration of the decedent's estate.

75 10. If an attorney in fact has a property or contract interest in the subject of the power
76 of attorney or the authority of the attorney in fact is otherwise coupled with an interest in a
77 person other than the principal, this section does not impose any duties on the attorney in fact
78 that would conflict or be inconsistent with that interest.

 417.005. As used in sections 417.005 to 417.066, unless the text clearly indicates
2 otherwise, the following terms mean:

3 (1) "Applicant", the person filing an application for registration of a trademark under
4 sections 417.005 to 417.066, his legal representatives, successors or assigns;

5 (2) "Mark", any trademark or service mark entitled to registration under sections 417.005
6 to 417.066 whether registered or not;

7 (3) "Person", any individual, firm, partnership, corporation, association, union or other
8 organization;

9 (4) **"Physical address", the street address of the office, building, home, or other**
10 **structure that serves as the location recognized and to which mail for the occupant or**
11 **tenant thereof may be delivered by the United States Post Office and where a registered**

12 **agent may be found; a post office box or an address with a post office box zip code or a**
13 **location where a post office box is rented is not alone sufficient to meet the meaning of the**
14 **term "physical address";**

15 (5) "Registrant", the person to whom the registration of a trademark under sections
16 417.005 to 417.066 is issued, his legal representatives, successors or assigns;

17 [(5)] (6) "Service mark", a mark used in the sale or advertising of services to identify the
18 services of one person and distinguish them from the services of others;

19 [(6)] (7) "Trademark", any word, name, symbol, or device or any combination thereof
20 adopted and used by a person to identify goods made or sold by him and to distinguish them
21 from goods made or sold by others;

22 [(7)] (8) "Trade name", a word, name, symbol, device or any combination thereof used
23 by a person to identify his business, vocation or occupation and distinguish it from the business,
24 vocation or occupation of others;

25 [(8)] (9) For the purposes of sections 417.005 to 417.066, a trademark shall be deemed
26 to be "used" in this state (a) on goods when it is placed in any manner on the goods or their
27 containers or on displays or documents associated with the goods or their sale or on the tags or
28 labels affixed thereto and such goods are sold or otherwise distributed in the state, and (b) on
29 services when it is used or displayed in the sale or advertising of services and the services are
30 rendered in this state; and

31 [(9)] (10) For the purposes of sections 417.005 to 417.066, a mark shall be deemed to
32 be "abandoned" when its use has been discontinued with intent not to resume such use. "Intent
33 not to resume" may be inferred from circumstances.

417.011. A mark by which the goods or services of any applicant for registration may
2 be distinguished from the goods or services of others shall not be registered if it:

3 (1) Consists of or comprises immoral, deceptive or scandalous matter; or

4 (2) Consists of or comprises matter which may disparage or falsely suggest a connection
5 with persons, living or dead, institutions, beliefs, or national symbols, or bring them into
6 contempt, or disrepute; or

7 (3) Consists of or comprises the flag or coat of arms or other insignia of the United
8 States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

9 (4) Consists of or comprises the name, signature or portrait of any living individual,
10 except with the written consent; or

11 (5) Consists of a mark which, (a) when applied to the goods or services of the applicant,
12 is merely descriptive or deceptively misdescriptive of them, or (b) when applied to the goods or
13 services of the applicant, is primarily geographically descriptive or deceptively misdescriptive
14 of them, or (c) is primarily merely a surname; provided, however, that nothing in this section

15 shall prevent the registration of a mark used in this state by the applicant which has become
16 distinctive of the applicant's goods or services. The secretary of state may accept as evidence
17 that the mark has become distinctive, as applied to the applicant's goods or services, proof of
18 continuous use thereof as a mark by the applicant in the state or elsewhere for the five years next
19 preceding the date of the filing of the application for registration; or

20 (6) Consists of or comprises a mark which so resembles a mark registered in this state,
21 or a mark or trade name previously used in this state by another and not abandoned, as to be
22 likely, when applied to the goods or services of the applicant, to cause confusion or mistake or
23 to deceive. **The duty of the secretary of state under this subsection shall be limited to**
24 **examination of its registration records.**

417.016. 1. Subject to the limitations set forth in sections 417.005 to 417.066, any
2 person who adopts and uses a mark in this state may file in the office of the secretary of state,
3 on a form to be authorized or furnished by the secretary of state, an application for registration
4 of that mark setting forth, but not limited to, the following information:

5 (1) The name and business address of the person applying for such registration; and, if
6 a corporation, the state of incorporation;

7 (2) The goods or services in connection with which the mark is used and the mode or
8 manner in which the mark is used in connection with such goods or services and the class in
9 which such goods or services fall;

10 (3) The date when the mark was first used anywhere and the date when it was first used
11 in this state by the applicant or his predecessor in business, **unless an application is filed under**
12 **subsection 2 of this section;** and

13 (4) A statement that the applicant is the owner of the mark and that no other person has
14 the right to use such mark in this state either in the identical form thereof or in such near
15 resemblance thereto as might be calculated to deceive or to be mistaken therefor.

16 2. **An application for registration may be filed under this section if the applicant**
17 **provides a signed statement providing that it has a bona fide intention to use the mark in**
18 **commerce on or in connection with the goods or services listed in the application. If the**
19 **statement is not filed with the initial application, the statement shall allege that the**
20 **applicant had a bona fide intention to use the mark in commerce on or in connection with**
21 **the goods or services listed in the application as of the filing date of the application.**

22 3. The application shall be signed [and verified] by the applicant or by a member of the
23 firm or an officer of the corporation or association applying.

24 [3.] 4. The application shall be accompanied by a specimen or facsimile of such mark,
25 in triplicate, **for each class of goods or services in which the applicant would like to register**
26 **the mark. A trademark specimen is a label, tag, or container for the goods, or a display**

27 **associated with the goods. The secretary of state may accept another document related to**
28 **the goods or the sale of the goods when it is not possible to place the mark on the goods or**
29 **packaging for the goods. A service mark specimen shall show the mark as actually used**
30 **in the sale or advertising of the services.**

31 [4.] **5.** The application for registration shall be accompanied by a fee of [fifty] **seventy-**
32 **five dollars for each class for which the applicant would like to register the mark,** payable
33 to the director of revenue.

34 [5.] **6.** The secretary of state may also require a statement as to whether an application
35 to register the mark, or portions or a composite thereof, has been filed by the applicant or a
36 predecessor in interest in the United States Patent and Trademark Office; and, if so, the applicant
37 shall provide full particulars with respect thereof including the filing date and serial number of
38 each application, the status thereof and, if any application was finally refused registration or has
39 otherwise not resulted in a registration, the reasons therefor.

40 [6.] **7.** The secretary of state may also require that a drawing of the mark, complying with
41 such requirements as the secretary of state may specify, accompany the application.

42 [7.] **8.** Upon the filing of an application for registration and payment of the application
43 fee, the secretary of state may cause the application to be examined for conformity with sections
44 417.005 to 417.066.

45 [8.] **9.** The applicant shall provide [any additional pertinent information requested by the]
46 **to the** secretary of state [including] a **written** description of a design mark and may make, or
47 authorize the secretary of state to make, such amendments to the application as may be
48 reasonably requested by the secretary of state or deemed by the applicant to be advisable to
49 respond to any rejection or objection.

50 [9.] **10.** The secretary of state may require the applicant to disclaim an unregistrable
51 component of a mark otherwise registrable, and an applicant may voluntarily disclaim a
52 component of a mark sought to be registered. No disclaimer shall prejudice or affect the
53 applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the
54 applicant's or registrant's rights of registration on another application if the disclaimed matter be
55 or shall have become distinctive of the applicant's or registrant's goods or services.

56 [10.] **11.** Amendments may be made by the secretary of state upon the application
57 submitted by the applicant with the applicant's agreement; or a fresh application may be required
58 to be submitted.

59 [11.] **12.** If the applicant is found not to be entitled to registration, the secretary of state
60 shall advise the applicant thereof and of the reasons therefor. The applicant shall have a
61 reasonable period of time specified by the secretary of state in which to reply or to amend the

62 application, in which event the application shall then be reexamined. This procedure may be
63 repeated until:

64 (1) The secretary of state finally refuses registration of the mark; or

65 (2) The applicant fails to reply or amend within the specified period, whereupon the
66 application shall be deemed to have been abandoned.

67 [12.] 13. If the secretary of state finally refuses registration of the mark, the applicant
68 may seek, in the circuit court of Cole County, an extraordinary writ to compel such registration.
69 Such injunction may be granted, but without costs to the secretary of state, on proof that all the
70 statements in the application are true and that the mark is otherwise entitled to registration.

71 [13.] 14. In the instance of applications concurrently being processed by the secretary
72 of state seeking registration of the same or confusingly similar marks for the same or related
73 goods or services, the secretary of state shall grant priority to the applications in order of filing.
74 If a prior-filed application is granted a registration, the other application or applications shall
75 then be rejected. Any rejected applicant may bring an action for cancellation of the registration
76 upon grounds of prior or superior rights to the mark, in accordance with the provisions of section
77 417.041.

417.018. The secretary of state may collect an additional fee of five dollars on each and
2 every fee required in this chapter. **If a filing pertains to multiple classes, the secretary of state**
3 **may collect a fee of five dollars for each class so provided.** All fees collected as provided in
4 this section shall be deposited in the state treasury and credited to the secretary of state's
5 technology trust fund account. The provisions of this section shall expire on December 31, 2009.

417.026. 1. Registration of a mark hereunder shall be effective for a term of ten years
2 from the date of registration and, upon application filed within six months prior to the expiration
3 of such term, on a form to be authorized or furnished by the secretary of state, the registration
4 may be renewed for a like term. A renewal fee of [ten] **twenty** dollars, payable to the director
5 of revenue, shall accompany the application for renewal of the registration. A mark registration
6 may be renewed for successive periods of ten years in like manner.

7 2. The secretary of state shall notify registrants of marks hereunder of the necessity of
8 renewal within the year next preceding the expiration of the ten years from the date of
9 registration, by writing to the last known address of the registrants.

10 3. Any registration in force on September 28, 1973, shall expire ten years from the date
11 of the registration or of the last renewal thereof or September 28, 1974, whichever is later, and
12 may be renewed by filing an application with the secretary of state on a form authorized or
13 furnished by him and paying the aforementioned renewal fee therefor within six months prior
14 to the expiration of the registration.

15 4. All applications for renewals under sections 417.005 to 417.066 whether of
16 registrations made under sections 417.005 to 417.066 or of registrations effected under any prior
17 act, shall include a statement that the mark is still in use in this state.

18 5. The secretary of state shall within six months after September 28, 1973, notify all
19 registrants of marks under previous acts of the date of expiration of such registrations unless
20 renewed in accordance with the provisions of sections 417.005 to 417.066, by writing to the last
21 known address of the registrants.

 417.031. 1. Any mark and its registration hereunder shall be assignable with the
2 goodwill of the business in which the mark is used, or with that part of the goodwill of the
3 business connected with the use of and symbolized by the mark. Assignment shall be in writing
4 upon transmittal forms authorized or furnished by the secretary of state and may be recorded with
5 the secretary of state upon the payment of a fee of [fifty] **seventy-five** dollars payable to the
6 director of revenue who, upon recording of the assignment, shall issue in the name of the
7 assignee a new certificate for the remainder of the term of the registration or of the last renewal
8 thereof. An assignment of any registration under sections 417.005 to 417.066 shall be void as
9 against any subsequent purchaser for valuable consideration without notice, unless it is recorded
10 with the secretary of state within three months after the date thereof or prior to such subsequent
11 purchase.

12 2. Any registrant or applicant effecting a change of the name of the person to whom the
13 mark was issued or for whom an application was filed may record, upon a transmittal form
14 authorized or furnished by the secretary of state, a certificate of change of name of the registrant
15 or applicant with the secretary of state upon the payment of the recording fee **of seventy-five**
16 **dollars**. The secretary of state may issue in the name of the assignee a certificate of registration
17 of an assigned application. The secretary of state may issue in the name of the assignee, a new
18 certificate or registration for the remainder of the term of the registration or last renewal thereof.

19 3. Acknowledgment shall be prima facie evidence of the execution of an assignment or
20 other instrument and, when recorded by the secretary of state, the record shall be prima facie
21 evidence of execution.

 417.046. 1. The general classes of goods and services as provided in this section are
2 established for convenience of administration of sections 417.005 to 417.066, but not to limit
3 or extend the applicant's or registrant's rights[, and a single application for registration of a mark
4 may include any or all goods upon which, or services with which, the mark is actually being used
5 comprised in a single class, but in no event shall a single application include goods or services
6 upon which the mark is being used which fall within different classes of goods or services].
7 **Applications for registration of a mark may include any or all goods upon which, or**

8 services with which, the mark is actually being used, or in which the applicant has a bona
9 fide intention to use.

10 2. In a single application, an applicant may apply to register the same mark for
11 goods or services in multiple classes. The applicant shall:

12 (1) Specifically identify the goods or services in each class;

13 (2) Submit an application filing fee for each class as provided in this chapter; and

14 (3) Include either dates of use and one specimen for each class, or shall allege that
15 the applicant has a bona fide intention to use the mark in commerce on or in connection
16 with the goods or services listed in the application.

17 3. The classes of goods and services are as follows:

18

19 **GOODS**

20 (1) Chemicals used in industry, science, and photography, as well as in agriculture,
21 horticulture, and forestry; unprocessed artificial resins; unprocessed plastics; manures;
22 fire extinguishing compositions; tempering and soldering preparations; chemical
23 substances for preserving foodstuffs; tanning substances; adhesives used in industry;

24 (2) Paints, varnishes, and lacquers; preservatives against rust and against
25 deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder
26 form for painters, decorators, printers, and artists;

27 (3) [Cosmetics and cleaning preparations] Bleaching preparations and other
28 substances for laundry use; cleaning, polishing, scouring, and abrasive preparations;
29 soaps; perfumery; essential oils; cosmetics; hair lotions; dentifrices;

30 (4) [Lubricants and fuels] Industrial oils and greases; lubricants; dust absorbing,
31 wetting, and binding compositions; fuels, including motor spirit; illuminants; candles;
32 wicks;

33 (5) Pharmaceuticals, veterinary, and sanitary preparations; dietetic substances
34 adapted for medical use; food for babies; plasters; material for dressings; material for
35 stopping teeth; dental wax; disinfectants; preparations for destroying vermin; fungicides;
36 herbicides;

37 (6) [Metal goods] Common metals and their alloys; metal building materials;
38 transportable buildings of metal; materials of metal for railway tracks; nonelectric cables
39 and wires of common metal; ironmongery; small items of metal hardware; pipes and tubes
40 of metal; safes; goods of common metal not included in other classes; ores;

41 (7) [Machinery] Machines and machine tools; motors and engines, except for land
42 vehicles; machine coupling and transmission components, except for land vehicles;
43 agricultural implements not hand-operated; incubators for eggs;

- 44 (8) Hand tools **and hand-operated implements; cutlery; side arms; razors;**
45 (9) [Electrical and scientific apparatus] **Scientific, nautical, surveying, electric,**
46 **photographic, cinematographic, optical, weighing, measuring, signaling, checking**
47 **(supervision), life-saving, and teaching apparatus and instruments; apparatus for**
48 **recording, transmission, or reproduction of sound or images; magnetic data carriers;**
49 **recording discs; automatic vending machines and mechanisms for coin-operated**
50 **apparatus; cash registers; calculating machines; data processing equipment and**
51 **computers; fire extinguishing apparatus;**
52 (10) [Medical apparatus] **Surgical, medical, dental, and veterinary apparatus and**
53 **instruments; artificial limbs, eyes, and teeth; orthopedic articles; suture materials;**
54 (11) [Environmental control apparatus] **Apparatus for lighting, heating, steam**
55 **generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary**
56 **purposes;**
57 (12) **Vehicles and apparatus for locomotion by land, air, or water;**
58 (13) **Firearms; ammunition and projectiles; explosives; fireworks;**
59 (14) [Jewelry] **Precious metals and their alloys and goods in precious metals or**
60 **coated therewith, not included in other classes; jewelry and precious stones; horological**
61 **and chronometric instruments;**
62 (15) **Musical instruments;**
63 (16) [Paper goods and printed matter] **Paper, cardboard, and goods made from these**
64 **materials, not included in other classes; printed matter; bookbinding material;**
65 **photographs; stationery; adhesives for stationery or household purposes; artists' materials;**
66 **paint brushes; typewriters and office requisites, except furniture; instructional and**
67 **teaching material, except apparatus; plastic materials for packaging, not included in other**
68 **classes; playing cards; printers' type; printing blocks;**
69 (17) Rubber [goods] , **gutta-percha, gum, asbestos, mica, and goods made from these**
70 **materials and not included in other classes; plastics in extruded form for use in**
71 **manufacture; packing, stopping, and insulating materials; flexible pipes, not of metal;**
72 (18) Leather [goods] , **imitations of leather, and goods made of these materials and**
73 **not included in other classes; animal skins and hides; trunks and traveling bags;**
74 **umbrellas, parasols, and walking sticks; whips, harnesses, and saddlery;**
75 (19) **Nonmetallic building materials; nonmetallic rigid pipes for building; asphalt,**
76 **pitch, and bitumen; nonmetallic transportable buildings; monuments, not of metal;**
77 (20) **Furniture [and articles not otherwise classified] , mirrors, and picture frames;**
78 **goods of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber,**
79 **mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics;**

80 (21) [Housewares and glass] **Household or kitchen utensils and containers not of**
81 **precious metal or coated therewith; combs and sponges; brushes, except paint brushes;**
82 **brush-making material; articles for cleaning purposes; steel wool; unworked or semi-**
83 **worked glass, except glass used in building; glassware, porcelain, and earthenware not**
84 **included in other classes;**

85 (22) [Cordage and fibers] **Ropes, strings, nets, tents, awnings, tarpaulins, sails, sacks,**
86 **and bags not included in other classes; padding and stuffing materials, except of rubber**
87 **or plastics; raw fibrous textile materials;**

88 (23) **Yarns and threads for textile use;**

89 (24) [Fabrics] **Textiles and textile goods, not included in other classes; beds and**
90 **table covers;**

91 (25) **Clothing, footwear, and headgear;**

92 (26) [Fancy goods] **Lace and embroidery; ribbons and braid; buttons, hooks, and**
93 **eyes; pins and needles; artificial flowers;**

94 (27) [Floor coverings] **Carpets, rugs, mats, and matting; linoleum and other**
95 **materials for covering existing floors; nontextile wall hangings;**

96 (28) [Toys and sporting goods] **Games and playthings; gymnastics and sporting**
97 **articles not included in other classes; decorations for Christmas trees;**

98 (29) [Meats and processed foods] **Meat, fish, poultry, and game; meat extracts;**
99 **preserved, dried, and cooked fruits and vegetables; jellies, jams, and fruit sauces; eggs,**
100 **milk, and milk products; edible oils and fats;**

101 (30) [Staple foods] **Coffee, tea, cocoa, sugar, rice, tapioca, sago, and artificial coffee;**
102 **flour and preparations made from cereals, bread, pastry and confectionary; ices; honey;**
103 **treacle; yeast; baking powder; salt; mustard; vinegar; sauces (condiments); spices;**

104 (31) [Natural agricultural products] **Agricultural, horticultural, and forestry products**
105 **and grains not included in other classes; live animals; fresh fruits and vegetables; seeds,**
106 **natural plants, and flowers; foodstuffs for animals; malt;**

107 (32) [Light beverages] **Beers; mineral and aerated waters and other nonalcoholic**
108 **drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages;**

109 (33) [Wines and spirits] **Alcoholic beverages, except beer; and**

110 (34) [Smokers' articles] **Tobacco; smokers' articles; matches.**

111

112 **SERVICES**

113 (35) [Advertising and business] **Advertising; business management; business**
114 **administration; office functions;**

- 115 (36) [Insurance and financial] **Insurance; financial affairs; monetary affairs; real**
116 **estate affairs;**
- 117 (37) [Construction and repair] **Building construction; repair; installation services;**
118 (38) [Communications] **Telecommunications;**
- 119 (39) [Transportation and storage] **Transport; packaging and storage of goods; travel**
120 **arrangement;**
- 121 (40) [Material treatment] **Treatment of materials;**
- 122 (41) Education [and entertainment and] ; **providing of training; entertainment;**
123 **sporting and cultural activities;**
- 124 (42) [Miscellaneous] **Scientific and technological services, research, and design**
125 **relating thereto; industrial analysis and research services; design and development of**
126 **computer hardware; legal services;**
- 127 (43) **Services for providing food and drink; temporary accommodations;**
- 128 (44) **Medical services; veterinary services; hygienic and beauty care for human**
129 **beings or animals; agriculture, horticulture, and forestry services; and**
- 130 (45) **Personal and social services rendered by others to meet the needs of**
131 **individuals; security services for the protection of property and individuals.**

417.049. The secretary of state shall promulgate rules to implement the provisions
2 of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010,
3 RSMo, that is created under the authority delegated in this section shall become effective
4 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,
5 if applicable, section 536.028, RSMo. This chapter and chapter 536, RSMo, are
6 nonseverable and if any of the powers vested with the general assembly pursuant to
7 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
8 are subsequently held unconstitutional, then the grant of rulemaking authority and any
9 rule proposed or adopted after August 28, 2006, shall be invalid and void.

417.210. 1. Every person, general partnership, corporation, or other business
2 organization who engages in business in this state under a fictitious name or under any name
3 other than the true name of such person, general partnership, corporation, or other business entity
4 shall within five days after the beginning or engaging in business under such fictitious name file
5 in a format as prescribed by the secretary of state. The execution of the filing required in this
6 section shall be subject to the penalties of making a false declaration pursuant to section 575.060,
7 RSMo, that the facts stated therein are true and that all parties concerned are duly authorized to
8 execute such document and are otherwise required to file such document pursuant to this section.

9 2. A fictitious name shall not contain any word or phrase that indicates or implies that
10 it is any governmental agency or that is seriously misleading.

11 3. This registration shall state:

12 (1) The fictitious name;

13 (2) The [physical business] address **of the business**;

14 (3) The name or names and the **physical address of the** residence or business [address]
15 of [every] **each** party owning any interest or part in the business.

16 4. If the business or owner's or owners' interest ceases to exist or change within five days
17 of such change, it shall be required to file a cancellation of the fictitious name in a format
18 prescribed by the secretary of state and if desired may file a new registration of a new fictitious
19 name as prescribed in this section.

20 5. If the interest of any owner of a business conducted under a fictitious name registered
21 as provided in this section is such that such owner may claim not to be jointly and severally
22 liable to third parties with respect to debts and obligations incurred by such business, the
23 registration relating to such business shall reflect the respective exact ownership interests of each
24 owner of such business. In the case of any other business registered as provided in this section,
25 disclosure of the respective exact ownership interests shall be optional.

26 6. For purposes of this section, a partnership or other entity formed for the practice of
27 a licensed profession shall not be deemed to be engaged in the conduct of business,
28 notwithstanding the transaction by such entity of business ancillary to the practice of such
29 licensed profession.

30 7. All fictitious name registrations filed on or after August 28, 2004, shall be governed
31 by the provisions of this section and shall remain active on the record of the secretary of state for
32 a period of five years. Such registered fictitious name filing shall expire at the end of the five-
33 year period unless a renewal is filed under subsection 9 of this section.

34 8. All active fictitious name registrations filed prior to August 28, 2004, shall remain
35 active on the record of the secretary of state for a period of five years. Such registered fictitious
36 name filing shall expire at the end of the five-year period unless a renewal is filed under
37 subsection 9 of this section.

38 9. A renewal filing shall be filed in a format prescribed by the secretary of state within
39 six months prior to the expiration date of the fictitious name registration. Such renewal filing
40 shall state:

41 (1) The fictitious name and assigned charter number;

42 (2) The [physical business] address **of the business**;

43 (3) The name or names and the **physical address of the** residence or business [address]
44 of [every] **each** party owning any interest or part in the business.

45 10. A renewal filing continues the effective registration of the fictitious name for five
46 years after the date the effective registration would otherwise expire.

47 11. Fictitious name registrations filed before August 28, 2004, shall be inactivated by
48 the secretary of state on or after August 28, 2009, unless a renewal filing is filed under subsection
49 9 of this section.

50 12. The secretary of state may remove from its active records the registration of a
51 fictitious name filing whose registration has been withdrawn, cancelled, or has expired.

 429.010. 1. Any person who shall do or perform any work or labor upon **land**, rent any
2 machinery or equipment **to such persons doing or performing such work or labor, or use**
3 **rented machinery or equipment in performing such work or labor**, or furnish any material,
4 fixtures, engine, boiler or machinery for any building, erection or improvements upon land, or
5 for repairing, grading, excavating, or filling of the same, or furnish and plant trees, shrubs,
6 bushes or other plants or provides any type of landscaping goods or services or who installs
7 outdoor irrigation systems under or by virtue of any contract with the owner or proprietor thereof,
8 or his or her agent, trustee, contractor or subcontractor, or without a contract if ordered by a city,
9 town, village or county having a charter form of government to abate the conditions that caused
10 a structure on that property to be deemed a dangerous building under local ordinances pursuant
11 to section 67.410, RSMo, upon complying with the provisions of sections 429.010 to 429.340,
12 shall have for his or her work or labor done, machinery or equipment **used or** rented or materials,
13 fixtures, engine, boiler, machinery, trees, shrubs, bushes or other plants furnished, or any type
14 of landscaping goods or services provided, a lien upon such building, erection or improvements,
15 and upon the land belonging to such owner or proprietor on which the same are situated, to the
16 extent of three acres; or if such building, erection or improvements be upon any lot of land in any
17 town, city or village, or if such building, erection or improvements be for manufacturing,
18 industrial or commercial purposes and not within any city, town or village, then such lien shall
19 be upon such building, erection or improvements, and the lot, tract or parcel of land upon which
20 the same are situated, and not limited to the extent of three acres, to secure the payment of such
21 work or labor done, machinery or equipment rented, or materials, fixtures, engine, boiler,
22 machinery, trees, shrubs, bushes or other plants or any type of landscaping goods or services
23 furnished, or outdoor irrigation systems installed; except that if such building, erection or
24 improvements be not within the limits of any city, town or village, then such lien shall be also
25 upon the land to the extent necessary to provide a roadway for ingress to and egress from the lot,
26 tract or parcel of land upon which such building, erection or improvements are situated, not to
27 exceed forty feet in width, to the nearest public road or highway. Such lien shall be enforceable
28 only against the property of the original purchaser of such plants unless the lien is filed against
29 the property prior to the conveyance of such property to a third person. For claims involving the
30 rental of machinery or equipment **to others who perform work or labor upon land**, the lien
31 shall be for the reasonable rental value of the machinery or equipment during the period of actual

32 use and any periods of nonuse taken into account in the rental contract, while the **machinery or**
33 **equipment** is on the property in question.

34 **2.** There shall be no lien involving the rental of machinery or equipment **to others who**
35 **perform work or labor upon land** unless:

36 (1) The improvements are made on commercial property;

37 (2) The amount of the claim exceeds five thousand dollars; and

38 (3) The party claiming the lien provides written notice within [five] **forty-five** business
39 days of the commencement of the use of the rental [property] **machinery or equipment** to the
40 property owner that rental machinery or equipment is being used upon their property. Such
41 notice shall identify the name of the entity that rented the machinery or equipment, the machinery
42 or equipment being rented, and the rental rate. **Nothing contained in this subsection shall**
43 **apply to persons who use rented machinery or equipment in performing such work or**
44 **labor.**

429.080. It shall be the duty of every original contractor, every journeyman and day
2 laborer, **including persons who use rented machinery or equipment in performing such**
3 **work or labor**, and every other person seeking to obtain the benefit of the provisions of sections
4 429.010 to 429.340, within six months after the indebtedness shall have accrued, or, with respect
5 to rental equipment or machinery **rented to others who perform work or labor upon land**,
6 **then** within sixty days after the date the last of the rental equipment or machinery was last
7 removed from the property, to file with the clerk of the circuit court of the proper county a just
8 and true account of the demand due him or them after all just credits have been given, which is
9 to be a lien upon such building or other improvements, and a true description of the property, or
10 so near as to identify the same, upon which the lien is intended to apply, with the name of the
11 owner or contractor, or both, if known to the person filing the lien, which shall, in all cases, be
12 verified by the oath of himself or some credible person for him.

452.310. 1. In any proceeding commenced pursuant to this chapter, the petition, a
2 motion to modify, a motion for a family access order and a motion for contempt shall be verified.
3 The petition in a proceeding for dissolution of marriage shall allege that the marriage is
4 irretrievably broken and that therefore there remains no reasonable likelihood that the marriage
5 can be preserved. The petition in a proceeding for legal separation shall allege that the marriage
6 is not irretrievably broken and that therefore there remains a reasonable likelihood that the
7 marriage can be preserved.

8 **2.** The petition in a proceeding for dissolution of marriage or legal separation shall set
9 forth:

10 (1) The residence of each party, including the county, and the length of residence of each
11 party in this state and in the county of residence;

- 12 (2) The date of the marriage and the place at which it is registered;
13 (3) The date on which the parties separated;
14 (4) The name, date of birth and address of each child, and the parent with whom each
15 child has primarily resided for the sixty days immediately preceding the filing of the petition for
16 dissolution of marriage or legal separation;
17 (5) Whether the wife is pregnant;
18 (6) The Social Security number of the petitioner, respondent and each child;
19 (7) Any arrangements as to the custody and support of the children and the maintenance
20 of each party; and
21 (8) The relief sought.
- 22 3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal
23 separation, each child shall immediately be subject to the jurisdiction of the court in which the
24 proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the
25 child is pending in juvenile court. Until permitted by order of the court, neither parent shall
26 remove any child from the jurisdiction of the court or from any parent with whom the child has
27 primarily resided for the sixty days immediately preceding the filing of a petition for dissolution
28 of marriage or legal separation.
- 29 4. The mere fact that one parent has actual possession of the child at the time of filing
30 shall not create a preference in favor of such parent in any judicial determination regarding
31 custody of the child.
- 32 5. The respondent shall be served in the manner provided by the rules of the supreme
33 court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a
34 verified answer within thirty days of the date of service which shall not only admit or deny the
35 allegations of the petition, but shall also set forth:
- 36 (1) The Social Security number of the petitioner, respondent and each child;
37 (2) Any arrangements as to the custody and support of the child and the maintenance of
38 each party; and
39 (3) The relief sought.
- 40 6. Previously existing defenses to divorce and legal separation, including but not limited
41 to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.
- 42 7. The petitioner and respondent shall submit a proposed parenting plan, either
43 individually or jointly, within thirty days after service of process or the filing of the entry of
44 appearance, whichever event first occurs of a motion to modify or a petition involving custody
45 or visitation issues. The proposed parenting plan shall set forth the arrangements that the party
46 believes to be in the best interest of the minor children and shall include but not be limited to:

- 47 (1) A specific written schedule detailing the custody, visitation and residential time for
48 each child with each party including:
- 49 (a) Major holidays stating which holidays a party has each year;
 - 50 (b) School holidays for school-age children;
 - 51 (c) The child's birthday, Mother's Day and Father's Day;
 - 52 (d) Weekday and weekend schedules and for school-age children how the winter, spring,
53 summer and other vacations from school will be spent;
 - 54 (e) The times and places for transfer of the child between the parties in connection with
55 the residential schedule;
 - 56 (f) A plan for sharing transportation duties associated with the residential schedule;
 - 57 (g) Appropriate times for telephone access **and any appropriate virtual visitation**;
 - 58 (h) Suggested procedures for notifying the other party when a party requests a temporary
59 variation from the residential schedule;
 - 60 (i) Any suggested restrictions or limitations on access to a party and the reasons such
61 restrictions are requested;
- 62 (2) A specific written plan regarding legal custody which details how the
63 decision-making rights and responsibilities will be shared between the parties including the
64 following:
- 65 (a) Educational decisions and methods of communicating information from the school
66 to both parties;
 - 67 (b) Medical, dental and health care decisions including how health care providers will
68 be selected and a method of communicating medical conditions of the child and how emergency
69 care will be handled;
 - 70 (c) Extracurricular activities, including a method for determining which activities the
71 child will participate in when those activities involve time during which each party is the
72 custodian;
 - 73 (d) Child care providers, including how such providers will be selected;
 - 74 (e) Communication procedures including access to telephone numbers as appropriate;
 - 75 (f) A dispute resolution procedure for those matters on which the parties disagree or in
76 interpreting the parenting plan;
 - 77 (g) If a party suggests no shared decision-making, a statement of the reasons for such a
78 request;
- 79 (3) How the expenses of the child, including child care, educational and extraordinary
80 expenses as defined in the child support guidelines established by the supreme court, will be paid
81 including:
- 82 (a) The suggested amount of child support to be paid by each party;

83 (b) The party who will maintain or provide health insurance for the child and how the
84 medical, dental, vision, psychological and other health care expenses of the child not paid by
85 insurance will be paid by the parties;

86 (c) The payment of educational expenses, if any;

87 (d) The payment of extraordinary expenses of the child, if any;

88 (e) Child care expenses, if any;

89 (f) Transportation expenses, if any.

90 8. If the proposed parenting plans of the parties differ and the parties cannot resolve the
91 differences or if any party fails to file a proposed parenting plan, upon motion of either party and
92 an opportunity for the parties to be heard, the court shall enter a temporary order containing a
93 parenting plan setting forth the arrangements specified in subsection 7 of this section which will
94 remain in effect until further order of the court. The temporary order entered by the court shall
95 not create a preference for the court in its adjudication of final custody, child support or
96 visitation.

97 9. [Within one hundred twenty days after August 28, 1998,] The Missouri supreme court
98 shall have in effect guidelines for a parenting plan form which may be used by the parties
99 pursuant to this section in any dissolution of marriage, legal separation or modification
100 proceeding involving issues of custody and visitation relating to the child.

101 10. The filing of a parenting plan for any child over the age of eighteen for whom
102 custody, visitation, or support is being established or modified by a court of competent
103 jurisdiction is not required. Nothing in this section shall be construed as precluding the filing
104 of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child
105 over the age of eighteen for whom custody, visitation, or support is being established or modified
106 by a court of competent jurisdiction.

452.340. 1. In a proceeding for dissolution of marriage, legal separation or child support,
2 the court may order either or both parents owing a duty of support to a child of the marriage to
3 pay an amount reasonable or necessary for the support of the child, including an award
4 retroactive to the date of filing the petition, without regard to marital misconduct, after
5 considering all relevant factors including:

6 (1) The financial needs and resources of the child;

7 (2) The financial resources and needs of the parents;

8 (3) The standard of living the child would have enjoyed had the marriage not been
9 dissolved;

10 (4) The physical and emotional condition of the child, and the child's educational needs;

11 (5) The child's physical and legal custody arrangements, including the amount of time
12 the child spends with each parent and the reasonable expenses associated with the custody or

13 visitation arrangements; **except that, the amount of time virtual visitation is used shall not**
14 **be a factor in the calculation of child support;** and

15 (6) The reasonable work-related child care expenses of each parent.

16 2. The obligation of the parent ordered to make support payments shall abate, in whole
17 or in part, for such periods of time in excess of thirty consecutive days that the other parent has
18 voluntarily relinquished physical custody of a child to the parent ordered to pay child support,
19 notwithstanding any periods of visitation or temporary physical and legal or physical or legal
20 custody pursuant to a judgment of dissolution or legal separation or any modification thereof.
21 In a IV-D case, the division of child support enforcement may determine the amount of the
22 abatement pursuant to this subsection for any child support order and shall record the amount of
23 abatement in the automated child support system record established pursuant to chapter 454,
24 RSMo. If the case is not a IV-D case and upon court order, the circuit clerk shall record the
25 amount of abatement in the automated child support system record established in chapter 454,
26 RSMo.

27 3. Unless the circumstances of the child manifestly dictate otherwise and the court
28 specifically so provides, the obligation of a parent to make child support payments shall
29 terminate when the child:

30 (1) Dies;

31 (2) Marries;

32 (3) Enters active duty in the military;

33 (4) Becomes self-supporting, provided that the custodial parent has relinquished the child
34 from parental control by express or implied consent;

35 (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply;
36 or

37 (6) Reaches age twenty-two, unless the provisions of the child support order specifically
38 extend the parental support order past the child's twenty-second birthday for reasons provided
39 by subsection 4 of this section.

40 4. If the child is physically or mentally incapacitated from supporting himself and
41 insolvent and unmarried, the court may extend the parental support obligation past the child's
42 eighteenth birthday.

43 5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary
44 school program of instruction, the parental support obligation shall continue, if the child
45 continues to attend and progresses toward completion of said program, until the child completes
46 such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an
47 institution of vocational or higher education not later than October first following graduation
48 from a secondary school or completion of a graduation equivalence degree program and so long

49 as the child enrolls for and completes at least twelve hours of credit each semester, not including
50 the summer semester, at an institution of vocational or higher education and achieves grades
51 sufficient to reenroll at such institution, the parental support obligation shall continue until the
52 child completes his or her education, or until the child reaches the age of twenty-two, whichever
53 first occurs. To remain eligible for such continued parental support, at the beginning of each
54 semester the child shall submit to each parent a transcript or similar official document provided
55 by the institution of vocational or higher education which includes the courses the child is
56 enrolled in and has completed for each term, the grades and credits received for each such
57 course, and an official document from the institution listing the courses which the child is
58 enrolled in for the upcoming term and the number of credits for each such course. If the
59 circumstances of the child manifestly dictate, the court may waive the October first deadline for
60 enrollment required by this subsection. If the child has pursued a path of continuous attendance
61 and has demonstrated evidence of a plan to continue to do so, the court may enter a judgment
62 abating support for a period of up to five months for any semester in which the child completes
63 at least six but less than twelve credit hours; however, such five-month period of abatement shall
64 only be granted one time for each child. If the child is enrolled in such an institution, the child
65 or parent obligated to pay support may petition the court to amend the order to direct the
66 obligated parent to make the payments directly to the child. As used in this section, an
67 "institution of vocational education" means any postsecondary training or schooling for which
68 the student is assessed a fee and attends classes regularly. "Higher education" means any junior
69 college, community college, college, or university at which the child attends classes regularly.
70 A child who has been diagnosed with a learning disability, or whose physical disability or
71 diagnosed health problem limits the child's ability to carry the number of credit hours prescribed
72 in this subsection, shall remain eligible for child support so long as such child is enrolled in and
73 attending an institution of vocational or higher education, and the child continues to meet the
74 other requirements of this subsection. A child who is employed at least fifteen hours per week
75 during the semester may take as few as nine credit hours per semester and remain eligible for
76 child support so long as all other requirements of this subsection are complied with.

77 6. The court shall consider ordering a parent to waive the right to claim the tax
78 dependency exemption for a child enrolled in an institution of vocational or higher education in
79 favor of the other parent if the application of state and federal tax laws and eligibility for
80 financial aid will make an award of the exemption to the other parent appropriate.

81 7. The general assembly finds and declares that it is the public policy of this state that
82 frequent, continuing and meaningful contact with both parents after the parents have separated
83 or dissolved their marriage is in the best interest of the child except for cases where the court
84 specifically finds that such contact is not in the best interest of the child. In order to effectuate

85 this public policy, a court with jurisdiction shall enforce visitation, custody and child support
86 orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or
87 future obligation of support and may transfer the physical and legal or physical or legal custody
88 of one or more children if it finds that a parent has, without good cause, failed to provide
89 visitation or physical and legal or physical or legal custody to the other parent pursuant to the
90 terms of a judgment of dissolution, legal separation or modifications thereof. The court shall
91 also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court
92 costs incurred by the prevailing party.

93 8. The Missouri supreme court shall have in effect a rule establishing guidelines by
94 which any award of child support shall be made in any judicial or administrative proceeding.
95 Said guidelines shall contain specific, descriptive and numeric criteria which will result in a
96 computation of the support obligation. The guidelines shall address how the amount of child
97 support shall be calculated when an award of joint physical custody results in the child or
98 children spending substantially equal time with both parents. Not later than October 1, 1998, the
99 Missouri supreme court shall publish child support guidelines and specifically list and explain
100 the relevant factors and assumptions that were used to calculate the child support guidelines.
101 Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less
102 than once every four years to ensure that its application results in the determination of
103 appropriate child support award amounts.

104 9. There shall be a rebuttable presumption, in any judicial or administrative proceeding
105 for the award of child support, that the amount of the award which would result from the
106 application of the guidelines established pursuant to subsection 8 of this section is the correct
107 amount of child support to be awarded. A written finding or specific finding on the record in a
108 judicial or administrative proceeding that the application of the guidelines would be unjust or
109 inappropriate in a particular case, after considering all relevant factors, including the factors set
110 out in subsection 1 of this section, is required if requested by a party and shall be sufficient to
111 rebut the presumption in the case. The written finding or specific finding on the record shall
112 detail the specific relevant factors that required a deviation from the application of the guidelines.

113 10. Pursuant to this or any other chapter, when a court determines the amount owed by
114 a parent for support provided to a child by another person, other than a parent, prior to the date
115 of filing of a petition requesting support, or when the director of the division of child support
116 enforcement establishes the amount of state debt due pursuant to subdivision (2) of subsection
117 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant
118 to subsection 8 of this section. The amount of child support resulting from the application of the
119 guidelines shall be applied retroactively for a period prior to the establishment of a support order
120 and the length of the period of retroactivity shall be left to the discretion of the court or director.

There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

11. The obligation of a parent to make child support payments may be terminated as follows:

(1) Provided that the child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-two if the child support order does not specifically require payment of child support beyond age twenty-two for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the division of child support enforcement;

(3) The obligation shall be deemed terminated without further judicial or administrative process when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the division of child support enforcement, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon

157 treat the sworn statement or affidavit as a motion to modify the support obligation pursuant to
158 section 452.370 or section 454.496, RSMo, and shall proceed to hear and adjudicate such motion
159 as provided by law; provided that the court may require the payment of a deposit as security for
160 court costs and any accrued court costs, as provided by law, in relation to such motion to modify.

161 12. The court may enter a judgment terminating child support pursuant to subdivisions
162 (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party.
163 The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant
164 to subsection 11 of this section on both the obligor and obligee parents. The supreme court may
165 promulgate uniform forms for sworn statements and affidavits to terminate orders of child
166 support obligations for use pursuant to subsection 11 of this section and subsection 4 of section
167 452.370.

452.375. 1. As used in this chapter, unless the context clearly indicates otherwise:

2 (1) "Custody" means joint legal custody, sole legal custody, joint physical custody or sole
3 physical custody or any combination thereof;

4 (2) "Joint legal custody" means that the parents share the decision-making rights,
5 responsibilities, and authority relating to the health, education and welfare of the child, and,
6 unless allocated, apportioned, or decreed, the parents shall confer with one another in the
7 exercise of decision-making rights, responsibilities, and authority;

8 (3) "Joint physical custody" means an order awarding each of the parents significant, but
9 not necessarily equal, periods of time during which a child resides with or is under the care and
10 supervision of each of the parents. Joint physical custody shall be shared by the parents in such
11 a way as to assure the child of frequent, continuing and meaningful contact with both parents;

12 (4) "Third-party custody" means a third party designated as a legal and physical
13 custodian pursuant to subdivision (5) of subsection 5 of this section.

14 2. The court shall determine custody in accordance with the best interests of the child.
15 The court shall consider all relevant factors including:

16 (1) The wishes of the child's parents as to custody and the proposed parenting plan
17 submitted by both parties;

18 (2) The needs of the child for a frequent, continuing and meaningful relationship with
19 both parents and the ability and willingness of parents to actively perform their functions as
20 mother and father for the needs of the child;

21 (3) The interaction and interrelationship of the child with parents, siblings, and any other
22 person who may significantly affect the child's best interests;

23 (4) Which parent is more likely to allow the child frequent, continuing and meaningful
24 contact with the other parent;

25 (5) The child's adjustment to the child's home, school, and community;

26 (6) The mental and physical health of all individuals involved, including any history of
27 abuse of any individuals involved. If the court finds that a pattern of domestic violence has
28 occurred, and, if the court also finds that awarding custody to the abusive parent is in the best
29 interest of the child, then the court shall enter written findings of fact and conclusions of law.
30 Custody and visitation rights shall be ordered in a manner that best protects the child and any
31 other child or children for whom the parent has custodial or visitation rights, and the parent or
32 other family or household member who is the victim of domestic violence from any further
33 harm;

34 (7) The intention of either parent to relocate the principal residence of the child; and

35 (8) The wishes of a child as to the child's custodian.
36

37 The fact that a parent sends his or her child or children to a home school, as defined in section
38 167.031, RSMo, shall not be the sole factor that a court considers in determining custody of such
39 child or children.

40 3. (1) In any court proceedings relating to custody of a child, the court shall not award
41 custody or unsupervised visitation of a child to a parent if such parent or any person residing with
42 such parent has been found guilty of, or pled guilty to, any of the following offenses when a child
43 was the victim:

44 (a) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,
45 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
46 566.209, 566.212, or 566.215, RSMo;

47 (b) A violation of section 568.020, RSMo;

48 (c) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

49 (d) A violation of section 568.065, RSMo;

50 (e) A violation of section 568.080, RSMo;

51 (f) A violation of section 568.090, RSMo; or

52 (g) A violation of section 568.175, RSMo.

53 (2) For all other violations of offenses in chapters 566 and 568, RSMo, not specifically
54 listed in subdivision (1) of this subsection or for a violation of an offense committed in another
55 state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if
56 committed in Missouri, the court may exercise its discretion in awarding custody or visitation
57 of a child to a parent if such parent or any person residing with such parent has been found guilty
58 of, or pled guilty to, any such offense.

59 4. The general assembly finds and declares that it is the public policy of this state that
60 frequent, continuing and meaningful contact with both parents after the parents have separated
61 or dissolved their marriage is in the best interest of the child, except for cases where the court

62 specifically finds that such contact is not in the best interest of the child, and that it is the public
63 policy of this state to encourage parents to participate in decisions affecting the health, education
64 and welfare of their children, and to resolve disputes involving their children amicably through
65 alternative dispute resolution. In order to effectuate these policies, the court shall determine the
66 custody arrangement which will best assure both parents participate in such decisions and have
67 frequent, continuing and meaningful contact with their children so long as it is in the best
68 interests of the child.

69 5. Prior to awarding the appropriate custody arrangement in the best interest of the child,
70 the court shall consider each of the following as follows:

71 (1) Joint physical and joint legal custody to both parents, which shall not be denied
72 solely for the reason that one parent opposes a joint physical and joint legal custody award. The
73 residence of one of the parents shall be designated as the address of the child for mailing and
74 educational purposes. **In the event that the parties have not agreed to a custodial**
75 **arrangement and if either parent requests an award of sole physical and/or sole legal**
76 **custody by submitting a written proposed parenting plan in accordance with section**
77 **452.310, and the court does not award sole physical and/or sole legal custody under this**
78 **subdivision, the court shall include a written finding in the judgment or order under**
79 **subsection 6 of this section, detailing the specific findings in the determination that the**
80 **awarding of sole physical and/or legal custody is not in the best interest of the child;**

81 (2) Joint physical custody with one party granted sole legal custody. The residence of
82 one of the parents shall be designated as the address of the child for mailing and educational
83 purposes. **In the event that the parties have not agreed to a custodial arrangement and if**
84 **either parent requests an award of joint legal custody by submitting a written proposed**
85 **parenting plan in accordance with section 452.310, and the court does not award joint legal**
86 **custody under this subdivision, the court shall include a written finding in the judgment**
87 **or order under subsection 6 of this section, detailing the specific findings in the**
88 **determination that the awarding of joint legal custody is not in the best interest of the**
89 **child;**

90 (3) Joint legal custody with one party granted sole physical custody. **In the event that**
91 **the parties have not agreed to a custodial arrangement and if either parent requests an**
92 **award of joint physical custody, by submitting a written proposed parenting plan in**
93 **accordance with section 452.310, and the court does not award joint physical custody**
94 **under this subdivision, the court shall include a written finding in the judgment or order**
95 **under subsection 6 of this section, detailing the specific findings in the determination that**
96 **the awarding of joint physical custody is not in the best interest of the child;**

(4) Sole custody to either parent. **In the event that the parties have not agreed to a custodial arrangement and if either parent requests an award of joint physical and/or joint legal custody, by submitting a written proposed parenting plan in accordance with section 452.310, and the court does not award joint physical and/or joint legal custody under this subdivision, the court shall include a written finding in the judgment or order under subsection 6 of this section, detailing the specific findings in the determination that the awarding of joint physical and/or legal custody is not in the best interest of the child; or**

(5) Third-party custody or visitation:

(a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the welfare of the child requires, and it is in the best interests of the child, then custody, temporary custody or visitation may be awarded to any other person or persons deemed by the court to be suitable and able to provide an adequate and stable environment for the child. Before the court awards custody, temporary custody or visitation to a third person under this subdivision, the court shall make that person a party to the action;

(b) Under the provisions of this subsection, any person may petition the court to intervene as a party in interest at any time as provided by supreme court rule.

6. If the parties have not agreed to a custodial arrangement, or the court determines such arrangement is not in the best interest of the child, the court shall include a written finding in the judgment or order based on the public policy in subsection 4 of this section and each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors that made a particular arrangement in the best interest of the child. If a proposed custodial arrangement is rejected by the court, the court shall include a written finding in the judgment or order detailing the specific relevant factors resulting in the rejection of such arrangement.

7. Upon a finding by the court that either parent has refused to exchange information with the other parent, which shall include but not be limited to information concerning the health, education and welfare of the child, the court shall order the parent to comply immediately and to pay the prevailing party a sum equal to the prevailing party's cost associated with obtaining the requested information, which shall include but not be limited to reasonable attorney's fees and court costs.

8. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

9. Any judgment providing for custody shall include a specific written parenting plan setting forth the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310

133 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan
134 approved and ordered by the court shall be in the court's discretion and shall be in the best
135 interest of the child.

136 10. Unless a parent has been denied custody rights pursuant to this section or visitation
137 rights under section 452.400, both parents shall have access to records and information
138 pertaining to a minor child, including, but not limited to, medical, dental, and school records.
139 If the parent without custody has been granted restricted or supervised visitation because the
140 court has found that the parent with custody or any child has been the victim of domestic
141 violence, as defined in section 455.200, RSMo, by the parent without custody, the court may
142 order that the reports and records made available pursuant to this subsection not include the
143 address of the parent with custody or the child. Unless a parent has been denied custody rights
144 pursuant to this section or visitation rights under section 452.400, any judgment of dissolution
145 or other applicable court order shall specifically allow both parents access to such records and
146 reports.

147 11. Except as otherwise precluded by state or federal law, if any individual, professional,
148 public or private institution or organization denies access or fails to provide or disclose any and
149 all records and information, including, but not limited to, past and present dental, medical and
150 school records pertaining to a minor child, to either parent upon the written request of such
151 parent, the court shall, upon its finding that the individual, professional, public or private
152 institution or organization denied such request without good cause, order that party to comply
153 immediately with such request and to pay to the prevailing party all costs incurred, including, but
154 not limited to, attorney's fees and court costs associated with obtaining the requested information.

155 12. An award of joint custody does not preclude an award of child support pursuant to
156 section 452.340 and applicable supreme court rules. The court shall consider the factors
157 contained in section 452.340 and applicable supreme court rules in determining an amount
158 reasonable or necessary for the support of the child.

159 13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and
160 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the
161 custody or visitation arrangement ordered by the court best protects the child and the parent or
162 other family or household member who is the victim of domestic violence or abuse, as defined
163 in sections 455.010 and 455.501, RSMo, and any other children for whom such parent has
164 custodial or visitation rights from any further harm.

452.377. 1. For purposes of this section and section 452.375, "relocate" or "relocation"
2 means a change in the principal residence of a child for a period of ninety days or more, but does
3 not include a temporary absence from the principal residence.

4 2. Notice of a proposed relocation of the residence of the child, or any party entitled to
5 custody or visitation of the child, shall be given in writing by certified mail, return receipt
6 requested, to any party with custody or visitation rights. Absent exigent circumstances as
7 determined by a court with jurisdiction, written notice shall be provided at least sixty days in
8 advance of the proposed relocation. The notice of the proposed relocation shall include the
9 following information:

10 (1) The intended new residence, including the specific address and mailing address, if
11 known, and if not known, the city;

12 (2) The home telephone number of the new residence, if known;

13 (3) The date of the intended move or proposed relocation;

14 (4) A brief statement of the specific reasons for the proposed relocation of a child, if
15 applicable; and

16 (5) A proposal for a revised schedule of custody or visitation with the child, if
17 applicable.

18 3. A party required to give notice of a proposed relocation pursuant to subsection 2 of
19 this section has a continuing duty to provide a change in or addition to the information required
20 by this section as soon as such information becomes known.

21 4. In exceptional circumstances where the court makes a finding that the health or safety
22 of any adult or child would be unreasonably placed at risk by the disclosure of the required
23 identifying information concerning a proposed relocation of the child, the court may order that:

24 (1) The specific residence address and telephone number of the child, parent or person,
25 and other identifying information shall not be disclosed in the pleadings, notice, other documents
26 filed in the proceeding or the final order except for an in camera disclosure;

27 (2) The notice requirements provided by this section shall be waived to the extent
28 necessary to protect the health or safety of a child or any adult; or

29 (3) Any other remedial action the court considers necessary to facilitate the legitimate
30 needs of the parties and the best interest of the child.

31 5. The court shall consider a failure to provide notice of a proposed relocation of a child
32 as:

33 (1) A factor in determining whether custody and visitation should be modified;

34 (2) A basis for ordering the return of the child if the relocation occurs without notice;
35 and

36 (3) Sufficient cause to order the party seeking to relocate the child to pay reasonable
37 expenses and attorneys fees incurred by the party objecting to the relocation.

38 6. If the parties agree to a revised schedule of custody and visitation for the child, which
39 includes a parenting plan, they may submit the terms of such agreement to the court with a

40 written affidavit signed by all parties with custody or visitation assenting to the terms of the
41 agreement, and the court may order the revised parenting plan and applicable visitation schedule
42 without a hearing.

43 7. The residence of the child may be relocated sixty days after providing notice, as
44 required by this section, unless a parent files a motion seeking an order to prevent the relocation
45 within thirty days after receipt of such notice. Such motion shall be accompanied by an affidavit
46 setting forth the specific factual basis supporting a prohibition of the relocation. The person
47 seeking relocation shall file a response to the motion within fourteen days, unless extended by
48 the court for good cause, and include a counter-affidavit setting forth the facts in support of the
49 relocation as well as a proposed revised parenting plan for the child.

50 8. If relocation of the child is proposed, a third party entitled by court order to legal
51 custody of or visitation with a child and who is not a parent may file a cause of action to obtain
52 a revised schedule of legal custody or visitation, but shall not prevent a relocation.

53 9. The party seeking to relocate shall have the burden of proving that the proposed
54 relocation is made in good faith and is in the best interest of the child.

55 10. If relocation is permitted:

56 (1) The court shall order contact with the nonrelocating party including custody or
57 visitation and telephone access **and any appropriate virtual visitation** sufficient to assure that
58 the child has frequent, continuing and meaningful contact with the nonrelocating party unless the
59 child's best interest warrants otherwise; [and]

60 (2) The court shall specify how the transportation costs will be allocated between the
61 parties and adjust the child support, as appropriate, considering the costs of transportation; **and**

62 **(3) The court shall not consider the availability of virtual visitation as a factor in**
63 **support of relocation of a child by the custodial parent out of the immediate area or state.**

64 11. After August 28, 1998, every court order establishing or modifying custody or
65 visitation shall include the following language: "Absent exigent circumstances as determined by
66 a court with jurisdiction, you, as a party to this action, are ordered to notify, in writing by
67 certified mail, return receipt requested, and at least sixty days prior to the proposed relocation,
68 each party to this action of any proposed relocation of the principal residence of the child,
69 including the following information:

70 (1) The intended new residence, including the specific address and mailing address, if
71 known, and if not known, the city;

72 (2) The home telephone number of the new residence, if known;

73 (3) The date of the intended move or proposed relocation;

74 (4) A brief statement of the specific reasons for the proposed relocation of the child; and

75 (5) A proposal for a revised schedule of custody or visitation with the child.

76 Your obligation to provide this information to each party continues as long as you or any other
77 party by virtue of this order is entitled to custody of a child covered by this order. Your failure
78 to obey the order of this court regarding the proposed relocation may result in further litigation
79 to enforce such order, including contempt of court. In addition, your failure to notify a party of
80 a relocation of the child may be considered in a proceeding to modify custody or visitation with
81 the child. Reasonable costs and attorney fees may be assessed against you if you fail to give the
82 required notice."

83 12. Violation of the provisions of this section or a court order under this section may be
84 deemed a change of circumstance under section 452.410, allowing the court to modify the prior
85 custody decree. In addition, the court may utilize any and all powers relating to contempt
86 conferred on it by law or rule of the Missouri supreme court.

87 13. Any party who objects in good faith to the relocation of a child's principal residence
88 shall not be ordered to pay the costs and attorney's fees of the party seeking to relocate.

452.400. 1. (1) A parent not granted custody of the child is entitled to reasonable
2 visitation rights unless the court finds, after a hearing, that visitation would endanger the child's
3 physical health or impair his or her emotional development. The court shall enter an order
4 specifically detailing the visitation rights of the parent without physical custody rights to the
5 child and any other children for whom such parent has custodial or visitation rights. In
6 determining the granting of visitation rights, the court shall consider evidence of domestic
7 violence. If the court finds that domestic violence has occurred, the court may find that granting
8 visitation to the abusive party is in the best interests of the child.

9 (2) (a) The court shall not grant visitation to the parent not granted custody if such
10 parent or any person residing with such parent has been found guilty of or pled guilty to any of
11 the following offenses when a child was the victim:

12 a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,
13 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
14 566.209, 566.212, or 566.215, RSMo;

15 b. A violation of section 568.020, RSMo;

16 c. A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

17 d. A violation of section 568.065, RSMo;

18 e. A violation of section 568.080, RSMo;

19 f. A violation of section 568.090, RSMo; or

20 g. A violation of section 568.175, RSMo.

21 (b) For all other violations of offenses in chapters 566 and 568, RSMo, not specifically
22 listed in paragraph (a) of this subdivision or for a violation of an offense committed in another
23 state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if

24 committed in Missouri, the court may exercise its discretion in granting visitation to a parent not
25 granted custody if such parent or any person residing with such parent has been found guilty of,
26 or pled guilty to, any such offense.

27 (3) The court shall consider the parent's history of inflicting, or tendency to inflict,
28 physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on
29 other persons and shall grant visitation in a manner that best protects the child and the parent or
30 other family or household member who is the victim of domestic violence, and any other
31 children for whom the parent has custodial or visitation rights from any further harm.

32 (4) The court, if requested by a party, shall make specific findings of fact to show that
33 the visitation arrangements made by the court best protect the child or the parent or other family
34 or household member who is the victim of domestic violence, or any other child for whom the
35 parent has custodial or visitation rights from any further harm.

36 **2. (1) For purposes of this chapter:**

37 **(a) "Virtual visitation" means parenting time facilitated by tools such as telephone,**
38 **e-mail, instant messaging, video conferencing, and other wired or wireless technologies**
39 **over the Internet or other communication media to supplement in-person visits between**
40 **a noncustodial parent and a child or between a child and the custodial parent when the**
41 **child is staying with the noncustodial parent. Virtual visitation is designed to supplement,**
42 **not replace, in-person visitation;**

43 **(b) "Visitation" means time spent between a child and the child's parent, including**
44 **any virtual visitation.**

45 **(2) Unless otherwise denied or restricted by court order, each parent shall permit**
46 **and encourage, during reasonable hours, reasonable and uncensored communications with**
47 **the child in the form of mail privileges and virtual visitation if the equipment is reasonably**
48 **available; provided that if the parties cannot agree on whether the equipment is reasonably**
49 **available, the court shall decide whether the equipment for virtual visitation is reasonably**
50 **available taking into consideration:**

51 **(a) The best interests of the child;**

52 **(b) Each parent's ability to handle any additional expenses of virtual visitation; and**

53 **(c) Any other factors the court considers material.**

54 **3. (1) The court may modify an order granting or denying visitation rights whenever**
55 **modification would serve the best interests of the child, but the court shall not restrict a parent's**
56 **visitation rights unless it finds that the visitation would endanger the child's physical health or**
57 **impair his or her emotional development.**

58 (2) (a) In any proceeding modifying visitation rights, the court shall not grant
59 unsupervised visitation to a parent if the parent or any person residing with such parent has been
60 found guilty of or pled guilty to any of the following offenses when a child was the victim:

61 a. A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,
62 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
63 566.209, 566.212, or 566.215, RSMo;

64 b. A violation of section 568.020, RSMo;

65 c. A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

66 d. A violation of section 568.065, RSMo;

67 e. A violation of section 568.080, RSMo;

68 f. A violation of section 568.090, RSMo; or

69 g. A violation of section 568.175, RSMo.

70 (b) For all other violations of offenses in chapters 566 and 568, RSMo, not specifically
71 listed in paragraph (a) of this subdivision or for a violation of an offense committed in another
72 state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if
73 committed in Missouri, the division may exercise its discretion regarding the placement of a
74 child taken into the custody of the state in which a parent or any person residing in the home has
75 been found guilty of, or pled guilty to, any such offense.

76 (3) When a court restricts a parent's visitation rights or when a court orders supervised
77 visitation because of allegations of abuse or domestic violence, a showing of proof of treatment
78 and rehabilitation shall be made to the court before unsupervised visitation may be ordered.
79 "Supervised visitation", as used in this section, is visitation which takes place in the presence of
80 a responsible adult appointed by the court for the protection of the child.

81 [3.] 4. The court shall mandate compliance with its order by all parties to the action,
82 including parents, children and third parties. In the event of noncompliance, the aggrieved
83 person may file a verified motion for contempt. If custody, visitation or third-party custody is
84 denied or interfered with by a parent or third party without good cause, the aggrieved person may
85 file a family access motion with the court stating the specific facts which constitute a violation
86 of the judgment of dissolution or legal separation. The state courts administrator shall develop
87 a simple form for pro se motions to the aggrieved person, which shall be provided to the person
88 by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved
89 parties the procedures for filing the form. Notice of the fact that clerks will provide such
90 assistance shall be conspicuously posted in the clerk's offices. The location of the office where
91 the family access motion may be filed shall be conspicuously posted in the court building. The
92 performance of duties described in this section shall not constitute the practice of law as defined
93 in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal

104 counsel to prepare and file. The cost of filing the motion shall be the standard court costs
105 otherwise due for instituting a civil action in the circuit court.

106 [4.] 5. Within five court days after the filing of the family access motion pursuant to
107 subsection [3] 4 of this section, the clerk of the court shall issue a summons pursuant to
108 applicable state law, and applicable local or supreme court rules. A copy of the motion shall be
109 personally served upon the respondent by personal process server as provided by law or by any
110 sheriff. Such service shall be served at the earliest time and shall take priority over service in
111 other civil actions, except those of an emergency nature or those filed pursuant to chapter 455,
112 RSMo. The motion shall contain the following statement in boldface type:

103

104 "PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE
105 CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO
106 RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

107 (1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION
108 OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED
109 PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

110 (2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE
111 VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A
112 CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

113 (3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST
114 THE VIOLATOR;

115 (4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE
116 FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

117 (5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO
118 REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED
119 PARTY AND THE CHILD; AND

120 (6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE
121 EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY
122 INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF
123 CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

124 [5.] 6. If an alternative dispute resolution program is available pursuant to section
125 452.372, the clerk shall also provide information to all parties on the availability of any such
126 services, and within fourteen days of the date of service, the court may schedule alternative
127 dispute resolution.

128 [6.] 7. Upon a finding by the court pursuant to a motion for a family access order or a
129 motion for contempt that its order for custody, visitation or third-party custody has not been

130 complied with, without good cause, the court shall order a remedy, which may include, but not
131 be limited to:

132 (1) A compensatory period of visitation, custody or third-party custody at a time
133 convenient for the aggrieved party not less than the period of time denied;

134 (2) Participation by the violator in counseling to educate the violator about the
135 importance of providing the child with a continuing and meaningful relationship with both
136 parents;

137 (3) Assessment of a fine of up to five hundred dollars against the violator payable to the
138 aggrieved party;

139 (4) Requiring the violator to post bond or security to ensure future compliance with the
140 court's access orders; and

141 (5) Ordering the violator to pay the cost of counseling to reestablish the parent-child
142 relationship between the aggrieved party and the child.

143 [7.] 8. The reasonable expenses incurred as a result of denial or interference with custody
144 or visitation, including attorney's fees and costs of a proceeding to enforce visitation rights,
145 custody or third-party custody, shall be assessed, if requested and for good cause, against the
146 parent or party who unreasonably denies or interferes with visitation, custody or third-party
147 custody. In addition, the court may utilize any and all powers relating to contempt conferred on
148 it by law or rule of the Missouri supreme court.

149 [8.] 9. Final disposition of a motion for a family access order filed pursuant to this
150 section shall take place not more than sixty days after the service of such motion, unless waived
151 by the parties or determined to be in the best interest of the child. Final disposition shall not
152 include appellate review.

153 [9.] 10. Motions filed pursuant to this section shall not be deemed an independent civil
154 action from the original action pursuant to which the judgment or order sought to be enforced
155 was entered.

452.402. 1. The court may grant reasonable visitation rights, **which may include**
2 **virtual visitation**, to the grandparents of the child and issue any necessary orders to enforce the
3 decree. The court may grant grandparent visitation when:

4 (1) The parents of the child have filed for a dissolution of their marriage. A grandparent
5 shall have the right to intervene in any dissolution action solely on the issue of visitation rights.
6 Grandparents shall also have the right to file a motion to modify the original decree of
7 dissolution to seek visitation rights when visitation has been denied to them; or

8 (2) One parent of the child is deceased and the surviving parent denies reasonable
9 visitation to a parent of the deceased parent of the child; or

10 (3) The child has resided in the grandparent's home for at least six months within the
11 twenty-four month period immediately preceding the filing of the petition; and

12 (4) A grandparent is unreasonably denied visitation with the child for a period exceeding
13 ninety days. However, if the natural parents are legally married to each other and are living
14 together with the child, a grandparent may not file for visitation pursuant to this subdivision.

15 2. The court shall determine if the visitation by the grandparent would be in the child's
16 best interest or if it would endanger the child's physical health or impair the child's emotional
17 development. Visitation may only be ordered when the court finds such visitation to be in the
18 best interests of the child. However, when the parents of the child are legally married to each
19 other and are living together with the child, it shall be a rebuttable presumption that such parents
20 know what is in the best interest of the child. The court may order reasonable conditions or
21 restrictions on grandparent visitation.

22 3. If the court finds it to be in the best interests of the child, the court may appoint a
23 guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice
24 law in Missouri. The guardian ad litem may, for the purpose of determining the question of
25 grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a
26 party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

27 4. A home study, as described by section 452.390, may be ordered by the court to assist
28 in determining the best interests of the child.

29 5. The court may, in its discretion, consult with the child regarding the child's wishes in
30 determining the best interest of the child.

31 6. The right of a grandparent to maintain visitation rights pursuant to this section may
32 terminate upon the adoption of the child.

33 7. The court may award reasonable attorneys fees and expenses to the prevailing party.

454.530. 1. On or before October 1, 1999, the division of child support enforcement
2 shall establish and operate a state disbursement unit to be known as the "Family Support
3 Payment Center" for the receipt and disbursement of payments pursuant to support orders for:

4 (1) All cases enforced by the division pursuant to section 454.400; and

5 (2) Any case required by federal law to be collected or disbursed by the payment center
6 including, but not limited to, cases in which a support order is initially issued on or after January
7 1, 1994, in which the income of the obligor is subject to withholding; and

8 (3) Beginning July 1, 2001:

9 (a) Any other case with a support order in which payments are ordered or directed by a
10 court or the division to be made to the payment center or in which the income of the obligor is
11 subject to withholding; and

12 (b) Any case prior to July 1, 2001, in which support payments are ordered paid to the
13 clerk of the court as trustee pursuant to section 452.345, RSMo.

14 2. The family support payment center shall be operated by the division, in conjunction
15 with other state agencies pursuant to a cooperative agreement, or by a contractor responsible
16 directly to the division. Notwithstanding any other provision of law to the contrary, after notice
17 by the division or the court that issued the support order to the obligor that all future payments
18 shall be made to the payment center, the payment center shall become trustee for payments made
19 by parents, employers, states and other entities, and all future payments shall be made to the
20 payment center. The payment center shall disburse payments to custodial parents and other
21 obligees, the state or agencies of other states. If the payment center is operated by a contractor
22 and the contractor receives and disburses the payments, the contractor shall have an annual audit
23 conducted by an independent certified public accountant. The audit will determine whether
24 funds received are disbursed or otherwise accounted for, and make recommendations as to the
25 procedures and changes that the contractor should take to protect the funds received from
26 misappropriation and theft. A copy of the audit shall be delivered to the division, the office of
27 administration and the office of the state courts administrator.

28 3. Except as otherwise provided in sections 454.530 to 454.560, the payment center shall
29 disburse support payments within two business days after receipt from the employer or other
30 source of periodic income, if sufficient information identifying the payee is provided. As used
31 in sections 454.530 to 454.560, "business day" means a day state government offices are open
32 for regular business. Disbursement of payments made toward arrearages may be delayed until
33 the resolution of any timely appeal with respect to such arrearage or upon order of a court.

34 4. The family support payment center shall establish an electronic funds transfer system
35 for the transfer of child support payments. **Obligees who want electronic transfer of support**
36 **payments to a designated account shall complete an application for direct deposit and**
37 **submit it to the family support payment center. The family support payment center may**
38 **issue an electronic access card for the purpose of disbursing support payments to any**
39 **obligee not using automated deposit to a designated account.** Any person or employer may,
40 without penalty, choose to receive payments from or disburse payments to the payment center
41 by check or draft instead of by electronic transfer.

456.1-103. In sections 456.1-101 to 456.11-1106:

2 (1) "Action," with respect to an act of a trustee, includes a failure to act.

3 (2) **"Ascertainable standard" means a standard relating to an individual's health,**
4 **education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or Section**
5 **2541(c)(1) of the Internal Revenue Code.**

6 (3) "Beneficiary" means a person that:

7 (a) has a present or future beneficial interest in a trust, vested or contingent; or
8 (b) in a capacity other than that of trustee, holds a power of appointment over trust
9 property.

10 [(3)] (4) "Charitable trust" means a trust, or portion of a trust, created for a charitable
11 purpose described in subsection 1 of section 456.4-405.

12 [(4)] (5) "Conservator" means a person described in subdivision (3) of section 475.010,
13 RSMo. This term does not include a conservator ad litem.

14 [(5)] (6) "Conservator ad litem" means a person appointed by the court pursuant to the
15 provisions of section 475.097, RSMo.

16 [(6)] (7) "Environmental law" means a federal, state, or local law, rule, regulation, or
17 ordinance relating to protection of the environment.

18 [(7)] (8) "Financial institution" means a non-foreign bank, savings and loan or trust
19 company chartered, regulated and supervised by the Missouri division of finance, the office of
20 the comptroller of the currency, the office of thrift supervision, the National Credit Union
21 Administration, or the Missouri division of credit union supervision. The term "non-foreign
22 bank" shall mean a bank that is not a foreign bank within the meaning of subdivision (1) of
23 section 361.005, RSMo.

24 [(8)] (9) "Guardian" means a person described in subdivision (6) of section 475.010,
25 RSMo. The term does not include a guardian ad litem.

26 [(9)] (10) "Interested persons" include beneficiaries and any others having a property
27 right in or claim against a trust estate which may be affected by a judicial proceeding. It also
28 includes fiduciaries and other persons representing interested persons. The meaning as it relates
29 to particular persons may vary from time to time and must be determined according to the
30 particular purposes of, and matter involved in, any proceeding.

31 [(10)] (11) "Interests of the beneficiaries" means the beneficial interests provided in the
32 terms of the trust.

33 [(11)] (12) "Internal Revenue Code" means the United States Internal Revenue Code of
34 1986, as in effect on January 1, 2005, or as later amended.

35 [(12)] (13) "Jurisdiction," with respect to a geographic area, includes a state or country.

36 [(13)] (14) "Person" means an individual, corporation, business trust, estate, trust,
37 partnership, limited liability company, association, joint venture, government; governmental
38 subdivision, agency, or instrumentality; public corporation, or any other legal or commercial
39 entity.

40 [(14)] (15) "Permissible distributee" means a beneficiary who is currently eligible to
41 receive distributions of trust income or principal, whether mandatory or discretionary.

42 [(15)] **(16)** "Power of withdrawal" means a presently exercisable [general] power of
43 [appointment other than a power exercisable only upon consent of the trustee or a person holding
44 an adverse interest] **a beneficiary to withdraw assets from the trust without the consent of**
45 **the trustee or any other person.**

46 [(16)] **(17)** "Principal place of administration" of a trust is the trustee's usual place of
47 business where the records pertaining to the trust are kept, or the trustee's residence if the trustee
48 has no such place of business, unless otherwise designated by the terms of the trust as provided
49 in section 456.1-108. In the case of cotrustees, the principal place of administration is, in the
50 following order of priority:

51 (a) The usual place of business of the corporate trustee if there is but one corporate
52 cotrustee;

53 (b) The usual place of business or residence of the trustee who is a professional fiduciary
54 if there is but one such trustee and no corporate cotrustee; or

55 (c) The usual place of business or residence of any of the cotrustees.

56 [(17)] **(18)** "Professional fiduciary" means an individual who represents himself or
57 herself to the public as having specialized training, experience or skills in the administration of
58 trusts.

59 [(18)] **(19)** "Property" means anything that may be the subject of ownership, whether real
60 or personal, legal or equitable, or any interest therein.

61 [(19)] **(20)** "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's
62 qualification is determined:

63 (a) is a permissible distributee;

64 (b) would be a permissible distributee if the interests of the permissible distributees
65 described in paragraph (a) of this subdivision terminated on that date; or

66 (c) would be a permissible distributee if the trust terminated on that date.

67 [(20)] **(21)** "Record" means information that is inscribed on a tangible medium or that
68 is stored in an electronic or other medium and is retrievable in perceivable form.

69 [(21)] **(22)** "Revocable," as applied to a trust, means [revocable by the settlor] **that the**
70 **settlor has the legal power to revoke the trust** without the consent of the trustee or a person
71 holding an adverse interest, **regardless of whether the settlor has the mental capacity to do**
72 **so in fact.**

73 [(22)] **(23)** "Settlor" means a person, including a testator, who creates, or contributes
74 property to, a trust. If more than one person creates or contributes property to a trust, each
75 person is a settlor of the portion of the trust property attributable to that person's contribution
76 except to the extent another person has the power to revoke or withdraw that portion pursuant
77 to the terms of the trust.

78 [(23)] **(24)** "Sign" means, with present intent to authenticate or adopt a record:

79 (a) to execute or adopt a tangible symbol; or

80 (b) to attach to or logically associate with the record an electronic sound, symbol, or
81 process.

82 [(24)] **(25)** "Spendthrift provision" means a term of a trust which restrains either the
83 voluntary or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's
84 interest.

85 [(25)] **(26)** "State" means a state of the United States, the District of Columbia, Puerto
86 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
87 jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal
88 law or formally acknowledged by a state.

89 [(26)] **(27)** "Terms of a trust" means the manifestation of the settlor's intent regarding
90 a trust's provisions as expressed in the trust instrument or as may be established by other
91 evidence that would be admissible in a judicial proceeding.

92 [(27)] **(28)** "Trust instrument" means an instrument executed by the settlor that contains
93 terms of the trust, including any amendments thereto.

94 [(28)] **(29)** "Trustee" includes an original, additional, and successor trustee, and a
95 cotrustee.

 456.1-105. 1. Except as otherwise provided in the terms of the trust, sections 456.1-101
2 to 456.11-1106 govern the duties and powers of a trustee, relations among trustees, and the rights
3 and interests of a beneficiary.

4 2. The terms of a trust prevail over any provision of sections 456.1-101 to 456.11-1106
5 except:

6 (1) the requirements for creating a trust;

7 (2) the duty of a trustee to act in good faith and in accordance with the purposes of the
8 trust;

9 (3) the requirement that a trust and its terms be for the benefit of its beneficiaries;

10 (4) the power of the court to modify or terminate a trust under section 456.4-410,
11 subsection 3 of section 456.4B-411, and sections 456.4-412 to 456.4-416;

12 (5) the effect of a spendthrift provision and the rights of certain creditors and assignees
13 to reach a trust as provided in sections 456.5-501 to 456.5-507;

14 (6) the power of the court under section 456.7-702 to require, dispense with, or modify
15 or terminate a bond;

16 (7) the power of the court under subsection 2 of section 456.7-708 to adjust a trustee's
17 compensation specified in the terms of the trust which is unreasonably low or high;

18 (8) **subject to subsection 3 of this section**, the duty of a trustee of an irrevocable trust
19 to notify [the] **each** permissible distributees [of an irrevocable trust who have] **who has** attained
20 **the age of** twenty-one years [of age] of the existence of the trust and of [their] **that permissible**
21 **distributee's** rights to request trustee's reports and other information reasonably related to the
22 administration of the trust;

23 (9) the duty to respond to the request of a qualified beneficiary of an irrevocable trust for
24 trustee's reports and other information reasonably related to the administration of [a] **the** trust;

25 (10) the effect of an exculpatory term under section 456.10-1008;

26 (11) the rights under sections 456.10-1010 to 456.10-1013 of a person other than a
27 trustee or beneficiary;

28 (12) periods of limitation for commencing a judicial proceeding;

29 (13) the power of the court to take such action and exercise such jurisdiction as may be
30 necessary in the interests of justice; and

31 (14) the venue for a judicial proceeding as provided in section 456.2-204.

32 **3. For purposes of subdivision (8) of subsection 2 of this section, the settlor may**
33 **designate by the terms of the trust one or more permissible distributees to receive**
34 **notification of the existence of the trust and of the right to request trustee's reports and**
35 **other information reasonably related to the administration of the trust in lieu of providing**
36 **the notice, information or reports to any other permissible distributee who is an ancestor**
37 **of lineal descendant of the designated permissible distributee.**

456.1-110. 1. A specified charitable organization or a person appointed to enforce a trust
2 created for the care of an animal or another noncharitable purpose as provided in sections
3 456.4-408 or 456.4-409 has the rights of a qualified beneficiary under sections 456.1-101 to
4 456.11-1106.

5 2. Except with respect to [section] **sections 456.1-108 and 456.4B-411**, the attorney
6 general of this state has the rights of a qualified beneficiary with respect to an interest in a
7 charitable trust having its principal place of administration in this state if:

8 (1) a specified charitable organization is not entitled to a distribution from such interest;
9 and

10 (2) distributions from the interest are payable in a manner that, if payable to an
11 identifiable charitable entity, would qualify that entity as a specified charitable organization.

12 3. In this section a "specified charitable organization" means an identifiable charitable
13 entity, **the interest of which is not otherwise subject to any power of appointment or other**
14 **power of termination**, that, on the date that entity's qualification is determined:

15 (a) is a permissible distributee;

16 (b) would be a permissible distributee if the interests of the permissible distributees
17 terminated on that date; or

18 (c) would be a permissible distributee if the trust terminated on that date.

19 4. No provision of this section shall limit the authority of the attorney general of this
20 state to supervise and control charitable organizations.

456.1-112. 1. If a settlor's marriage is dissolved or annulled, any beneficial terms of a
2 trust in favor of the settlor's former spouse or any fiduciary appointment of the settlor's former
3 spouse is revoked on the date the marriage is dissolved or annulled, whether or not the terms of
4 the trust refer to marital status. The terms of the trust shall be given effect as if the former
5 spouse had died immediately before the date the dissolution or annulment became final. This
6 subsection shall also apply to any beneficial interest or fiduciary appointment in favor of a
7 relative of the settlor's former spouse as if such relative were the former spouse.

8 2. Subsection 1 of this section does not apply to the terms of a trust that provide any
9 beneficial interest or fiduciary appointment for a former spouse or a relative of a former spouse
10 that was created after the marriage was dissolved or annulled, or that expressly states that
11 marriage dissolution or annulment shall not affect the designation of a former spouse or relative
12 of a former spouse as a beneficiary or a fiduciary of the trust.

13 3. A court may order or the settlor and the spouse may agree before, during, or after the
14 marriage in a binding contract or settlement agreement that subsection 1 of this section does not
15 apply to a beneficial interest or fiduciary appointment.

16 4. Any terms of a trust revoked solely by this section are revived by the settlor's
17 remarriage to the former spouse or by a nullification of the marriage dissolution or annulment.

18 5. In this section, "a relative of the settlor's former spouse" means an individual who is
19 related to the settlor's former spouse by blood, adoption or affinity and who, after the divorce or
20 annulment, is not related to the settlor by blood, adoption or affinity.

21 **6. The provisions of this section shall not apply to any trust for which a gift tax**
22 **marital deduction has been claimed or allowed under Section 2523 of the Internal Revenue**
23 **Code. The provisions of this section shall not apply in a manner that would result in**
24 **either:**

25 **(a) a transfer to a trust being treated as an incomplete gift for federal gift tax**
26 **purposes; or**

27 **(b) inclusion of assets of a trust in the gross estate of a settlor for federal estate tax**
28 **purposes.**

456.2-204. 1. Venue for judicial proceedings involving [the internal affairs of a] trust
2 **administration** shall be:

3 (1) For a trust then registered in this state, in the probate division of the circuit court
4 where the trust is registered; or

5 (2) For a trust not then registered in this state, in the probate division of the circuit court
6 where the trust could properly be registered; or

7 (3) For a trust not then registered in this state and which cannot properly be registered
8 in this state, in accordance with the rules of civil procedure.

9 2. Where a judicial proceeding under this chapter could be maintained in more than one
10 place in this state, the court in which the proceeding is first commenced has the exclusive right
11 to proceed.

12 3. If proceedings concerning the same trust are commenced in more than one court of
13 this state, the court in which the proceeding was first commenced shall continue to hear the
14 matter, and the other courts shall hold the matter in abeyance until the question of venue is
15 decided, and if the court in which the proceeding was first commenced determines that venue
16 is properly in another court, it shall transfer the proceeding to the other court.

17 4. If a court finds that in the interest of justice a proceeding or a file should be located
18 in another court of this state, the court making the finding may transfer the proceeding or file to
19 the other court.

456.3-301. 1. Notice to a person who may represent and bind another person under
2 sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other
3 person.

4 2. The consent of a person who may represent and bind another person under sections
5 456.3-301 to 456.3-305 is binding on the person represented unless the person represented
6 objects to the representation before the consent would otherwise have become effective.

7 3. Except as otherwise provided in sections 456.4A-411 and 456.6-602, a person who
8 under sections 456.3-301 to 456.3-305 may represent a settlor who lacks capacity may receive
9 notice and give a binding consent on the settlor's behalf.

10 **4. A settlor may not represent and bind a beneficiary under sections 456.3-301 to**
11 **456.3-305 with respect to the termination or modification of a trust under section 456.4-**
12 **411A.**

456.3-304. 1. Unless otherwise represented, a minor, incapacitated, or unborn
2 individual, or a person whose identity or location is unknown and not reasonably ascertainable,
3 may be represented by and bound by another having a substantially identical interest with respect
4 to the particular question or dispute, but only to the extent there is no conflict of interest between
5 the representative and the person represented **with respect to a particular question or dispute.**

6 **2. Unless otherwise represented, a beneficiary who is not a qualified beneficiary**
7 **may be represented by and bound by a qualified beneficiary having a substantially**

8 **identical interest with respect to the particular question or dispute, but only to the extent**
9 **there is no conflict of interest with respect to the particular question or dispute between**
10 **the representative and the person represented, in any court proceeding under subsection**
11 **2 of section 456.4-412, or in a nonjudicial settlement agreement entered into under section**
12 **456.1-111 in lieu of such a court proceeding.**

456.4-401. A trust may be created by:

- 2 (1) transfer of property to another person as trustee during the settlor's lifetime or by will
- 3 or other disposition taking effect upon the settlor's death;
- 4 (2) declaration by the owner of property that the owner holds identifiable property as
- 5 trustee;
- 6 (3) exercise of a power of appointment in favor of a trustee; or
- 7 (4) a court under section 475.092, 475.093, or 511.030, RSMo, **or 42 U.S.C. Section**
- 8 **1396p(d)(4).**

456.4-402. 1. Other than for a trust created by section 475.092, 475.093, or 511.030,
2 RSMo, **or 42 U.S.C. Section 1396p(d)(4)**, a trust is created only if:

- 3 (1) the settlor has capacity to create a trust;
- 4 (2) the settlor indicates an intention to create the trust;
- 5 (3) the trust has a definite beneficiary or is:
- 6 (a) a charitable trust;
- 7 (b) a trust for the care of an animal, as provided in section 456.4-408; or
- 8 (c) a trust for a noncharitable purpose, as provided in section 456.4-409;
- 9 (4) the trustee has duties to perform; and
- 10 (5) the same person is not the sole trustee and sole beneficiary.

11 2. A beneficiary is definite if the beneficiary can be ascertained now or in the future,
12 subject to any applicable rule against perpetuities.

13 3. A power in a trustee to select a beneficiary from an indefinite class is valid. If the
14 power is not exercised within a reasonable time, the power fails and the property subject to the
15 power passes to the persons who would have taken the property had the power not been
16 conferred.

456.4-411A. 1. **Except for a trust established by a court under section 475.092,**
2 **475.093, 511.033, RSMo, or 42 U.S.C. Section 1396p(d)(4),** a noncharitable irrevocable trust
3 may be modified or terminated upon consent of the settlor and all beneficiaries, without court
4 approval, even if the modification or termination is inconsistent with a material purpose of the
5 trust. A settlor's power to consent to a trust's termination or modification may be exercised by
6 an agent under a power of attorney only to the extent expressly authorized by the power of
7 attorney or the terms of the trust; by the settlor's conservator with the approval of the court

8 supervising the conservatorship if an agent is not so authorized; or by the settlor's conservator
9 ad litem with the approval of the court if an agent is not so authorized and a conservator has not
10 been appointed.

11 2. Upon termination of a trust under subsection 1 of this section, the trustee shall
12 distribute the trust property as agreed by the beneficiaries.

13 3. If not all of the beneficiaries consent to a proposed modification or termination of the
14 trust under subsection 1 of this section, the modification or termination may be approved by the
15 court if the court is satisfied that:

16 (1) if all of the beneficiaries had consented, the trust could have been modified or
17 terminated under subsection 1 of this section; and

18 (2) the interests of a beneficiary who does not consent will be adequately protected.

456.4-411B. 1. When all of the adult beneficiaries having the capacity to contract
2 consent, the court may, upon finding that the interest of any nonconsenting beneficiary will be
3 adequately protected, modify the terms of a noncharitable irrevocable trust so as to reduce or
4 eliminate the interests of some beneficiaries and increase those of others, change the times or
5 amounts of payments and distributions to beneficiaries, or provide for termination of the trust
6 at a time earlier or later than that specified by its terms. The court may at any time upon its own
7 motion appoint a representative pursuant to section 456.3-305 to represent a nonconsenting
8 beneficiary. The court shall appoint such a representative upon the motion of any party, unless
9 the court determines such an appointment is not appropriate under the circumstances.

10 2. Upon termination of a trust under subsection 1 of this section, the trustee shall
11 distribute the trust property as directed by the court.

12 3. If a trust cannot be terminated or modified under subsection 1 of this section because
13 not all adult beneficiaries having capacity to contract consent or the terms of the trust prevent
14 such modification or termination, the modification or termination may be approved by the court
15 if the court is satisfied that the interests of a beneficiary, other than the settlor, who does not
16 consent will be adequately protected, modification or termination will benefit a living settlor who
17 is also a beneficiary, and:

18 (1) in the case of a termination, the party seeking termination establishes that
19 continuance of the trust is not necessary to achieve any material purpose of the trust; or

20 (2) in the case of a modification, the party seeking modification establishes that the
21 modification is not inconsistent with a material purpose of the trust, and the modification is not
22 specifically prohibited by the terms of the trust.

23 4. This section shall apply to trusts created **under trust instruments that become**
24 **irrevocable** on or after January 1, 2005. The provisions of section 456.590 shall apply to all

25 trusts **that were created under trust instruments that become irrevocable** prior to January 1,
26 2005.

456.5-501. **Except as otherwise provided in sections 456.5-506 to 456.5-507**, to the
2 extent a beneficiary's interest is not [protected by] **subject to** a spendthrift provision, an assignee
3 or a judgment creditor of the beneficiary may, without court order, reach the beneficiary's interest
4 by attachment of present or future distributions to or for the benefit of the beneficiary or other
5 means. The court may limit the award to such relief as is appropriate under the circumstances.

456.5-504. 1. [Except as otherwise provided in section 456.5-503, whether or not a trust
2 contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that
3 is subject to the trustee's discretion, even if:

4 (1) the discretion is expressed in the form of a standard of distribution; or

5 (2) the trustee has abused the discretion.] **A beneficiary's interest in a trust that is**
6 **subject to the trustee's discretion does not constitute an interest in property or an**
7 **enforceable right even if the discretion is expressed in the form of a standard of**
8 **distribution or the beneficiary is then serving as a trustee or co-trustee. A creditor or other**
9 **claimant may not attach present or future distributions from such an interest or right,**
10 **obtain an order from a court forcing the judicial sale of the interest or compelling the**
11 **trustee to make distributions, or reach the interest or right by any other means, even if the**
12 **trustee has abused the trustee's discretion.**

13 2. This section does not limit the right of a beneficiary to maintain a judicial proceeding
14 against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

15 3. **This section applies whether or not an interest is subject to a spendthrift**
16 **provision.**

17 4. **For purposes of this section, a beneficiary's interest in a trust is subject to the**
18 **trustee's discretion if that interest does not constitute a mandatory distribution as defined**
19 **in subsection 1 of section 456.5-506.**

456.5-506. 1. As used in this section, "mandatory distribution" means a
2 distribution of income or principal which the trustee is required to make to a beneficiary
3 under the terms of the trust, including a distribution upon termination of the trust. The
4 term does not include a distribution subject to the exercise of the trustee's discretion even
5 if (1) the discretion is expressed in the form of a standard of distribution, or (2) the terms
6 of the trust authorizing a distribution couple language of discretion with language of
7 discretion.

8 2. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a
9 beneficiary may reach a mandatory distribution of income or principal, including a distribution

10 upon termination of the trust, if the trustee has not made the distribution to the beneficiary within
11 a reasonable time after the required distribution date.

456.7-703. 1. Cotrustees shall act by majority decision.

2 2. If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

3 3. A cotrustee must participate in the performance of a trustee's function unless the
4 cotrustee is unavailable to perform the function because of absence, illness, disqualification
5 under other law, or other temporary incapacity or the cotrustee has properly delegated the
6 performance of the function to another trustee.

7 4. If a cotrustee is unavailable to perform duties because of absence, illness,
8 disqualification under other law, or other temporary incapacity, and prompt action is necessary
9 to achieve the purposes of the trust or to avoid injury to the trust property, the remaining
10 cotrustee or a majority of the remaining cotrustees may act for the trust.

11 5. A trustee may [not] delegate to a cotrustee the performance of a function [the settlor
12 reasonably expected the trustees to perform jointly] **in accordance with subsection 1 of section**
13 **456.8-807**. Unless a delegation was irrevocable, a trustee may revoke a delegation previously
14 made.

15 6. Except as otherwise provided in subsection 7 of this section, a trustee who does not
16 join in an action of another trustee is not liable for the action.

17 7. Each trustee shall exercise reasonable care to:

18 (1) prevent a cotrustee from committing a serious breach of trust; and

19 (2) compel a cotrustee to redress a serious breach of trust.

20 8. A dissenting trustee who joins in an action at the direction of the majority of the
21 trustees and who notified any cotrustee of the dissent at or before the time of the action is not
22 liable for the action unless the action is a serious breach of trust.

456.8-813. 1. **(1)** A trustee shall keep the qualified beneficiaries of the trust reasonably
2 informed about the administration of the trust and of the material facts necessary for them to
3 protect their interests. **A trustee shall be presumed to have fulfilled this duty if the trustee**
4 **complies with the notice and information requirements prescribed in subsections 2 to 7 of**
5 **this section.**

6 **(2)** Unless unreasonable under the circumstances, a trustee shall promptly respond to a
7 beneficiary's request for information related to the administration of the trust.

8 2. A trustee:

9 (1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the
10 trust instrument;

11 (2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries
12 of the acceptance and of the trustee's name, address, and telephone number;

13 (3) within sixty days after the date the trustee acquires knowledge of the creation of an
14 irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has
15 become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified
16 beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request
17 a copy of the trust instrument, and of the right to a trustee's report as provided in subsection 3
18 of this section; and

19 (4) shall notify the qualified beneficiaries in advance of any change in the method or rate
20 of the trustee's compensation. [Subdivisions (2) and (3) of this subsection do not apply to a trust
21 that became irrevocable before January 1, 2005.]

22 3. A trustee shall send to the permissible distributees of trust income or principal, and
23 to other beneficiaries who request it, at least annually and at the termination of the trust, a report
24 of the trust property, liabilities, receipts, and disbursements, including the source and amount of
25 the trustee's compensation, a listing of the trust assets and, if feasible, their respective market
26 values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be
27 sent to the qualified beneficiaries by the former trustee. A personal representative, conservator,
28 or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated
29 trustee.

30 4. A beneficiary may waive the right to a trustee's report or other information otherwise
31 required to be furnished under this section. A beneficiary, with respect to future reports and
32 other information, may withdraw a waiver previously given.

33 5. A trustee may charge a reasonable fee to a beneficiary for providing information under
34 this section.

35 6. The request of any beneficiary for information under any provision of this section shall
36 be with respect to a single trust that is sufficiently identified to enable the trustee to locate the
37 records of the trust.

38 7. If the trustee is bound by any confidentiality restrictions with respect to an asset of a
39 trust, any beneficiary who is eligible to receive information pursuant to this section about such
40 asset shall agree to be bound by the confidentiality restrictions that bind the trustee before
41 receiving such information from the trustee.

42 **8. This section does not apply to a trust created under a trust instrument that**
43 **became irrevocable before January 1, 2005, and the law in effect prior to January 1, 2005,**
44 **regarding the subject matter of this section shall continue to apply to those trusts.**

456.8-814. 1. Notwithstanding the [breadth of discretion granted to a trustee in the terms
2 of the trust, including the] use of such terms as "absolute," "sole," or "uncontrolled," **in the**
3 **exercise of discretion under an ascertainable standard,** the trustee shall exercise [a] **such**

4 discretionary power in good faith and in accordance with the terms and purposes of the trust and
5 the interests of the beneficiaries.

6 2. Subject to subsection 4 of this section, and unless the terms of the trust expressly
7 indicate that a rule in this subsection does not apply:

8 (1) a person other than a settlor who is a beneficiary and trustee of a trust that confers
9 on the trustee a power to make discretionary distributions to or for the trustee's personal benefit
10 may exercise the power only in accordance with an ascertainable standard [relating to the
11 trustee's individual health, education, support, or maintenance within the meaning of Section
12 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code];

13 (2) a trustee may not exercise a power to make discretionary distributions to satisfy a
14 legal obligation of support that the trustee personally owes another person; and

15 (3) for purposes of this subsection 2 of this section, the term "trustee" shall include a
16 person who is deemed to have any power of a trustee, whether because such person has the right
17 to remove or replace any trustee, because a reciprocal trust or power doctrine applies, or for any
18 other reason.

19 3. A power whose exercise is limited or prohibited by subsection 2 may be exercised by
20 a majority of the remaining trustees whose exercise of the power is not so limited or prohibited.
21 If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary
22 with authority to exercise the power.

23 4. Subsection 2 of this section does not apply to:

24 (1) a power held by the settlor's spouse who is the trustee of a trust for which a marital
25 deduction, as defined in Section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code was
26 previously allowed;

27 (2) any trust during any period that the trust may be revoked or amended by its settlor;
28 or

29 (3) a trust if contributions to the trust qualify for the annual exclusion under Section
30 2503(c) of the Internal Revenue Code.

456.8-816. Without limiting the authority conferred by section 456.8-815, a trustee may:

2 (1) collect trust property and accept or reject additions to the trust property from a settlor
3 or any other person;

4 (2) acquire or sell property in divided or undivided interests, for cash or on credit, at
5 public or private sale;

6 (3) exchange, partition, or otherwise change the character of trust property;

7 (4) deposit trust money in an account in a financial institution;

8 (5) borrow money, with or without security, and mortgage or pledge trust property for
9 a period within or extending beyond the duration of the trust;

- 10 (6) with respect to an interest in a proprietorship, partnership, limited liability company,
11 business trust, corporation, or other form of business or enterprise, continue the business or other
12 enterprise and take any action that may be taken by shareholders, members, or property owners,
13 including merging, dissolving, or otherwise changing the form of business organization or
14 contributing additional capital;
- 15 (7) with respect to stocks or other securities, exercise the rights of an absolute owner,
16 including the right to:
- 17 (a) vote, or give proxies to vote, with or without power of substitution, or enter into or
18 continue a voting trust agreement;
- 19 (b) hold a security in the name of a nominee or in other form without disclosure of the
20 trust so that title may pass by delivery;
- 21 (c) pay calls, assessments, and other sums chargeable or accruing against the securities,
22 and sell or exercise stock subscription or conversion rights; and
- 23 (d) deposit the securities with a depository or other financial institution;
- 24 (8) with respect to an interest in real property, construct, or make ordinary or
25 extraordinary repairs to, alterations to, or improvements in, buildings or other structures,
26 demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop
27 land, dedicate land to public use or grant public or private easements, and make or vacate plats
28 and adjust boundaries;
- 29 (9) enter into a lease for any purpose as lessor or lessee, including a lease or other
30 arrangement for exploration and removal of natural resources, with or without the option to
31 purchase or renew, for a period within or extending beyond the duration of the trust;
- 32 (10) grant an option involving a sale, lease, or other disposition of trust property or
33 acquire an option for the acquisition of property, including an option exercisable beyond the
34 duration of the trust, and exercise an option so acquired;
- 35 (11) insure the property of the trust against damage or loss and insure the trustee, the
36 trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- 37 (12) abandon or decline to administer property of no value or of insufficient value to
38 justify its collection or continued administration;
- 39 (13) with respect to possible liability for violation of environmental law:
- 40 (a) inspect or investigate property the trustee holds or has been asked to hold, or property
41 owned or operated by an organization in which the trustee holds or has been asked to hold an
42 interest, for the purpose of determining the application of environmental law with respect to the
43 property;

- 44 (b) take action to prevent, abate, or otherwise remedy any actual or potential violation
45 of any environmental law affecting property held directly or indirectly by the trustee, whether
46 taken before or after the assertion of a claim or the initiation of governmental enforcement;
- 47 (c) decline to accept property into trust or disclaim any power with respect to property
48 that is or may be burdened with liability for violation of environmental law;
- 49 (d) compromise claims against the trust which may be asserted for an alleged violation
50 of environmental law; and
- 51 (e) pay the expense of any inspection, review, abatement, or remedial action to comply
52 with environmental law;
- 53 (14) pay or contest any claim, settle a claim by or against the trust, and release, in whole
54 or in part, a claim belonging to the trust;
- 55 (15) pay taxes, assessments, compensation of the trustee and of employees and agents
56 of the trust, and other expenses incurred in the administration of the trust;
- 57 (16) exercise elections with respect to federal, state, and local taxes;
- 58 (17) select a mode of payment under any employee benefit or retirement plan, annuity,
59 or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right
60 to indemnification for expenses and against liabilities, and take appropriate action to collect the
61 proceeds;
- 62 (18) make loans out of trust property, including loans to a beneficiary on terms and
63 conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee
64 has a lien on future distributions for repayment of those loans;
- 65 (19) pledge trust property to guarantee or secure loans made by others to a beneficiary;
- 66 (20) appoint a trustee to act in another jurisdiction with respect to trust property located
67 in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the
68 appointing trustee, require that the appointed trustee furnish security, and remove any trustee so
69 appointed;
- 70 (21) pay an amount distributable to a beneficiary who is under a legal disability or who
71 the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or
72 applying it for the beneficiary's benefit, or by:
- 73 (a) paying it to the beneficiary's conservator or, if the beneficiary does not have a
74 conservator, the beneficiary's guardian;
- 75 (b) paying it to the beneficiary's custodian under the Missouri transfers to minors law
76 under sections 404.005 to 404.094, RSMo, or a personal custodian under sections 404.400 to
77 404.650, RSMo, and, for that purpose, creating a custodianship or custodial trust;

78 (c) if the trustee does not know of a conservator, guardian, custodian, or custodial
79 trustee, paying it to an adult relative or other person having legal or physical care or custody of
80 the beneficiary, to be expended on the beneficiary's behalf; or

81 (d) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's
82 continuing right to withdraw the distribution;

83 (22) on distribution of trust property or the division or termination of a trust, make
84 distributions in divided or undivided interests, allocate particular assets in proportionate or
85 disproportionate shares, value the trust property for those purposes, and adjust for resulting
86 differences in valuation;

87 (23) resolve a dispute concerning the interpretation of the trust or its administration by
88 mediation, arbitration, or other procedure for alternative dispute resolution;

89 (24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to
90 protect trust property and the trustee in the performance of the trustee's duties;

91 (25) **to engage and compensate attorneys, accountants, investment advisors, or**
92 **other agents, and to delegate to them trustee's duties and functions in accordance with the**
93 **provisions of section 456.8-807;**

94 (26) sign and deliver contracts and other instruments that are useful to achieve or
95 facilitate the exercise of the trustee's powers[.] ;

96 [(26)] (27) on termination of the trust, exercise the powers appropriate to wind up the
97 administration of the trust and distribute the trust property to the persons entitled to it; and

98 [(27)] (28) to invest and reinvest trust assets in accordance with sections 469.900 to
99 469.913, RSMo; including investing and reinvesting in securities or obligations of any state or
100 its political subdivisions, including securities or obligations that are underwritten by the trustee
101 or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the trustee is a
102 member which meet the standards established by the division of finance pursuant to subsection
103 5 of section 362.550, RSMo.

**469.600. The doctrine of worthier title and the Rule in Bingham's case is abolished
2 as a rule of law and as a rule of construction. Language in a governing instrument
3 describing the beneficiaries of a disposition as the transferor's "heirs", "heirs at law",
4 "next of kin", "distributees", "relatives", or "family", or language of similar import does
5 not create or presumptively create a reversionary interest in the transferor.**

473.333. If it appears that there is a surplus of money in the hands of the personal
2 representative that will not shortly be required for the expenses of administration, or payment
3 of claims, taxes or other required disbursements, the personal representative shall make such
4 investment of the money on or after August 28, 1998, in accordance with the provisions of the
5 Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. The

6 personal representative may also, without an order of court, invest in (1) direct obligations of,
7 or obligations unconditionally guaranteed as to principal and interest, by the United States, or
8 (2) accounts of savings and loan associations to the extent the accounts are insured by the Federal
9 Savings and Loan Insurance Corporation, without inquiry as to whether the investment is
10 reasonable and prudent. An order of court authorizing investments pursuant to this section does
11 not relieve a personal representative or his sureties of responsibility and liability if the investment
12 made is not in fact in accordance with the Missouri prudent investor act, sections [456.900 to
13 456.913] **469.900 to 469.913**, RSMo.

473.787. 1. While letters testamentary or of administration authorizing independent
2 administration of the estate are in force, the personal representative therein named is an
3 independent personal representative and his administration of the estate is an independent
4 administration, and all actions taken on or after August 28, 1996, shall be in accordance with the
5 provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to**
6 **469.913**, RSMo.

7 2. An independent personal representative shall proceed expeditiously with the
8 settlement and distribution of the estate in accordance with the applicable provisions of this
9 chapter and, except as otherwise specified by the provisions of sections 473.780 to 473.843, shall
10 do so without adjudication, order, or direction of the court, but he may invoke the jurisdiction
11 of the court, in proceedings authorized by this code, to resolve questions concerning the estate
12 or its administration or distribution.

13 3. Unless he is a member in good standing of the Missouri bar, an independent personal
14 representative, because he owes a fiduciary duty to the persons interested in the estate, shall
15 secure the advice and services of an attorney, who is not a salaried employee of the personal
16 representative, on legal questions arising in connection with:

- 17 (1) The application for and issuance of letters testamentary or of administration;
- 18 (2) The collection, investment and preservation of assets;
- 19 (3) The inventory;
- 20 (4) The allowance, disallowance, compromise and payment of claims;
- 21 (5) The making of tax returns;
- 22 (6) The transfer and encumbrance of property of the estate;
- 23 (7) The interpretation of the will and of the intestacy laws;
- 24 (8) The scheme and making of distribution; and
- 25 (9) The closing of the estate.

475.092. 1. If it is established in a proceeding conducted in [the] a manner [prescribed
2 for] **similar to a proceeding for the** appointment of a conservator of the estate that a person is
3 a minor or disabled, **or is blind or has a physical or mental disability as defined under state**

4 **or federal law**, the court, without appointing a conservator, may authorize, direct or ratify any
5 transaction necessary or desirable to achieve any security, service, or care arrangement meeting
6 the foreseeable needs of the [minor or disabled] person.

7 2. When it has been established in such a proceeding that the person is a minor or
8 disabled, **or is blind or has a physical or mental disability as defined under state or federal**
9 **law**, the court, without appointing a conservator, may authorize, direct or ratify any contract or
10 other transaction relating to the [minor or disabled] person's financial affairs or involving such
11 person's estate if the court determines that the transaction is in the best interests of the [minor or
12 disabled] person and if such action would otherwise be within the power of the court [pursuant
13 to this chapter]. A transaction pursuant to this section may include the establishment by the court
14 or other grantor of an inter vivos trust, **including a trust that complies with the provisions of**
15 **42 U.S.C. Section 1396p(d)(4)**, on behalf of the [minor or disabled] person provided that upon
16 such person's death, after the payment of trustees' fees, [the state of Missouri shall first receive
17 all amounts remaining in the trust up to an amount equal to the total medical assistance paid on
18 such person's behalf pursuant to a state plan as provided in Title 42 of the United States Code]
19 **any payments to the state Medicaid agency that are required by the provisions of 42 U.S.C.**
20 **Section 1396p(d)(4) are made** and, provided further, that any creditor of the [minor or disabled]
21 person other than the state of Missouri shall also be paid all sums due for such person's care,
22 maintenance and support, to the extent trust property is sufficient therefor, and, provided, such
23 trust shall terminate upon such person's death and any amounts remaining in the trust after the
24 foregoing payments shall be distributed to [such decedent's estate] **the remainder beneficiaries**
25 **designated in the trust or as designated pursuant to the exercise of a power of appointment**
26 **set forth in the trust. This section shall not be interpreted to require all such trusts to be**
27 **established by a court proceeding.**

28 3. Before approving a protective arrangement or other transaction pursuant to this
29 section, the court shall consider the interests of creditors and dependents of the [minor or
30 disabled] person and, in view of such person's disability, whether such person needs the
31 continuing protection of a conservator. The court may appoint a special conservator to assist in
32 the accomplishment of any protective arrangement or other transaction authorized pursuant to
33 this section who shall have the authority conferred by the order and serve until discharged by
34 order after report to the court of all matters done pursuant to the order of appointment.

35 4. Notwithstanding any other law to the contrary, the trustee of any trust created or
36 approved by a Missouri court [for a minor or disabled person] prior to August 28, 1999, **for the**
37 **benefit of a person who is a minor or disabled, or is blind or has a physical or mental**
38 **disability as defined under state or federal law** shall not be liable to the state of Missouri or
39 to any creditor of such person if, on August 28, 1999, the trust does not have sufficient assets to

40 reimburse the state of Missouri for medical assistance paid on such person's behalf pursuant to
41 a state plan as provided in Title 42 of the United States Code or to reimburse a creditor for sums
42 due for such person's care, maintenance and support. Any such trust which is in existence as of
43 August 28, 1999, shall be subject to subsection 2 of this section, as amended, notwithstanding
44 any provisions of such trust to the contrary. The trustee shall not be liable for any distributions
45 or payments made prior to August 28, 1999, pursuant to the terms of such trust.

475.130. 1. Conservator of the estate of a minor or disabled person shall, under
2 supervision of the court, protect, preserve and manage the estate, invest it, on or after August 28,
3 1998, in accordance with the provisions of the Missouri prudent investor act, sections [456.900
4 to 456.913] **469.900 to 469.913**, RSMo, apply it as provided in this code, account for it
5 faithfully, perform all other duties required of him by law, and at the termination of the
6 conservatorship deliver the assets of the protectee to the persons entitled thereto. In protecting,
7 preserving and managing the estate, the conservator of the estate is under a duty to use the
8 degree of care, skill and prudence which an ordinarily prudent man uses in managing the
9 property of, and conducting transactions on behalf of, others. If a conservator of the estate has
10 special skills or is appointed on the basis of representations of special skills or expertise, he is
11 under a duty to use those skills in the conduct of the protectee's affairs. A conservator of the
12 estate is under a duty to act in the interest of the protectee and to avoid conflicts of interest which
13 impair his ability so to act.

14 2. The conservator of the estate shall take possession of all of the protectee's real and
15 personal property, and of rents, income, issue and profits therefrom, whether accruing before or
16 after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange
17 thereof. Subject to such possession, the title to all such estate, and to the increment and proceeds
18 thereof, is in the protectee and not in the conservator. Upon a showing that funds available or
19 payable for the benefit of the protectee by any federal agency are being applied for the benefit
20 of the protectee, or that such federal agency has refused to recognize the authority of the
21 conservator to administer such funds, the court may waive, by order, the duty of the conservator
22 to account therefor.

23 3. The court has full authority under the rules of civil procedure to enjoin any person
24 from interfering with the right of the conservator to possession of the assets of the protectee,
25 including benefits payable from any source.

26 4. The conservator of the estate shall prosecute and defend all actions instituted in behalf
27 of or against the protectee; collect all debts due or becoming due to the protectee, and give
28 acquittances and discharges therefor, and adjust, settle and pay all claims due or becoming due
29 from the protectee so far as his estate and effects will extend, except as provided in sections
30 507.150 and 507.188, RSMo.

31 5. A conservator of the estate has power, without authorization or approval of the court,
32 to:

33 (1) Settle or compromise a claim against the protectee or the estate agreeing to pay or
34 paying not more than one thousand dollars;

35 (2) Settle, abandon or compromise a claim in favor of the estate which does not exceed
36 one thousand dollars;

37 (3) Sell, or agree to sell, chattels, choses in action and investment securities reasonably
38 worth not more than one thousand dollars for cash or upon terms involving a reasonable
39 extension of credit;

40 (4) Exchange, or agree to exchange, chattels, choses in action and investment securities
41 for other such property of equivalent value, not in excess of one thousand dollars;

42 (5) Insure or contract for insurance of property of the estate against fire, theft and other
43 hazards;

44 (6) Insure or contract for insurance protecting the protectee against any liability likely
45 to be incurred, including medical and hospital expenses, and protecting the conservator against
46 liability to third parties arising from acts or omissions connected with possession or management
47 of the estate;

48 (7) Contract for needed repairs and maintenance of property of the estate;

49 (8) Lease land and buildings for terms not exceeding one year, reserving reasonable rent,
50 and renew any such lease for a like term;

51 (9) Vote corporate stock in person or by general or limited proxy;

52 (10) Contract for the provision of board, lodging, education, medical care, or necessities
53 of the protectee for periods not exceeding one year, and renew any such contract for a like period.

54 6. If, in exercising any power conferred by subsection 5, of this section, a conservator
55 breaches any of the duties enumerated in subsection 1, he may be surcharged for losses to the
56 estate caused by the breach but persons who dealt with the conservator in good faith, without
57 knowledge of or reason to suspect the breach of duty, may enforce and retain the benefits of any
58 transaction with the conservator which he has power under subsection 5 of this section to
59 conduct.

 475.190. 1. The conservator shall invest the money of the protectee, from whatever
2 source derived, unless it is required for other lawful purposes.

3 2. No investment, other than an investment (a) in the direct obligations of or obligations
4 unconditionally guaranteed as to principal and interest by the United States or (b) in savings
5 accounts and time deposits, including time certificates of deposit, in banking institutions to the
6 extent such accounts or deposits are insured by the Federal Deposit Insurance Corporation or (c)
7 in accounts of savings and loan associations to the extent such accounts are insured by the

8 Federal Savings and Loan Insurance Corporation, shall be made without prior order of the court.

9 3. The conservator may invest in any other property, real or personal, which the court
10 finds is a reasonable and prudent investment in the circumstances. An order of court authorizing
11 investment under this subsection does not relieve a conservator or his sureties of responsibility
12 and liability if the investment made is not in fact in accordance with the Missouri prudent
13 investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo.

14 4. Every conservator shall make a report at every annual settlement of the disposition
15 made by the conservator of the money belonging to the protectee entrusted to him. If it appears
16 that the money is invested in securities, then the conservator shall report a detailed description
17 of the securities and shall describe any real estate security and state where it is situated, and its
18 value, which report shall be filed in the court. The court shall carefully examine into the report
19 as soon as made, and, if in the opinion of the court the security is insufficient, the court shall
20 make such orders as are necessary to protect the interest of the protectee. The conservator and
21 his sureties are liable on their bond for any omission to comply with the orders of the court. If
22 the money has not been invested as authorized by law the conservator shall state that fact and the
23 reasons, and shall state that the conservator has been unable to make an investment after diligent
24 effort to do so.

25 5. If any conservator refuses or neglects to make the report at the time aforesaid, or
26 makes a false report thereof, he and his sureties are liable on their bond for all loss or damage
27 to the protectee occasioned by reason of his neglect or refusal so to report, or by making a false
28 report, and the conservator may, on account thereof, be removed from his trust in the discretion
29 of the court.

476.681. 1. Any retired judge or retired commissioner receiving retirement benefits
2 under any of the applicable provisions of this chapter, who is willing to serve as a senior judge
3 or senior commissioner, respectively, may make application for such service with the clerk of
4 the supreme court on forms provided by the clerk. The application shall contain information
5 relating to the prior legal and judicial experience of the applicant, the applicant's physical and
6 mental health, and the times of the applicant's availability. The clerk may request physical or
7 mental examinations of any applicant and may request that the applicant furnish or authorize the
8 furnishing of any relevant medical or other health records. An application shall be submitted to
9 the supreme court for approval or disapproval and shall be valid for a period of one year from
10 the date of approval.

11 2. Upon written request of the chief judge of any district of the court of appeals or the
12 presiding judge of any circuit, the supreme court may appoint a senior judge or senior
13 commissioner from the file of approved applications maintained by the clerk of the supreme
14 court. Appointments to serve shall be based on caseload and need, as determined by the supreme

15 court in its discretion, taking into consideration reports filed pursuant to section 476.412,
16 recommendations made by the judicial resources commission created herein and such other
17 matters that the court deems relevant. The appointment may be made for a specific case or cases
18 or for a specified period of time not to exceed one year. The appointment may be extended for
19 additional periods of time not to exceed one year each if the appointed senior judge or senior
20 commissioner maintains an annual updated and approved application for appointment. Persons
21 serving as a senior judge or senior commissioner pursuant to the provisions of this section shall
22 receive compensation as provided in section 476.682.

23 **3. No judge, who has been rejected pursuant to section 25(c)(1) of article V of the**
24 **constitution, shall be appointed pursuant to this section.**

477.005. 1. The supreme court and each district of the court of appeals is hereby
2 authorized to appoint a clerk, a marshal, a librarian, administrative personnel, reporter, deputies,
3 stenographers, research assistants, janitors, and such other employees as the court deems
4 necessary, and, **except as provided in subsection 2 of this section**, shall fix the compensation
5 of persons thus employed within the limits of the amount appropriated by the general assembly
6 for such purpose.

7 **2. Marshals appointed under the provisions of subsection 1 of this section shall be**
8 **compensated at the same amount as the highest salary set for any marshal appointed under**
9 **section 476.083, RSMo.**

477.651. Notwithstanding any other provision of law, the provisions of section
2 **477.650 shall not expire on December 31, 2007.**

478.428. 1. The presiding judge of each circuit court in a city not within a county, or the
2 presiding judge's designee, shall, not later than the first day of February each year, meet with the
3 mayor of such city, or the mayor's designee, and with the budget director of such city, or the
4 budget director's designee, and confer and discuss with the mayor and budget director, or their
5 respective designees, the circuit court's estimates of its requirements for expenditures and its
6 estimates of its revenues for the next budget year.

7 2. The circuit clerk of each circuit court in a city not within a county, or the circuit clerk's
8 designee, shall, not later than the first day of February each year, meet with the mayor of such
9 city, or the mayor's designee, and with the budget director of such city, or the budget director's
10 designee, and confer and discuss with the mayor and budget director, or their respective
11 designees, the circuit clerk's estimates of the circuit clerk's requirements for expenditures and its
12 estimates of its revenues for the next budget year. **The estimates of the circuit clerk shall bear**
13 **the approval of the circuit court.**

14 3. Not later than the first day of March of each year, and after the presiding judge and
15 circuit clerk have met, conferred and discussed the estimates with the mayor and budget director,

16 as provided in subsections 1 and 2 of this section, the estimates of the circuit court and the circuit
17 clerk shall be transmitted to the city not within a county in the same manner as otherwise
18 provided by law.

19 4. In all respects other than as provided in subsections 1 to 3 of this section, the budgets
20 of the circuit court and the circuit clerk in a city not within a county shall follow the same course
21 and be subject to the same rights, obligations and processes as otherwise provided by law.

479.020. 1. Any city, town or village, including those operating under a constitutional
2 or special charter, may, and cities with a population of four hundred thousand or more shall,
3 provide by ordinance or charter for the selection, tenure and compensation of a municipal judge
4 or judges consistent with the provisions of this chapter who shall have original jurisdiction to
5 hear and determine all violations against the ordinances of the municipality. The method of
6 selection of municipal judges shall be provided by charter or ordinance. Each municipal judge
7 shall be selected for a term of not less than two years as provided by charter or ordinance.

8 2. Except where prohibited by charter or ordinance, the municipal judge may be a
9 part-time judge and may serve as municipal judge in more than one municipality.

10 3. No person shall serve as a municipal judge of any municipality with a population of
11 seven thousand five hundred or more or of any municipality in a county of the first class with a
12 charter form of government unless the person is licensed to practice law in this state unless, prior
13 to January 2, 1979, such person has served as municipal judge of that same municipality for at
14 least two years.

15 4. Notwithstanding any other statute, a municipal judge need not be a resident of the
16 municipality or of the circuit in which the municipal judge serves except where ordinance or
17 charter provides otherwise. Municipal judges shall be residents of Missouri.

18 5. Judges selected under the provisions of this section shall be municipal judges of the
19 circuit court and shall be divisions of the circuit court of the circuit in which the municipality,
20 or major geographical portion thereof, is located. The judges of these municipal divisions shall
21 be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme
22 court. The presiding judge of the circuit shall have general administrative authority over the
23 judges and court personnel of the municipal divisions within the circuit.

24 6. No municipal judge shall hold any other office in the municipality which the
25 municipal judge serves as judge. The compensation of any municipal judge and other court
26 personnel shall not be dependent in any way upon the number of cases tried, the number of guilty
27 verdicts reached or the amount of fines imposed or collected.

28 7. Municipal judges shall be at least twenty-one years of age. No person shall serve as
29 municipal judge after that person has reached that person's seventy-fifth birthday, **except**
30 **municipal judges in any home rule city with more than four hundred thousand inhabitants**

31 **and located in more than one county in which case no person shall serve as municipal judge**
32 **after that person has reached that person's sixty-fifth birthday.**

33 8. Within six months after selection for the position, each municipal judge who is not
34 licensed to practice law in this state shall satisfactorily complete the course of instruction for
35 municipal judges prescribed by the supreme court. The state courts administrator shall certify
36 to the supreme court the names of those judges who satisfactorily complete the prescribed
37 course. If a municipal judge fails to complete satisfactorily the prescribed course within six
38 months after the municipal judge's selection as municipal judge, the municipal judge's office
39 shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal
40 judge, nor shall any compensation thereafter be paid to such person for serving as municipal
41 judge.

479.260. 1. Municipalities by ordinance may provide for fees in an amount per case to
2 be set pursuant to sections 488.010 to 488.020, RSMo, for each municipal ordinance violation
3 case filed before a municipal judge, and in the event a defendant pleads guilty or is found guilty,
4 the judge may assess costs against the defendant except in those cases where the defendant is
5 found by the judge to be indigent and unable to pay the costs. **In the event the case is dismissed**
6 **before the defendant pleads guilty or is found guilty, the municipal judge may assess**
7 **municipal court costs as determined by section 488.012, RSMo, against the defendant if the**
8 **defendant consents to paying the costs except in those cases where the defendant is found**
9 **by the judge to be indigent and unable to pay the costs.** The fees authorized in this
10 subsection are in addition to service charges, witness fees and jail costs that may otherwise be
11 authorized to be assessed, but are in lieu of other court costs. The fees provided by this
12 subsection shall be collected by the municipal division clerk in municipalities electing or
13 required to have violations of municipal ordinances tried before a municipal judge pursuant to
14 section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as
15 provided in subsection 1 of section 479.080. Any other court costs required in connection with
16 such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo;
17 provided that, each municipal court may establish a judicial education fund in an account under
18 the control of the municipal court to retain one dollar of the fees collected on each case and to
19 use the fund only to pay for:

20 (1) The continuing education and certification required of the municipal judges by law
21 or supreme court rule; and

22 (2) Judicial education and training for the court administrator and clerks of the municipal
23 court.

24

25 Provided further, that no municipal court shall retain more than one thousand five hundred
26 dollars in the fund for each judge, administrator or clerk of the municipal court. Any excess
27 funds shall be transmitted quarterly to the general revenue fund of the county or municipal
28 treasury.

29 2. In municipal ordinance violation cases which are filed in the associate circuit division
30 of the circuit court, fees shall be assessed in each case in an amount to be set pursuant to sections
31 488.010 to 488.020, RSMo. In the event a defendant pleads guilty or is found guilty, the judge
32 shall assess costs against the defendant except in those cases where the defendant is found by the
33 judge to be indigent and unable to pay the costs. In the event a defendant is acquitted or the case
34 is dismissed, the judge shall not assess costs against the municipality. The costs authorized in
35 this subsection are in addition to service charges, witness fees and jail costs that may otherwise
36 be authorized to be assessed, but are in lieu of other court costs. The costs provided by this
37 subsection shall be collected by the municipal division clerk in municipalities electing or
38 required to have violations of municipal ordinances tried before a municipal judge pursuant to
39 section 479.020, or to employ judicial personnel pursuant to section 479.060, and disbursed as
40 provided in subsection 2 of section 479.080. Any other court costs required in connection with
41 such cases shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo.

42 3. A municipality, when filing cases before an associate circuit judge, shall not be
43 required to pay fees.

44 4. No fees for a judge, city attorney or prosecutor shall be assessed as costs in a
45 municipal ordinance violation case.

46 5. In municipal ordinance violation cases, when there is an application for a trial de
47 novo, there shall be an additional fee in an amount to be set pursuant to sections 488.010 to
48 488.020, RSMo, which shall be assessed in the same manner as provided in subsection 2 of this
49 section.

50 6. Municipalities by ordinance may provide for a schedule of costs to be paid in
51 connection with pleas of guilty which are processed in a traffic violations bureau. If a
52 municipality files its municipal ordinance violation cases before a municipal judge, such costs
53 shall not exceed the court costs authorized by subsection 1 of this section. If a municipality files
54 its municipal ordinance violations cases in the associate circuit division of the circuit court, such
55 costs shall not exceed the court costs authorized by subsection 2 of this section.

**479.265. 1. In addition to other fees authorized by law, the municipal division clerk
2 of each municipal court shall collect one dollar and fifty cents in fees on the filing of any
3 municipal ordinance violation case.**

**4 2. Court filing surcharges pursuant to this section shall be collected in the same
5 manner as other fees, fines, or costs in the case. The amounts so collected shall be paid by**

6 **the municipal division clerk to the office of the state courts administrator and credited to**
7 **the special fund designated as the basic civil legal services fund. However, the additional**
8 **fees prescribed by this section shall not be collected when a municipal ordinance violation**
9 **or defendant has been dismissed by the court or when costs are waived or are to be paid**
10 **by the state or municipality.**

483.245. 1. The provisions of this section shall become effective on July 1, 1981.

2 2. The circuit clerk, or person exercising the authority of the circuit clerk pursuant to
3 county charter, shall appoint all deputy circuit clerks, including deputy circuit clerks serving in
4 courtrooms, and shall prescribe and assign the duties of such deputy circuit clerks. The circuit
5 clerk may remove from office any deputy circuit clerk whom he appoints. All division clerks,
6 as defined in section 483.241, shall be appointed by the judge of the division such clerks serve,
7 and such judge may remove from office any division clerk whom he appoints.

8 3. Notwithstanding the provisions of subsection 2 of this section, if, on June 30, 1981,
9 in any county or in the city of St. Louis, there exists by reason of local charter, a plan of merit
10 selection and retention or other similar personnel plan, providing for selection, tenure or
11 retention of deputy circuit clerks or division clerks, after July 1, 1981, as to clerical personnel
12 who were, on June 30, 1981, under such a plan, the provisions for merit retention and tenure
13 shall continue to apply as to such persons insofar as is reasonably possible even though they are
14 paid by the state and become state employees, and the circuit court en banc shall be considered
15 as the commission or board for determining the propriety of any disciplinary or dismissal action.

16 4. In addition to the authority to remove deputy circuit clerks and division clerks
17 hereinabove provided, the circuit court en banc may remove from office a deputy circuit clerk
18 or division clerk for cause.

19 5. The maximum number of deputy circuit clerks for each county and the maximum
20 number of division clerks for a particular division shall be determined by order of the circuit
21 court en banc. Such order may be modified for cause by order of the supreme court, or if no
22 order is entered providing for the number of deputy circuit clerks and division clerks, the
23 supreme court may enter such order.

24 6. The salaries of deputy circuit clerks and division clerks shall be established by the
25 circuit clerk in the case of deputy circuit clerks, or the judge appointing the division clerk in the
26 case of division clerks, within salary ranges and classifications which may from time to time be
27 established by administrative rule of the supreme court within the limit of funds appropriated for
28 this purpose. The salaries of deputy circuit clerks and division clerks shall be paid by the state,
29 and they shall be state employees. **Each county shall have a minimum of one full-time deputy**
30 **circuit clerk.**

31 7. Notwithstanding the other provisions of this section providing for the establishment
32 of the number of deputy circuit clerks and division clerks serving the various circuit courts and
33 the determination of their salaries, such determinations shall not be construed as mandating
34 appropriations to fund such positions, and the payment of the salaries and emoluments of deputy
35 circuit clerks and division clerks shall be subject to the availability of moneys appropriated for
36 those purposes by the general assembly or federal grant moneys.

37 8. For purposes of this section, the circuit court en banc shall be deemed to include all
38 circuit and associate circuit judges of the entire circuit, and determinations or orders of the circuit
39 court en banc shall be by action of a majority of such judges in office.

 484.020. 1. No person shall engage in the practice of law or do law business, as defined
2 in section 484.010, or both, unless [he] **such person** shall have been duly licensed therefor and
3 while his **or her** license therefor is in full force and effect, nor shall any association, partnership,
4 limited liability company or corporation, except a professional corporation organized pursuant
5 to the provisions of chapter 356, RSMo, a limited liability company organized and registered
6 pursuant to the provisions of chapter 347, RSMo, or a limited liability partnership organized or
7 registered pursuant to the provisions of chapter 358, RSMo, engage in the practice of the law or
8 do law business as defined in section 484.010, or both.

9 2. Any person, association, partnership, limited liability company or corporation who
10 shall violate the foregoing prohibition of this section shall be guilty of a **class A** misdemeanor
11 and upon conviction therefor [shall be punished by a fine not exceeding one hundred dollars and
12 costs of prosecution and] shall be subject to be sued for treble the amount which shall have been
13 paid [him] **such person** or it for any service rendered in violation hereof by the person, firm,
14 association, partnership, limited liability company or corporation paying the same within two
15 years from the date the same shall have been paid and if within said time such person, firm,
16 association, partnership, limited liability company or corporation shall neglect and fail to sue for
17 or recover such treble amount, then the state of Missouri shall have the right to and shall sue for
18 such treble amount and recover the same and upon the recovery thereof such treble amount shall
19 be paid into the treasury of the state of Missouri.

20 3. It is hereby made the duty of the attorney general of the state of Missouri or the
21 prosecuting attorney of any county or city in which service of process may be had upon the
22 person, firm, association, partnership, limited liability company or corporation liable hereunder,
23 to institute all suits necessary for the recovery by the state of Missouri of such amounts in the
24 name and on behalf of the state.

 486.215. Each notary public, **unless such notary public is an attorney**, may perform
2 notarial acts for a term of four years from the date of his **or her** commission, unless sooner

3 removed. **Any attorney serving as a notary public shall only be removed as a notary public**
4 **if the commission is revoked.**

486.225. 1. Upon a form prepared by the secretary of state, each applicant for
2 appointment and commission as a notary public shall swear, under penalty of perjury, that the
3 answers to all questions on the application are true and complete to the best of the applicant's
4 knowledge and that the applicant is qualified to be appointed and commissioned as a notary
5 public. The completed application form shall be filed with the secretary of state.

6 2. With the person's application, each applicant for appointment and commission as a
7 notary public shall submit to the secretary of state a commission fee of fifteen dollars. **An**
8 **attorney applying to serve as a notary public shall submit, with his or her application, a**
9 **one-time notary fee of seventy-five dollars plus the ten-dollar fee for the secretary of state's**
10 **technology trust fund account.**

11 3. Each applicant for appointment and commission as a notary public shall state in the
12 application whether or not the applicant has ever been convicted of or pled guilty or nolo
13 contendere to any felony, or to any misdemeanor incompatible with the duties of a notary public
14 and if so, shall attach a list of such convictions or pleas of guilt or nolo contendere.

15 4. Each applicant for a renewal appointment and commission as a notary public may
16 apply for such renewal appointment in a manner prescribed by the secretary of state.

17 5. The secretary of state may prohibit, for a period not less than thirty days and not more
18 than one year, a new applicant or renewal from reapplying for an appointment and commission
19 as a notary public following the rejection of such applicant's application by the secretary of state.

20 6. Prior to submitting an application to the secretary of state, each new applicant or
21 renewal for appointment and commission as a notary public, **unless such applicant is an**
22 **attorney**, shall read the Missouri notary public handbook and complete a computer-based notary
23 training or other notary training in a manner prescribed by the secretary of state. Each new
24 applicant or renewal applicant shall attest to reading such handbook and receiving such training
25 pursuant to this subsection at the time of submitting the application for appointment and
26 commission as a notary public.

486.230. Upon receipt of a completed application[, proper endorsements] and the correct
2 fee, the secretary of state, if satisfied the applicant is qualified to be appointed and commissioned
3 as a notary public, shall prepare a notary commission for the applicant and forward the
4 commission to the county clerk in the county of the applicant's residence. Each commission shall
5 contain the applicant's name, the county within and for which he **or she** is to be commissioned,
6 the date upon which the commission takes effect and the date upon which it expires. **If such**
7 **applicant is a licensed attorney in this state, the commission shall only contain the**

8 **applicant's name, the county within and for which he or she is to be commissioned, the**
9 **commission number, and the date the commission takes effect.**

486.235. 1. During his or her term of office each notary public, **except attorneys**, shall
2 maintain a surety bond in the sum of ten thousand dollars with, as surety thereon, a company
3 qualified to write surety bonds in this state. The bond shall be conditioned upon the faithful
4 performance of all notarial acts in accordance with this chapter. Each notary public shall notify
5 the secretary of state of changes on or riders to the bond.

6 2. Before receiving his or her commission, each applicant shall submit to the county
7 clerk of the county within and for which he or she is to be commissioned, an executed bond
8 commencing at least ninety days after the date he or she submitted the application to the secretary
9 of state with a term of four years, which shall consist of the dates specified on the applicant's
10 commission.

11 3. Before receiving his or her commission, each applicant shall take the following oath
12 in the presence of the county clerk:

13 I, (name of applicant), solemnly swear, under the penalty of perjury, that I have carefully
14 read the notary law of this state, and if appointed and commissioned as a notary public, I will
15 uphold the Constitution of the United States and of this state and will faithfully perform to the
16 best of my ability all notarial acts in conformance with the law.

17(signature of applicant)

18 Subscribed and sworn to before me this day of, 20... .

19(signature of county clerk)

20 4. Before receiving his or her commission, each applicant shall submit to the county
21 clerk a handwritten specimen of the applicant's official signature which contains his or her
22 surname and at least the initial of the applicant's first name.

23 5. Immediately after receiving the bond and official signature and witnessing the oath,
24 the county clerk shall award to the applicant his or her commission as a notary public.

486.280. On every notary certificate, a notary public shall indicate clearly and legibly,
2 in print not smaller than eight-point type and by means of rubber stamp, typewriting or printing,
3 so that it is capable of photographic reproduction:

4 (1) His or her name exactly as it appears on the commission;

5 (2) The words "Notary Public", "State of Missouri", and "My commission expires
6 (commission expiration date)". **If such notary public is a licensed attorney in this state, the**
7 **notary public is not required to state when his or her commission expires;**

8 (3) The name of the county within which he or she is commissioned; and

9 (4) A commission number, provided that the notary public has been issued a commission
10 number by the secretary of state. Effective August 28, 2004, the secretary of state shall issue a
11 commission number for all new and renewal notary appointments.

486.385. 1. The secretary of state may reject an application or revoke the commission
2 of any notary public who prior to being commissioned or during the current term of appointment:

3 (1) Submits an application for commission and appointment as a notary public which
4 contains substantial and material misstatement of facts;

5 (2) Is convicted of any felony or official misconduct under this chapter;

6 (3) Fails to exercise the powers or perform the duties of a notary public in accordance
7 with this chapter, or fails otherwise to comply with the provisions of this chapter;

8 (4) Is adjudged liable or agrees in a settlement to pay damages in any suit grounded in
9 fraud, misrepresentation, impersonation, or violation of the state regulatory laws of this state, if
10 his or her liability is not solely by virtue of his or her agency or employment relationship with
11 another who engaged in the act for which the suit was brought;

12 (5) Uses false or misleading advertising wherein he or she represents or implies, by
13 virtue of the title of notary public, that he or she has qualifications, powers, duties, rights, or
14 privileges that he or she does not possess by law;

15 (6) Engages in the unauthorized practice of law;

16 (7) Ceases to be a citizen of the United States;

17 (8) Ceases to be a registered voter of the county within and for which he or she is
18 commissioned;

19 (9) Ceases to have a residence address in the county within and for which he or she is
20 commissioned, unless he or she has been issued an amended commission;

21 (10) Becomes incapable of reading or writing the English language;

22 (11) Fails to maintain the surety bond required by section 486.235.

23 2. A notary's commission may be revoked under the provisions of this section if action
24 is taken subject to the rights of the notary public to notice, hearing, adjudication and appeal. The
25 secretary of state shall have further power and authority as is reasonably necessary to enable the
26 secretary of state to administer this chapter efficiently and to perform the duties therein imposed
27 upon the secretary of state, including immediate suspension of a notary upon written notice sent
28 by certified mail if the situation is deemed to have a serious unlawful effect on the general
29 public; provided, that the notary public shall be entitled to hearing and adjudication as soon
30 thereafter as is practicable.

31 **3. A notary public, who is an attorney, shall be revoked of his or her commission**
32 **if such notary public has an invalid license to practice law in this state, the attorney's law**
33 **license, whether voluntary or involuntary, was suspended, revoked, or terminated, or the**

34 attorney is no longer licensed to practice law in this state. Such person may still become
35 a notary if he or she meets all qualifications for becoming a notary public.

36 4. The secretary of state may establish a notification process with the supreme court
37 of this state for notification of actions taken by the court on existing licenses of attorneys.
38 The secretary of state shall promulgate rules to implement the provisions of this subsection.
39 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is
40 created under the authority delegated in this section shall become effective only if it
41 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
42 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
43 and if any of the powers vested with the general assembly under chapter 536, RSMo, to
44 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
45 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
46 after August 28, 2006, shall be invalid and void.

488.014. No court of record in this state, municipal division of the circuit court, or any
2 entity collecting court costs on their behalf shall be required to refund any overpayment of court
3 costs in an amount not exceeding five dollars or to collect any due court costs in an amount of
4 less than five dollars. Any such overpaid funds may be retained by the county for the operation
5 of the circuit court or by city for the operation of the municipal division of the circuit court.

488.2221. 1. In addition to all other court costs for municipal ordinance violations,
2 any home rule city with more than four hundred thousand inhabitants and located in more
3 than one county may provide for the assessment of an additional surcharge of up to two
4 dollars in any case involving a municipal ordinance violation in which the defendant pleads
5 guilty or is found guilty. Such surcharge shall be imposed if authorized by the municipal
6 government where the violation occurred.

7 2. Such surcharge shall be collected by the clerk and disbursed to the municipality.
8 An account shall be established, and the municipality shall use the fund only to pay for:

9 (1) Professional development of animal control staff, including the areas of humane
10 education, zoonosis, and rabies control;

11 (2) Tactical equipment for animal control staff and capital improvements for
12 animal control facilities;

13 (3) Improving emergency response capability and establishing surge capacity for
14 threats to public safety or health;

15 (4) Providing medical supplies to improve the health and welfare of shelter animals.

488.2253. 1. In every contested case, or case in which the evidence is to be preserved,
2 except for the collection of delinquent or back taxes, before any circuit judge when an official
3 court reporter is appointed, the clerk of said court shall tax up the sum of [fifteen] twenty-five

4 dollars, to be collected as other costs, and paid by said clerk to the director of revenue of the
5 state.

6 **2. Beginning January 1, 2007, a court reporter shall receive each year, in addition**
7 **to the amounts described in subsection 1 of this section for transcripts, a cost-of-living**
8 **adjustment. The cost-of-living adjustment shall be increased or decreased on an annual**
9 **basis effective January first of each year in accordance with the Implicit Price Deflator for**
10 **Personal Consumption Expenditures as published by the Bureau of Economic Analysis of**
11 **the United States Department of Commerce. The current value of the limitation shall be**
12 **calculated by the director of the department of insurance, who shall furnish that value to**
13 **the secretary of state, who shall publish such value in the Missouri Register as soon after**
14 **each January first as practicable, but shall be otherwise exempt from the provisions of**
15 **section 536.021, RSMo.**

491.170. 1. When a writ of attachment, authorized by section 491.160, shall be
2 executed, the sheriff or other officer shall discharge such witness, on his entering into a
3 recognizance to the state of Missouri, with sufficient security, in the sum of one hundred dollars,
4 which the officer executing the writ is authorized to take, conditioned for the appearance and due
5 attendance of such witness according to the exigency of such writ.

6 **2. When a writ of attachment, authorized by section 491.160, shall be executed in**
7 **a criminal case, the court shall discharge such witness, on his or her entering into a**
8 **recognizance to the state of Missouri, with sufficient security, in the sum of an amount to**
9 **be set by the court and deemed appropriate and necessary by the court to secure the**
10 **witness's attendance, which the officer executing the writ is authorized to take, conditioned**
11 **for the appearance and due attendance of such witness according to the exigency of such**
12 **writ. The sheriff or other officer shall bring the witness who was attached before the court**
13 **within twenty-four hours of the attachment in order that the court may set the amount of**
14 **the recognizance. If a witness is unable to post the recognizance or believes the amount of**
15 **the recognizance as set by the court is too high, the witness may request that the court hold**
16 **a hearing on the appropriateness of the amount of the recognizance and the court shall**
17 **hold such hearing within three days of the date of such request, excluding holidays and**
18 **weekends.**

510.120. 1. During the period beginning January first and ending June first of each year,
2 or whenever the general assembly is in session, there shall be an automatic stay of all
3 administrative and court proceedings in which any member of the general assembly has filed a
4 written notice with the court or administrative hearing officer and with all parties to the
5 proceeding that the member is:

6 (1) A necessary witness;

7 (2) A party to the action; or

8 (3) The initial attorney for any party or has filed an entry of appearance as an attorney
9 for any party more than [forty-five] **thirty** days prior to the filing of the written notice under this
10 subsection **or has filed an entry of appearance as the lead attorney.**

11 2. The stay created by this section shall apply to all trials, motions, hearings, discovery
12 responses, depositions, responses to motions, docket calls, and any other proceedings before any
13 trial court or administrative tribunal, including municipal courts. The stay shall also apply to any
14 order requiring the member to serve as a juror whenever the general assembly is in session.

15 3. The stay created by this section shall not apply:

16 (1) If the member waives the protections of this stay in the form of a written
17 memorandum filed with the trial court or administrative tribunal;

18 (2) To any proceedings under chapter 288, RSMo;

19 (3) To any proceedings involving a request for injunctive relief; or

20 (4) To any proceeding in which the member is charged with a felony or a class A
21 misdemeanor.

22 4. The court of appeals shall have original jurisdiction over any application for
23 termination or modification of the stay.

24 5. In all civil cases or administrative proceedings or in criminal cases pending in this
25 state at any time when the general assembly is in veto session, special session, or holding
26 out-of-session committee hearings, it shall be a sufficient cause for such continuance if it shall
27 appear to the court, by written notice, that any party applying for such continuance, or any
28 attorney, solicitor or counsel of such party is a member of either house of the general assembly,
29 and in actual attendance on the out-of-session committee hearings, special session, or veto
30 session of the same, and that the attendance of such party, attorney, solicitor or counsel is
31 necessary to a fair and proper trial or other proceeding in such suit; and on the filing of such
32 notice the court shall continue such suit and any and all motions or other proceedings therein,
33 of every kind and nature, including the taking of depositions and discovery responses, and
34 thereupon no trial or other proceedings of any kind or nature shall be had therein until the
35 adjournment or recess for three days or more of the special session or veto session of the general
36 assembly, nor for one day before or after or the day of any out-of-session committee hearings.
37 Such notice shall be sufficient, if made within two days of the out-of-session committee
38 hearings, special session, or veto session of the general assembly, showing that at the time of
39 making the same such party, attorney, solicitor or counsel is scheduled to be in actual attendance
40 upon such out-of-session committee hearings, special session, or veto session of the general
41 assembly.

516.140. Within two years: An action for libel, slander, **injurious falsehood**, assault, battery, false imprisonment, criminal conversation, malicious prosecution or actions brought under section 290.140, RSMo. An action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation, and for the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto, such act being an act of Congress, shall be brought within two years after the cause accrued.

535.040. **1.** Upon the return of the summons executed, the judge shall set the case on the first available court date and shall proceed to hear the cause, and if it shall appear that the rent which is due has been demanded of the tenant, lessee or persons occupying the property, and that payment has not been made, and if the payment of such rent, with all costs, shall not be tendered before the judge, on the hearing of the cause, the judge shall render judgment that the landlord recover the possession of the premises so rented or leased, and also the debt for the amount of the rent then due, with all court costs and shall issue an execution upon such judgment, commanding the officer to put the landlord into immediate possession of the property leased or rented, and to make the debt and costs of the goods and chattels of the defendant. No money judgment shall be granted to the plaintiff if the defendant is in default and service was by the posting procedure provided in section 535.030 unless the defendant otherwise enters an appearance. The officer shall deliver possession of the property to the landlord within five days from the time of receiving the execution, and the officer shall proceed upon the execution to collect the debt and costs, and return the writ, as in the case of other executions. If the plaintiff so elects, the plaintiff may sue for possession alone, without asking for recovery of the rent due.

2. Neither the landlord, nor his or her successors, assigns, agents, nor representatives shall be liable to anyone, for any damage to personal property, resulting from enforcement of a judgment granting the landlord, successors, assigns, agents, or representatives, possession of premises. In addition, the landlord, successors, assigns, agents, or representatives shall have the absolute right to dispose of any personal property, in any manner deemed reasonable by the landlord, successors, assigns, agents, or representatives, in landlord's, successor's, assign's, agent's, or representative's sole discretion, under a court-ordered execution for possession of the premises.

536.010. For the purpose of this chapter:

(1) "Affected small business" or "affects small business" means any potential or actual requirement imposed upon a small business or minority small business through a state agency's proposed or adopted rule that will cause direct and significant economic burden upon a small business or minority small business, or that is directly related to the formation, operation, or expansion of a small business;

7 (2) "Agency" means any administrative officer or body existing under the constitution
8 or by law and authorized by law or the constitution to make rules or to adjudicate contested
9 cases, except those in the legislative or judicial branches;

10 (3) "Board" means the small business regulatory fairness board, **except when the word**
11 **is used in section 536.100;**

12 (4) "Contested case" means a proceeding before an agency in which legal rights, duties
13 or privileges of specific parties are required by law to be determined after hearing;

14 (5) The term "decision" includes decisions and orders whether negative or affirmative
15 in form;

16 (6) "Rule" means each agency statement of general applicability that implements,
17 interprets, or prescribes law or policy, or that describes the organization, procedure, or practice
18 requirements of any agency. The term includes the amendment or repeal of an existing rule, but
19 does not include:

20 (a) A statement concerning only the internal management of an agency and which does
21 not substantially affect the legal rights of, or procedures available to, the public or any segment
22 thereof;

23 (b) A declaratory ruling issued pursuant to section 536.050, or an interpretation issued
24 by an agency with respect to a specific set of facts and intended to apply only to that specific set
25 of facts;

26 (c) An intergovernmental, interagency, or intraagency memorandum, directive, manual
27 or other communication which does not substantially affect the legal rights of, or procedures
28 available to, the public or any segment thereof;

29 (d) A determination, decision, or order in a contested case;

30 (e) An opinion of the attorney general;

31 (f) Those portions of staff manuals, instructions or other statements issued by an agency
32 which set forth criteria or guidelines to be used by its staff in auditing, in making inspections,
33 in settling commercial disputes or negotiating commercial arrangements, or in the selection or
34 handling of cases, such as operational tactics or allowable tolerances or criteria for the defense,
35 prosecution, or settlement of cases, when the disclosure of such statements would enable law
36 violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly
37 improper advantage to persons who are in an adverse position to the state;

38 (g) A specification of the prices to be charged for goods or services sold by an agency
39 as distinguished from a license fee, or other fees;

40 (h) A statement concerning only the physical servicing, maintenance or care of publicly
41 owned or operated facilities or property;

- 42 (i) A statement relating to the use of a particular publicly owned or operated facility or
43 property, the substance of which is indicated to the public by means of signs or signals;
- 44 (j) A decision by an agency not to exercise a discretionary power;
- 45 (k) A statement concerning only inmates of an institution under the control of the
46 department of corrections and human resources or the division of youth services, students
47 enrolled in an educational institution, or clients of a health care facility, when issued by such an
48 agency;
- 49 (l) Statements or requirements establishing the conditions under which persons may
50 participate in exhibitions, fairs or similar activities, managed by the state or an agency of the
51 state;
- 52 (m) Income tax or sales forms, returns and instruction booklets prepared by the state
53 department of revenue for distribution to taxpayers for use in preparing tax returns;
- 54 (7) "Small business" means a for-profit enterprise consisting of fewer than one hundred
55 full- or part-time employees;
- 56 (8) "State agency" means each board, commission, department, officer or other
57 administrative office or unit of the state other than the general assembly, the courts, the governor,
58 or a political subdivision of the state, existing under the constitution or statute, and authorized
59 by the constitution or statute to make rules or to adjudicate contested cases.

536.100. Any person who has exhausted all administrative remedies provided by law and
2 who is aggrieved by a final decision in a contested case, whether such decision is affirmative or
3 negative in form, shall be entitled to judicial review thereof, as provided in sections 536.100 to
4 536.140, unless some other provision for judicial review is provided by statute; provided,
5 however, that nothing in this chapter contained shall prevent any person from attacking any void
6 order of an agency at any time or in any manner that would be proper in the absence of this
7 section. If the agency[, other than the administrative hearing commission] or any board, **other**
8 **than the administrative hearing commission**, established to provide independent review of the
9 decisions of a department or division that is authorized to promulgate rules and regulations under
10 this chapter, fails to issue a final decision in a contested case within the earlier of:

- 11 (1) Sixty days after the conclusion of a hearing on the contested case; or
- 12 (2) One hundred eighty days after the receipt by the agency of a written request for the
13 issuance of a final decision, then the person shall be considered to have exhausted all
14 administrative remedies and shall be considered to have received a final decision in favor of the
15 agency and shall be entitled to immediate judicial review as provided in sections 536.100 to
16 536.140 or other provision for judicial review provided by statute. **In cases, whether contested**
17 **or not, where the law provides for an independent review of an agency's decision by a**
18 **board other than the administrative hearing commission and further provides for a de**

19 **de novo review of the board's decision by the circuit court, a party aggrieved by the agency's**
20 **decision may, within thirty days after it receives notice of that decision, waive independent**
21 **review by the board and instead file a petition in the circuit court for the de novo review**
22 **of the agency's decision. The party filing the petition under this section shall be considered**
23 **to have exhausted all administrative remedies.**

559.607. 1. Judges of the municipal division in any circuit, acting through a chief or
2 presiding judge, [either] may contract with a private [or public] entity [or may employ any
3 qualified person to serve as the city's probation officer] to provide probation and rehabilitation
4 services for persons placed on probation for violation of any ordinance of the city, specifically
5 including the offense of operating or being in physical control of a motor vehicle while under the
6 influence of intoxicating liquor or narcotic drugs. The contracting city shall not be required to
7 pay for any part of the cost of probation and rehabilitation services authorized under sections
8 559.600 to 559.615. Persons found guilty or pleading guilty to ordinance violations and placed
9 on probation by municipal or city court judges shall contribute [a service fee to the court in the
10 amount set forth in section 559.604] to [pay] the cost of their probation supervision [provided
11 by a probation officer employed by the court or by a contract probation officer] as provided for
12 in section 559.604.

13 2. When approved by municipal court judges in [the municipal division] **a circuit**, the
14 application, judicial order of approval, and the contract shall be forwarded to and filed with the
15 board of probation and parole. The court-approved private [or public] entity [or probation officer
16 employed by the court] shall then function as the probation office for the city, pursuant to the
17 terms of the contract [or conditions of employment] and the terms of probation ordered by the
18 judge. Any city in this state which presently does not have probation services available for
19 persons convicted of its ordinance violations, [or that contracts out those services with a private
20 entity,] may, under the procedures authorized in sections 559.600 to 559.615, contract with and
21 continue to contract with a private entity [or employ any qualified person and contract with the
22 municipal division] to provide such probation supervision and rehabilitation services.

610.021. Except to the extent disclosure is otherwise required by law, a public
2 governmental body is authorized to close meetings, records and votes, to the extent they relate
3 to the following:

4 (1) Legal actions, causes of action or litigation involving a public governmental body
5 and any confidential or privileged communications between a public governmental body or its
6 representatives and its attorneys. However, any minutes, vote or settlement agreement relating
7 to legal actions, causes of action or litigation involving a public governmental body or any agent
8 or entity representing its interests or acting on its behalf or with its authority, including any
9 insurance company acting on behalf of a public government body as its insured, shall be made

10 public upon final disposition of the matter voted upon or upon the signing by the parties of the
11 settlement agreement, unless, prior to final disposition, the settlement agreement is ordered
12 closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the
13 action clearly outweighs the public policy considerations of section 610.011, however, the
14 amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed;
15 provided, however, in matters involving the exercise of the power of eminent domain, the vote
16 shall be announced or become public immediately following the action on the motion to
17 authorize institution of such a legal action. Legal work product shall be considered a closed
18 record;

19 (2) Leasing, purchase or sale of real estate by a public governmental body where public
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,
21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale
22 of real estate by a public governmental body shall be made public upon execution of the lease,
23 purchase or sale of the real estate;

24 (3) Hiring, firing, disciplining or promoting of particular employees by a public
25 governmental body when personal information about the employee is discussed or recorded.
26 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,
27 promote or discipline an employee of a public governmental body shall be made available with
28 a record of how each member voted to the public within seventy-two hours of the close of the
29 meeting where such action occurs; provided, however, that any employee so affected shall be
30 entitled to prompt notice of such decision during the seventy-two-hour period before such
31 decision is made available to the public. As used in this subdivision, the term "personal
32 information" means information relating to the performance or merit of individual employees;

33 (4) The state militia or national guard or any part thereof;

34 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
35 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
36 treatment;

37 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including
38 records of individual test or examination scores; however, personally identifiable student records
39 maintained by public educational institutions shall be open for inspection by the parents,
40 guardian or other custodian of students under the age of eighteen years and by the parents,
41 guardian or other custodian and the student if the student is over the age of eighteen years;

42 (7) Testing and examination materials, before the test or examination is given or, if it
43 is to be given again, before so given again;

44 (8) Welfare cases of identifiable individuals;

- 45 (9) Preparation, including any discussions or work product, on behalf of a public
46 governmental body or its representatives for negotiations with employee groups;
- 47 (10) Software codes for electronic data processing and documentation thereof;
- 48 (11) Specifications for competitive bidding, until either the specifications are officially
49 approved by the public governmental body or the specifications are published for bid;
- 50 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals
51 and related documents or any documents related to a negotiated contract until a contract is
52 executed, or all proposals are rejected;
- 53 (13) Individually identifiable personnel records, performance ratings or records
54 pertaining to employees or applicants for employment, except that this exemption shall not apply
55 to the names, positions, salaries and lengths of service of officers and employees of public
56 agencies once they are employed as such, and the names of private sources donating or
57 contributing money to the salary of a chancellor or president at all public colleges and
58 universities in the state of Missouri and the amount of money contributed by the source;
- 59 (14) Records which are protected from disclosure by law;
- 60 (15) Meetings and public records relating to scientific and technological innovations in
61 which the owner has a proprietary interest;
- 62 (16) Records relating to municipal hotlines established for the reporting of abuse and
63 wrongdoing;
- 64 (17) Confidential or privileged communications between a public governmental body
65 and its auditor, including all auditor work product; however, all final audit reports issued by the
66 auditor are to be considered open records pursuant to this chapter;
- 67 (18) Operational guidelines and policies developed, adopted, or maintained by any public
68 agency responsible for law enforcement, public safety, first response, or public health for use in
69 responding to or preventing any critical incident which is or appears to be terrorist in nature and
70 which has the potential to endanger individual or public safety or health. Nothing in this
71 exception shall be deemed to close information regarding expenditures, purchases, or contracts
72 made by an agency in implementing these guidelines or policies. When seeking to close
73 information pursuant to this exception, the agency shall affirmatively state in writing that
74 disclosure would impair its ability to protect the safety or health of persons, and shall in the same
75 writing state that the public interest in nondisclosure outweighs the public interest in disclosure
76 of the records. This exception shall sunset on December 31, 2008;
- 77 (19) Existing or proposed security systems and structural plans of real property owned
78 or leased by a public governmental body, and information that is voluntarily submitted by a
79 nonpublic entity owning or operating an infrastructure to any public governmental body for use

80 by that body to devise plans for protection of that infrastructure, the public disclosure of which
81 would threaten public safety:

82 (a) Records related to the procurement of or expenditures relating to security systems
83 purchased with public funds shall be open;

84 (b) When seeking to close information pursuant to this exception, the public
85 governmental body shall affirmatively state in writing that disclosure would impair the public
86 governmental body's ability to protect the security or safety of persons or real property, and shall
87 in the same writing state that the public interest in nondisclosure outweighs the public interest
88 in disclosure of the records;

89 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the
90 receiving agency within ninety days of submission to determine if retention of the document is
91 necessary in furtherance of a state security interest. If retention is not necessary, the documents
92 shall be returned to the nonpublic governmental body or destroyed;

93 (d) This exception shall sunset on December 31, 2008;

94 (20) Records that identify the configuration of components or the operation of a
95 computer, computer system, computer network, or telecommunications network, and would
96 allow unauthorized access to or unlawful disruption of a computer, computer system, computer
97 network, or telecommunications network of a public governmental body. This exception shall
98 not be used to limit or deny access to otherwise public records in a file, document, data file or
99 database containing public records. Records related to the procurement of or expenditures
100 relating to such computer, computer system, computer network, or telecommunications network,
101 including the amount of moneys paid by, or on behalf of, a public governmental body for such
102 computer, computer system, computer network, or telecommunications network shall be open;
103 [and]

104 (21) Credit card numbers, personal identification numbers, digital certificates, physical
105 and virtual keys, access codes or authorization codes that are used to protect the security of
106 electronic transactions between a public governmental body and a person or entity doing business
107 with a public governmental body. Nothing in this section shall be deemed to close the record
108 of a person or entity using a credit card held in the name of a public governmental body or any
109 record of a transaction made by a person using a credit card or other method of payment for
110 which reimbursement is made by a public governmental body; **and**

111 **(22) Records and documents of and pertaining to internal investigations by law**
112 **enforcement agencies into matters of fitness and conduct of law enforcement officers**
113 **employed by such investigating law enforcement agencies used solely in connection with**
114 **matters relating to the employment of such law enforcement officers, and records and**
115 **documents pertaining to any determinations or actions relating to an officer's employment**

116 **status taken in connection with or following such investigations. Such records shall be**
117 **considered records authorized to be closed under this section, including subsections (3) and**
118 **(13) of this section, and not incident reports, investigative reports or other documents**
119 **covered under section 610.100, unless such records and documents are used or shared by**
120 **the agency in a criminal investigation by the law enforcement agency involving the officer.**

610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases
2 shall mean:

3 (1) "Arrest", an actual restraint of the person of the defendant, or by his or her
4 submission to the custody of the officer, under authority of a warrant or otherwise for a criminal
5 violation which results in the issuance of a summons or the person being booked;

6 (2) "Arrest report", a record of a law enforcement agency of an arrest and of any
7 detention or confinement incident thereto together with the charge therefor;

8 (3) "Inactive", an investigation in which no further action will be taken by a law
9 enforcement agency or officer for any of the following reasons:

10 (a) A decision by the law enforcement agency not to pursue the case;

11 (b) Expiration of the time to file criminal charges pursuant to the applicable statute of
12 limitations, or ten years after the commission of the offense; whichever date earliest occurs;

13 (c) Finality of the convictions of all persons convicted on the basis of the information
14 contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such
15 persons;

16 (4) "Incident report", a record of a law enforcement agency consisting of the date, time,
17 specific location, name of the victim and immediate facts and circumstances surrounding the
18 initial report of a crime or incident, including any logs of reported crimes, accidents and
19 complaints maintained by that agency;

20 (5) "Investigative report", a record, other than an arrest or incident report, prepared by
21 personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in
22 response to an incident report or in response to evidence developed by law enforcement officers
23 in the course of their duties;

24 **(6) Investigative reports and incident reports, or other law enforcement records**
25 **covered under this section, shall not include any records or documents pertaining to**
26 **internal investigations by law enforcement agencies into matters of fitness and conduct of**
27 **law enforcement officers employed by such investigating law enforcement agencies and**
28 **used solely in connection with such officers' employment, as described in subdivision (22)**
29 **of section 610.021.**

30 2. Each law enforcement agency of this state, of any county, and of any municipality
31 shall maintain records of all incidents reported to the agency, investigations and arrests made by

32 such law enforcement agency. All incident reports and arrest reports shall be open records.
33 Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6
34 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies
35 are closed records until the investigation becomes inactive. If any person is arrested and not
36 charged with an offense against the law within thirty days of the person's arrest, the arrest report
37 shall thereafter be a closed record except that the disposition portion of the record may be
38 accessed and except as provided in section 610.120.

39 3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a
40 record or document of a law enforcement officer or agency, other than an arrest report, which
41 would otherwise be open, contains information that is reasonably likely to pose a clear and
42 present danger to the safety of any victim, witness, undercover officer, or other person; or
43 jeopardize a criminal investigation, including records which would disclose the identity of a
44 source wishing to remain confidential or a suspect not in custody; or which would disclose
45 techniques, procedures or guidelines for law enforcement investigations or prosecutions, that
46 portion of the record shall be closed and shall be redacted from any record made available
47 pursuant to this chapter.

48 4. Any person, including a family member of such person within the first degree of
49 consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a
50 person involved in any incident or whose property is involved in an incident, may obtain any
51 records closed pursuant to this section or section 610.150 for purposes of investigation of any
52 civil claim or defense, as provided by this subsection. Any individual, his or her family member
53 within the first degree of consanguinity if such individual is deceased or incompetent, his or her
54 attorney or insurer, involved in an incident or whose property is involved in an incident, upon
55 written request, may obtain a complete unaltered and unedited incident report concerning the
56 incident, and may obtain access to other records closed by a law enforcement agency pursuant
57 to this section. Within thirty days of such request, the agency shall provide the requested
58 material or file a motion pursuant to this subsection with the circuit court having jurisdiction
59 over the law enforcement agency stating that the safety of the victim, witness or other individual
60 cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If,
61 based on such motion, the court finds for the law enforcement agency, the court shall either order
62 the record closed or order such portion of the record that should be closed to be redacted from
63 any record made available pursuant to this subsection.

64 5. Any person may bring an action pursuant to this section in the circuit court having
65 jurisdiction to authorize disclosure of the information contained in an investigative report of any
66 law enforcement agency, which would otherwise be closed pursuant to this section. The court
67 may order that all or part of the information contained in an investigative report be released to

68 the person bringing the action. In making the determination as to whether information contained
69 in an investigative report shall be disclosed, the court shall consider whether the benefit to the
70 person bringing the action or to the public outweighs any harm to the public, to the law
71 enforcement agency or any of its officers, or to any person identified in the investigative report
72 in regard to the need for law enforcement agencies to effectively investigate and prosecute
73 criminal activity. The investigative report in question may be examined by the court in camera.
74 The court may find that the party seeking disclosure of the investigative report shall bear the
75 reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the
76 decision of the law enforcement agency not to open the investigative report was substantially
77 unjustified under all relevant circumstances, and in that event, the court may assess such
78 reasonable and necessary costs and attorneys' fees to the law enforcement agency.

79 6. Any person may apply pursuant to this subsection to the circuit court having
80 jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest
81 reports being unlawfully closed pursuant to this section. If the court finds by a preponderance
82 of the evidence that the law enforcement officer or agency has knowingly violated this section,
83 the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars.
84 If the court finds that there is a knowing violation of this section, the court may order payment
85 by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the
86 court finds by a preponderance of the evidence that the law enforcement officer or agency has
87 purposely violated this section, the officer or agency shall be subject to a civil penalty in an
88 amount up to five thousand dollars and the court shall order payment by such officer or agency
89 of all costs and attorney fees, as provided in section 610.027. The court shall determine the
90 amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the
91 offense, and whether the law enforcement officer or agency has violated this section previously.

92 7. The victim of an offense as provided in chapter 566, RSMo, may request that his or
93 her identity be kept confidential until a charge relating to such incident is filed.

**650.120. 1. Subject to appropriation, the department of public safety shall create
2 a program to distribute grants to multijurisdictional Internet cyber crime law enforcement
3 task forces and other law enforcement agencies. The grants shall be awarded and used to
4 pay the salaries of detectives and computer forensic personnel whose focus is investigating
5 Internet sex crimes against children, including but not limited to enticement of a child,
6 possession or promotion of child pornography, and to provide funding for the training of
7 law enforcement personnel. The funding for such training may be used to cover the travel
8 expenses of those persons participating.**

9 **2. A panel is hereby established in the department of public safety to award grants**
10 **under this program and shall be comprised of the following members:**

- 11 (1) The director of the department of public safety, or his or her designee;
- 12 (2) Two members shall be appointed by the director of the department of public
13 safety from a list of six nominees submitted by the Missouri Police Chief's Association;
- 14 (3) Two members shall be appointed by the director of the department of public
15 safety from a list of six nominees submitted by the Missouri Sheriffs' Association;
- 16 (4) Two members of the state highway patrol shall be appointed by the director of
17 the department of public safety from a list of six nominees submitted by the Missouri State
18 Troopers Association;
- 19 (5) One member of the house of representatives who shall be appointed by the
20 speaker of the house of representatives; and
- 21 (6) One member of the senate who shall be appointed by the president pro tem.
22
- 23 The panel members who are appointed under subdivisions (2), (3), and (4) of this
24 subsection shall serve a four-year term ending four years from the date of expiration of the
25 term for which his or her predecessor was appointed. However, a person appointed to fill
26 a vacancy prior to the expiration of such a term shall be appointed for the remainder of
27 the term. Such members shall hold office for the term of his or her appointment and until
28 a successor is appointed. The members of the panel shall receive no additional
29 compensation but shall be eligible for reimbursement for mileage directly related to the
30 performance of panel duties.
- 31 3. Local matching amounts, which may include new or existing funds or in-kind
32 resources including but not limited to equipment or personnel, are required for
33 multijurisdictional Internet cyber crime law enforcement task forces and other law
34 enforcement agencies to receive grants awarded by the panel. Such amounts shall be
35 determined by the state appropriations process or by the panel.
- 36 4. When awarding grants, priority should be given to newly hired detectives and
37 computer forensic personnel.
- 38 5. The panel shall establish minimum training standards for detectives and
39 computer forensic personnel participating in the grant program established in subsection
40 1 of this section.
- 41 6. Multijurisdictional Internet cyber crime law enforcement task forces and other
42 law enforcement agencies participating in the grant program established in subsection 1
43 of this section shall share information and cooperate with the highway patrol and with
44 existing Internet Crimes Against Children task force programs.
- 45 7. The panel may make recommendations to the general assembly regarding the
46 need for additional resources or appropriations.

47 **8. Under section 23.253, RSMo, of the Missouri sunset act:**

48 **(1) The provisions of the new program authorized under this section shall sunset**
49 **automatically six years after the effective date of this section unless reauthorized by an act**
50 **of the general assembly; and**

51 **(2) If such program is reauthorized, the program authorized under this section**
52 **shall sunset automatically twelve years after the effective date of the reauthorization of this**
53 **section; and**

54 **(3) This section shall terminate on September first of the calendar year immediately**
55 **following the calendar year in which the program authorized under this section is sunset.**

Section 1. 1. Notwithstanding any provision of law to the contrary, including but
2 **not limited to, sections 304.271, 304.281, 304.361, and 304.570, RSMo, any person who**
3 **commits a steady red light violation that is detected and enforced through an automated**
4 **photo red light enforcement system is guilty of an infraction.**

5 **2. A penalty imposed for a violation detected under an automated red light**
6 **enforcement system shall not be deemed a moving violation and shall not be made part of**
7 **the operating record of the person upon whom such liability is imposed, nor shall such**
8 **imposition of a penalty be subject to merit rating for insurance purposes and no surcharge**
9 **points shall be imposed in the provision of motor vehicle insurance coverage.**

10 **3. In no case shall points be assessed against any person under section 302.302,**
11 **RSMo, for a violation detected by an automated photo red light enforcement system.**

Section 2. In the event a criminal case is dismissed in a circuit court in this state
2 **before the defendant pleads guilty or is found guilty, the circuit judge may assess costs as**
3 **determined by section 488.012, RSMo, against any defendant if the defendant consents to**
4 **paying the costs except in those cases where the defendant is found by the judge to be**
5 **indigent and unable to pay the costs.**

 [374.261. As used in sections 374.261 to 374.269, the following words
2 mean:

- 3 (1) "Director", the director of the department of insurance;
4 (2) "Examiners", nonsalaried employees of the department of insurance
5 conducting an examination pursuant to section 374.190;
6 (3) "Sick leave", those days of leave taken during the conduct of an
7 examination during which an examiner is prevented from conducting an
8 examination due to illness or injury.]
9

 [374.263. There is hereby created in the state treasury a fund to be known
2 as the "Insurance Examiner's Sick Leave Fund", hereinafter referred to as the
3 "fund". The fund shall be used to pay the daily wages of department of insurance

4 examiners who are temporarily unable to continue an examination of an
5 insurance company or companies pursuant to section 374.190, because of illness
6 or injury suffered or sustained by the examiner during the course of the
7 examination which the examiner is conducting.]
8

2 [374.265. 1. There shall be an amount assessed against those domestic
3 insurers which are subject to premium tax and are engaged in the business of
4 insurance within this state, which amount shall be no less than one hundred and
5 fifty nor greater than five hundred dollars.

6 2. The initial assessment shall be made within one month of September
7 28, 1981, in the total amount of thirty-six thousand dollars. Thereafter,
8 assessments shall be made annually, or as needed whenever the balance in the
9 fund becomes less than ten thousand dollars. The amount of such subsequent
10 assessments shall be that amount necessary to return the balance in the fund to
11 thirty-six thousand dollars.]

2 [374.267. 1. The director of the department of insurance, his agents or
3 appointees shall be empowered to make assessments pursuant to section 374.265,
4 and to administer the fund.

5 2. The director, his agents or appointees shall compensate an examiner
6 out of the fund only after the examiner has satisfied the director, his agents or
7 appointees that:

8 (1) The examiner was employed by the department of insurance to
9 conduct an examination of an insurance company or companies pursuant to
10 section 374.190 at the time of the illness or injury for which daily wages are
11 claimed; and

12 (2) The examiner was prevented from conducting the examination due
13 to illness or injury.

14 3. The amount paid by the director, his agents or appointees to an
15 examiner from the fund shall not exceed the amount of the examiner's daily
16 wages times the number of days during which the examiner was prevented from
17 conducting an examination as result of illness or injury, but in no event shall any
18 examiner be paid for more than one and one-fourth days times the number of
19 months for which he has been employed by the department of insurance as an
20 examiner, nor shall an examiner be paid for or receive credit for sick leave after
21 August 13, 1988, for or on the basis of any month, months or portion thereof
22 before August 13, 1988.]

2 [375.787. Whenever the director believes, from evidence satisfactory to
3 him, that any insurance company is violating or about to violate the provisions
4 of section 375.786, the director may cause a complaint to be filed in the circuit
5 court of Cole County, Missouri, to enjoin and restrain such insurance company
from continuing such violation or engaging therein or doing any act in

6 furtherance thereof. The court shall have jurisdiction of the proceeding and shall
7 have the power to make and enter an order or judgment awarding such
8 preliminary or final injunctive relief as in its judgment is proper.]
9

2 [375.1012. 1. If, after such hearing, the director determines that the
3 insurer charged had engaged in an improper claims practice prohibited by
4 sections 375.1000 to 375.1018, he shall reduce his findings to writing and shall
5 issue and cause to be served upon the person charged with the violation a copy
6 of such findings and an order requiring such person to cease and desist from
7 engaging in such improper claims practice, and thereafter the director may, at his
8 discretion order one or more of the following:

9 (1) Payment of a monetary penalty of not more than one thousand dollars
10 for each violation but not to exceed an aggregate penalty of one hundred
11 thousand dollars in any twelve-month period unless the violation was committed
12 flagrantly and in conscious disregard of sections 375.1000 to 375.1018, in which
13 case the penalty shall be not more than twenty-five thousand dollars for each
14 violation but not to exceed an aggregate penalty of two hundred fifty thousand
15 dollars in any twelve-month period;

16 (2) Suspension or revocation of the insurer's license if such insurer knew
17 or reasonably should have known it was in violation of sections 375.1000 to
18 375.1018.

19 2. Until the expiration of the time allowed under section 375.1016 for
20 filing a petition for judicial review, if no such petition has been duly filed within
21 such time, or if a petition or review has been filed within such time, then until the
22 transcript of the record in the proceeding has been filed in the circuit court of
23 Cole County, the director may at any time, upon such notice and in such manner
24 as he shall deem proper, modify or set aside in whole or in part any order issued
25 by him under this section.

26 3. After the expiration of the time allowed for filing such a petition for
27 review, if no such petition has been duly filed within such time, the director may
28 at any time, after notice and opportunity for hearing, reopen and alter, modify or
29 set aside, in whole or in part, any order issued by him under this section,
30 whenever in his opinion conditions of fact or of law have so changed as to require
31 such action or if the public interest shall so require.

32 4. Nothing contained in sections 375.1000 to 375.1018 shall be construed
33 to prohibit the director and the person from agreeing to a voluntary forfeiture
34 with or without proceedings being instituted.]

2 [407.300. 1. Every collector of or dealer in junk or any
3 secondhand property shall keep a register which shall contain the name and
4 address of the person from whom any copper wire or cable is purchased,
5 whatever may be the condition or length of such copper wire or cable; the
residence or place of business and driver's license number of such person; a full

6 description of each purchase including the quantity by weight thereof; and shall
7 permit any peace officer to inspect the register at any reasonable time.

8 2. Anyone convicted of violating this section shall be fined not less than
9 twenty-five dollars nor more than five hundred dollars, or imprisoned for not less
10 than thirty days nor more than six months, or both.]
11

2 [407.1200. As used in sections 407.1200 to 407.1227, the following
terms shall mean:

3 (1) "Administrator", the person who is responsible for the administration
4 of the service contracts or the service contracts plan and who is responsible for
5 any filings required by sections 407.1200 to 407.1227;

6 (2) "Consumer", a natural person who buys other than for purposes of
7 resale any motor vehicle that is distributed in commerce and that is normally used
8 for personal, family, or household purposes and not for business or research
9 purposes;

10 (3) "Director", the director of the department of insurance;

11 (4) "Maintenance agreement", a contract of limited duration that provides
12 for scheduled maintenance only;

13 (5) "Manufacturer", a person that:

14 (a) Manufactures or produces the property and sells the property under
15 its own name or label;

16 (b) Is a wholly owned subsidiary of the person who manufactures or
17 produces the property;

18 (c) Is a corporation which owns one hundred percent of the person who
19 manufactures or produces the property;

20 (d) Does not manufacture or produce the property, but the property is
21 sold under its trade name label;

22 (e) Manufactures or produces the property and the property is sold under
23 the trade name or label of another person; or

24 (f) Does not manufacture or produce the property but, pursuant to a
25 written contract, licenses the use of its trade name or label to another person that
26 sells the property under the licensor's trade name or label;

27 (6) "Mechanical breakdown insurance", a policy, contract, or agreement
28 issued by an authorized insurer that provides for the repair, replacement, or
29 maintenance of a motor vehicle or indemnification for repair, replacement, or
30 service, for the operational or structural failure of a motor vehicle due to a defect
31 in materials or workmanship or to normal wear and tear;

32 (7) "Motor vehicle extended service contract" or "service contract", a
33 contract or agreement for a separately stated consideration or for a specific
34 duration to perform the repair, replacement, or maintenance of a motor vehicle
35 or indemnification for repair, replacement, or maintenance, for the operational or
36 structural failure due to a defect in materials, workmanship, or normal wear and
37 tear, with or without additional provision for incidental payment of indemnity

under limited circumstances, including, but not limited to, towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

(8) "Nonoriginal manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as "after market parts";

(9) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert;

(10) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

(11) "Provider", a person who administers, issues, makes, provides, sells, or offers to sell a motor vehicle extended service contract, or who is contractually obligated to provide service under a motor vehicle extended service contract such as sellers, administrators, and other intermediaries;

(12) "Provider fee", the consideration paid for a service contract in excess of the premium;

(13) "Reimbursement insurance policy", a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the service contracts in the event of nonperformance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a service contract;

(14) "Service contract holder" or "contract holder", a person who is the purchaser or holder of a service contract;

(15) "Warranty", a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.]

[407.1203. 1. Service contracts shall not be issued, sold, or offered for sale in this state unless the administrator or its designee has:

(1) Provided a receipt for the purchase of the service contract to the contract holder at the date of purchase;

(2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and

(3) Complied with the provisions of sections 407.1200 to 407.1227.

79 2. All administrators of service contracts sold in this state shall file a
80 registration with the director on a form, at a fee and at a frequency prescribed by
81 the director.

82 3. In order to assure the faithful performance of a provider's obligations
83 to its contract holders, each provider who is contractually obligated to provide
84 service under a service contract shall:

85 (1) Insure all service contracts under a reimbursement insurance policy
86 issued by an insurer authorized to transact insurance in this state; or

87 (2) (a) Maintain a funded reserve account for its obligation under its
88 contracts issued and outstanding in this state. The reserves shall not be less than
89 forty percent of gross consideration received, less claims paid, on the sale of the
90 service contract for all in-force contracts. The reserve account shall be subject
91 to examination and review by the director; and

92 (b) Place in trust with the director a financial security deposit, having a
93 value of not less than five percent of the gross consideration received, less claims
94 paid, on the sale of the service contract for all service contracts issued and in
95 force, but not less than twenty-five thousand dollars, consisting of one of the
96 following:

97 a. A surety bond issued by an authorized surety;
98 b. Securities of the type eligible for deposit by authorized insurers in this
99 state;
100 c. Cash;
101 d. A letter of credit issued by a qualified financial institution; or
102 e. Another form of security prescribed by regulations issued by the
103 director; or

104 (3) (a) Maintain a net worth of one hundred million dollars; and

105 (b) Upon request, provide the director with a copy of the provider's or,
106 if the provider's financial statements are consolidated with those of its parent
107 company, the provider's parent company's most recent Form 10-K filed with the
108 Securities and Exchange Commission (SEC) within the last calendar year, or if
109 the company does not file with the SEC, a copy of the company's audited
110 financial statements, which shows a net worth of the provider or its parent
111 company of at least one hundred million dollars. If the provider's parent
112 company's Form 10-K or audited financial statements are filed to meet the
113 provider's financial stability requirement, then the parent company shall agree to
114 guarantee the obligations of the obligor relating to service contracts sold by the
115 provider in this state.

116 4. Provider fees collected on service contracts shall not be subject to
117 premium taxes. Premiums for reimbursement insurance policies shall be subject
118 to applicable premium taxes.

119 5. Except for the registration requirement in subsection 2 of this section,
120 persons marketing, selling, or offering to sell service contracts for providers that

121 comply with sections 407.1200 to 407.1227 are exempt from this state's licensing
122 requirements.

123 6. Providers complying with the provisions of sections 407.1200 to
124 407.1227 are not required to comply with other provisions of chapter 374 or 375,
125 or any other provisions governing insurance companies, except as specifically
126 provided.]
127

2 [407.1206. Reimbursement insurance policies insuring service contracts
3 issued, sold, or offered for sale in this state shall conspicuously state that, upon
4 failure of the provider to perform under the contract, such as failure to return the
5 unearned provider fee, the insurer that issued the policy shall pay on behalf of the
6 provider any sums the provider is legally obligated to pay or shall provide the
7 service which the provider is legally obligated to perform according to the
8 provider's contractual obligations under the service contracts issued or sold by the
9 provider.]

2 [407.1209. 1. Service contracts issued, sold, or offered for sale in this
3 state shall be written in clear, understandable language and the entire contract
4 shall be printed or typed in easy to read ten-point type or larger and
5 conspicuously disclose the requirements in this section, as applicable.

6 2. Service contracts insured under a reimbursement insurance policy
7 pursuant to subsection 3 of section 407.1203 shall contain a statement in
8 substantially the following form: "Obligations of the provider under this service
9 contract are guaranteed under a service contract reimbursement insurance policy.
10 If the provider fails to pay or provide service on a claim within sixty days after
11 proof of loss has been filed, the contract holder is entitled to make a claim
12 directly against the insurance company.". A claim against the provider shall also
13 include a claim for return of the unearned provider fee. The service contract shall
14 also conspicuously state the name and address of the insurer.

15 3. Service contracts not insured under a reimbursement insurance policy
16 pursuant to subsection 3 of section 407.1203 shall contain a statement in
17 substantially the following form: "Obligations of the provider under this service
18 contract are backed only by the full faith and credit of the provider (issuer) and
19 are not guaranteed under a service contract reimbursement insurance policy."
20 A claim against the provider shall also include a claim for return of the unearned
21 provider fee. The service contract shall also conspicuously state the name and
22 address of the provider.

23 4. Service contracts shall identify any administrator, the provider
24 obligated to perform the service under the contract, the service contract seller,
25 and the service contract holder to the extent that the name and address of the
26 service contract holder has been furnished by the service contract holder.

27 5. Service contracts shall conspicuously state the total purchase price and
the terms under which the service contract is sold. The purchase price is not

28 required to be preprinted on the service contract and may be negotiated at the
29 time of sale with the service contract holder.

30 6. If prior approval of repair work is required, the service contracts shall
31 conspicuously state the procedure for obtaining prior approval and for making a
32 claim, including a toll-free telephone number for claim service and a procedure
33 for obtaining emergency repairs performed outside of normal business hours.

34 7. Service contracts shall conspicuously state the existence of any
35 deductible amount.

36 8. Service contracts shall specify the merchandise and services to be
37 provided and any limitations, exceptions, and exclusions.

38 9. Service contracts shall state the conditions upon which the use of
39 nonoriginal manufacturer's parts, or substitute service, may be allowed.
40 Conditions stated shall comply with applicable state and federal laws.

41 10. Service contracts shall state any terms, restrictions, or conditions
42 governing the transferability of the service contract.

43 11. Service contracts shall state the terms, restrictions, or conditions
44 governing termination of the service contract by the service contract holder. The
45 provider of the service contract shall mail a written notice to the contract holder
46 within fifteen days of the date of termination.

47 12. Service contracts shall require every provider to permit the service
48 contract holder to return the contract within at least twenty business days of the
49 date of mailing of the service contract or within at least ten days if the service
50 contract is delivered at the time of sale or within a longer time period permitted
51 under the contract. If no claim has been made under the contract, the contract is
52 void and the provider shall refund to the contract holder the full purchase price
53 of the contract. A ten percent penalty per month shall be added to a refund that
54 is not paid within thirty days of return of the contract to the provider. The
55 applicable free-look time periods on service contracts shall only apply to the
56 original service contract purchaser.

57 13. Service contracts shall set forth all of the obligations and duties of the
58 service contract holder, such as the duty to protect against any further damage and
59 the requirement for certain service and maintenance.

60 14. Service contracts shall clearly state whether or not the service
61 contract provides for or excludes consequential damages or preexisting
62 conditions.]

63 [407.1212. 1. A provider shall not use in its name the words insurance,
2 casualty, guaranty, surety, mutual, or any other words descriptive of the
3 insurance, casualty, guaranty, or surety business; or a name deceptively similar
4 to the name or description of any insurance or surety corporation, or any other
5 provider. This section shall not apply to a company that was using any of the
6 prohibited language in its name prior to August 28, 2004. However, a company
7 using the prohibited language in its name shall conspicuously disclose in its

8 service contract the following statement: "This agreement is not an insurance
9 contract."

10 2. A provider or its representative shall not in its service contracts or
11 literature make, permit, or cause to be made any false or misleading statement,
12 or deliberately omit any material statement that would be considered misleading
13 if omitted, in connection with the sale, offer to sell or advertisement of a service
14 contract.

15 3. A person, such as a bank, savings and loan association, lending
16 institution, manufacturer or seller of any product, shall not require the purchase
17 of a service contract as a condition of a loan or a condition for the sale of any
18 property.]
19

2 [407.1215. 1. An administrator, provider, or other intermediary shall
3 keep accurate accounts, books, and records concerning transactions regulated by
4 sections 407.1200 to 407.1227.

5 2. An administrator's, provider's, or other intermediary's accounts, books,
6 and records shall include:

- 7 (1) Copies of each type of service contract issued;
8 (2) The name and address of each service contract holder to the extent
9 that the name and address have been furnished by the service contract holder;
10 (3) A list of the provider locations where service contracts are marketed,
11 sold, or offered for sale; and
12 (4) Claims files which shall contain at least the dates, amounts, and
13 description of all receipts, claims, and expenditures related to the service
14 contracts.

15 3. Except as provided in this section, an administrator shall retain all
16 records pertaining to each service contract holder for at least three years after the
17 specified period of coverage has expired.

18 4. An administrator, provider, or other intermediary may keep all records
19 required pursuant to sections 407.1200 to 407.1227 on a computer disk or other
20 similar technology. If an administrator, provider, or other intermediary maintains
21 records in other than hard copy, records shall be accessible from a computer
22 terminal available to the director and be capable of duplication to legible hard
23 copy.

24 5. An administrator, provider, or other intermediary discontinuing
25 business in this state shall maintain its records until it furnishes the director
26 satisfactory proof that it has discharged all obligations to contract holders in this
27 state.

28 6. An administrator, provider, or other intermediary shall make all
29 accounts, books, and records concerning transactions regulated pursuant to
30 sections 407.1200 to 407.1227 or other pertinent laws available to the director
31 upon request.]

2 [407.1218. As applicable, an insurer that issued a reimbursement
3 insurance policy shall not terminate the policy until a notice of termination, in a
4 form and time frame prescribed by the director, has been mailed or delivered to
5 the director. The termination of a reimbursement insurance policy shall not
6 reduce the issuer's responsibility for service contracts issued by providers prior
7 to the date of the termination.]

2 [407.1221. 1. Providers are considered to be the agent of the insurer that
3 issued the reimbursement insurance policy. In cases where a provider is acting
4 as an administrator and enlists other providers, the provider acting as the
5 administrator shall notify the insurer of the existence and identities of the other
6 providers.

7 2. The provisions of sections 407.1200 to 407.1227 shall not prevent or
8 limit the right of an insurer which issued a reimbursement insurance policy to
9 seek indemnification or subrogation against a provider if the insurer pays or is
10 obligated to pay the service contract holder sums that the provider was obligated
11 to pay pursuant to the provisions of the service contract or under a contractual
12 agreement.]

2 [407.1224. 1. The director may conduct investigations or examinations
3 of providers, administrators, insurers, or other persons to enforce the provisions
4 of sections 407.1200 to 407.1227 and protect service contract holders in this
5 state.

6 2. The director may take action that is necessary or appropriate to enforce
7 the provisions of sections 407.1200 to 407.1227 and the director's regulations and
8 orders, and to protect service contract holders in this state.

9 3. The director may order a service contract provider to cease and desist
10 from committing violations of sections 407.1200 to 407.1227 or the director's
11 regulations or orders, may issue an order prohibiting a service contract provider
12 from selling or offering for sale service contracts, or may issue an order imposing
13 a civil penalty, or any combination of these, if the provider has violated the
14 provisions of sections 407.1200 to 407.1227 or the director's regulations or
15 orders.

16 4. A person aggrieved by an order pursuant to this section may request
17 a hearing before the director. The hearing request shall be filed with the director
18 within twenty days of the date the director's order is effective.

19 5. Pending the hearing and the decision by the director, the director shall
20 suspend the effective date of the order. At the hearing, the burden shall be on the
21 director to show why the order issued pursuant to this section is justified. Such
22 hearing shall be held in accordance with the provisions of chapter 536, RSMo.

23 6. The director may bring an action in the circuit court of Cole County
24 for an injunction or other appropriate relief to enjoin threatened or existing

violations of sections 407.1200 to 407.1227 or of the director's orders or regulations. An action filed pursuant to this section may also seek restitution on behalf of persons aggrieved by a violation of sections 407.1200 to 407.1227 or orders or regulations of the director.

7. A person in violation of sections 407.1200 to 407.1227 or orders or regulations of the director may be assessed a civil penalty not to exceed one thousand dollars per violation.

8. The authority of the director pursuant to this section is in addition to other authority of the director.]

[407.1225. The director may promulgate rules to effectuate sections 407.1200 to 407.1227. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.]

[407.1227. 1. The provisions of sections 407.1200 to 407.1224 shall not apply to:

- (1) Warranties;
- (2) Maintenance agreements;
- (3) Commercial transactions; and
- (4) Service contracts sold or offered for sale to persons other than consumers.

2. Manufacturer's contracts on the manufacturer's products need only comply with the provisions of sections 407.1209, 407.1212, and 407.1224.]

[483.260. The clerk of the circuit court of the city of St. Louis may employ an attorney or attorneys to aid and advise him in the discharge of his duties, to render independent legal advice and services and to represent him in court. The attorneys employed by the clerk shall receive in the aggregate as compensation for their services twenty-five thousand dollars per annum, payable out of the state treasury in installments as certified by the circuit clerk.]

Section B. The provisions of sections 27.065 to 559.607 of section A of this act are severable. If any part of sections 27.065 to 559.607 of section A of this act is declared invalid or unconstitutional, it is the intent of the legislature that the remaining portions of sections 27.065 to 559.607 of section a of this act shall remain and be in full force and effect.

Section C. The enactment of sections 385.400 to 385.436 of section A of this act shall
2 become effective on January 1, 2007.

Section D. The repeal of sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212,
2 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227 and the enactment of sections
3 385.200, 385.201, 385.203, 385.204, 385.205, 385.207, 385.208, 385.209, 385.210, 385.211,
4 385.212, 385.300, 385.301, 385.302, 385.303, 385.304, 385.305, 385.306, 385.307, 385.310,
5 385.311, and 385.312, shall become effective January 1, 2007.

Section E. Because of the need to ensure consistency pertaining to deceptive
2 merchandising practices, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and section A of this act shall be in full
5 force and effect upon its passage and approval.

✓

Bill

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