

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 788
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, February 14, 2008, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 788, adopted March 3, 2008.

Taken up for Perfection March 3, 2008. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3494S.04P

AN ACT

To repeal sections 43.543, 105.711, 135.520, 148.330, 209.285, 214.270, 256.453, 285.230, 320.082, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.265, 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.221, 334.123, 334.240, 334.400, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.120, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.366, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 381.410, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.105, 620.106, 620.111, 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140, 620.145, 620.146, 620.148, 620.149, 620.150, 620.151, 620.153, 620.154, and 620.1063, RSMo, and to enact in lieu thereof one hundred thirteen new sections relating to reorganization of the department of insurance, financial institutions and professional registration, in keeping with Executive Order 06-04, with penalty provisions.

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

Section A. Sections 43.543, 105.711, 135.520, 148.330, 209.285, 214.270,
2 256.453, 285.230, 320.082, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240,
3 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.265, 327.051, 328.050,

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

4 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.221, 334.123,
5 334.240, 334.400, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010,
6 337.090, 337.500, 337.600, 337.700, 338.130, 339.120, 339.507, 340.212, 345.035,
7 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910,
8 367.500, 370.366, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202,
9 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 381.410, 383.030,
10 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.105, 620.106,
11 620.111, 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140, 620.145,
12 620.146, 620.148, 620.149, 620.150, 620.151, 620.153, 620.154, and 620.1063,
13 RSMo, are repealed and one hundred thirteen new sections enacted in lieu
14 thereof, to be known as sections 43.543, 105.711, 135.520, 148.330, 209.285,
15 214.270, 256.453, 285.230, 320.082, 324.001, 324.002, 324.016, 324.017, 324.021,
16 324.022, 324.024, 324.026, 324.028, 324.029, 324.031, 324.032, 324.034, 324.036,
17 324.038, 324.039, 324.041, 324.042, 324.043, 324.050, 324.128, 324.159, 324.200,
18 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.265,
19 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327,
20 333.221, 334.123, 334.240, 334.400, 334.702, 334.735, 334.746, 334.800, 335.036,
21 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.120, 339.507,
22 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109,
23 362.332, 362.910, 367.500, 370.006, 370.366, 374.005, 374.007, 374.045, 374.070,
24 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456,
25 375.001, 375.261, 375.923, 376.005, 377.005, 379.005, 380.005, 381.410, 383.005,
26 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, and
27 620.1063, to read as follows:

43.543. Any state agency listed in section 621.045, RSMo, the division of
2 professional registration of the department of [economic development]
3 **insurance, financial institutions and professional registration**, the
4 department of social services, the supreme court of Missouri, the state courts
5 administrator, the department of elementary and secondary education, the
6 Missouri lottery, the Missouri gaming commission, or any state, municipal, or
7 county agency which screens persons seeking employment with such agencies or
8 issuance or renewal of a license, permit, certificate, or registration of authority
9 from such agencies; or any state, municipal, or county agency or committee, or
10 state school of higher education which is authorized by state statute or executive
11 order, or local or county ordinance to screen applicants or candidates seeking or
12 considered for employment, assignment, contracting, or appointment to a position

13 within state, municipal, or county government; or the Missouri peace officers
14 standards and training, POST, commission which screens persons, not employed
15 by a criminal justice agency, who seek enrollment or access into a certified POST
16 training academy police school, or persons seeking a permit to purchase or
17 possess a firearm for employment as a watchman, security personnel, or private
18 investigator; or law enforcement agencies which screen persons seeking issuance
19 or renewal of a license, permit, certificate, or registration to purchase or possess
20 a firearm shall submit two sets of fingerprints to the Missouri state highway
21 patrol, Missouri criminal records repository, for the purpose of checking the
22 person's criminal history. The first set of fingerprints shall be used to search the
23 Missouri criminal records repository and the second set shall be submitted to the
24 Federal Bureau of Investigation to be used for searching the federal criminal
25 history files if necessary. The fingerprints shall be submitted on forms and in the
26 manner prescribed by the Missouri state highway patrol. Fees assessed for the
27 searches shall be paid by the applicant or in the manner prescribed by the
28 Missouri state highway patrol. Notwithstanding the provisions of section
29 610.120, RSMo, all records related to any criminal history information discovered
30 shall be accessible and available to the state, municipal, or county agency making
31 the record request.

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

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

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

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

16 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse,
17 or other health care provider licensed to practice in Missouri under the provisions

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

27 (b) Any physician licensed to practice medicine in Missouri under the
28 provisions of chapter 334, RSMo, and his professional corporation organized
29 pursuant to chapter 356, RSMo, who is employed by or under contract with a city
30 or county health department organized under chapter 192, RSMo, or chapter 205,
31 RSMo, or a city health department operating under a city charter, or a combined
32 city-county health department to provide services to patients for medical care
33 caused by pregnancy, delivery, and child care, if such medical services are
34 provided by the physician pursuant to the contract without compensation or the
35 physician is paid from no other source than a governmental agency except for
36 patient co-payments required by federal or state law or local ordinance;

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

51 (d) Any physician licensed pursuant to chapter 334, RSMo, who is
52 affiliated with and receives no compensation from a nonprofit entity qualified as
53 exempt from federal taxation under Section 501(c)(3) of the Internal Revenue

54 Code of 1986, as amended, which offers a free health screening in any setting or
55 any physician, nurse, physician assistant, dental hygienist, dentist, or other
56 health care professional licensed or registered under chapter 330, 331, 332, 334,
57 335, 336, 337, or 338, RSMo, who provides health care services within the scope
58 of his or her license or registration at a city or county health department
59 organized under chapter 192, RSMo, or chapter 205, RSMo, a city health
60 department operating under a city charter, or a combined city-county health
61 department, or a nonprofit community health center qualified as exempt from
62 federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as
63 amended, if such services are restricted to primary care and preventive health
64 services, provided that such services shall not include the performance of an
65 abortion, and if such health services are provided by the health care professional
66 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338,
67 RSMo, without compensation. MO HealthNet or Medicare payments for primary
68 care and preventive health services provided by a health care professional
69 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338,
70 RSMo, who volunteers at a free health clinic is not compensation for the purpose
71 of this section if the total payment is assigned to the free health clinic. For the
72 purposes of the section, "free health clinic" means a nonprofit community health
73 center qualified as exempt from federal taxation under Section 501 (c)(3) of the
74 Internal Revenue Code of 1987, as amended, that provides primary care and
75 preventive health services to people without health insurance coverage for the
76 services provided without charge. In the case of any claim or judgment that
77 arises under this paragraph, the aggregate of payments from the state legal
78 expense fund shall be limited to a maximum of five hundred thousand dollars, for
79 all claims arising out of and judgments based upon the same act or acts alleged
80 in a single cause and shall not exceed five hundred thousand dollars for any one
81 claimant, and insurance policies purchased pursuant to the provisions of section
82 105.721 shall be limited to five hundred thousand dollars. Liability or
83 malpractice insurance obtained and maintained in force by or on behalf of any
84 health care professional licensed or registered under chapter 330, 331, 332, 334,
85 335, 336, 337, or 338, RSMo, shall not be considered available to pay that portion
86 of a judgment or claim for which the state legal expense fund is liable under this
87 paragraph;

88 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist
89 licensed or registered to practice medicine, nursing, or dentistry or to act as a

90 physician assistant or dental hygienist in Missouri under the provisions of
91 chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides
92 medical, nursing, or dental treatment within the scope of his license or
93 registration to students of a school whether a public, private, or parochial
94 elementary or secondary school, if such physician's treatment is restricted to
95 primary care and preventive health services and if such medical, dental, or
96 nursing services are provided by the physician, dentist, physician assistant,
97 dental hygienist, or nurse without compensation. In the case of any claim or
98 judgment that arises under this paragraph, the aggregate of payments from the
99 state legal expense fund shall be limited to a maximum of five hundred thousand
100 dollars, for all claims arising out of and judgments based upon the same act or
101 acts alleged in a single cause and shall not exceed five hundred thousand dollars
102 for any one claimant, and insurance policies purchased pursuant to the provisions
103 of section 105.721 shall be limited to five hundred thousand dollars; or

104 (f) Any physician licensed under chapter 334, RSMo, or dentist licensed
105 under chapter 332, RSMo, providing medical care without compensation to an
106 individual referred to his or her care by a city or county health department
107 organized under chapter 192 or 205, RSMo, a city health department operating
108 under a city charter, or a combined city-county health department, or nonprofit
109 health center qualified as exempt from federal taxation under Section 501(c)(3)
110 of the Internal Revenue Code of 1986, as amended, or a federally funded
111 community health center organized under Section 315, 329, 330, or 340 of the
112 Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such
113 treatment shall not include the performance of an abortion. In the case of any
114 claim or judgment that arises under this paragraph, the aggregate of payments
115 from the state legal expense fund shall be limited to a maximum of one million
116 dollars for all claims arising out of and judgments based upon the same act or
117 acts alleged in a single cause and shall not exceed one million dollars for any one
118 claimant, and insurance policies purchased under the provisions of section
119 105.721 shall be limited to one million dollars. Liability or malpractice insurance
120 obtained and maintained in force by or on behalf of any physician licensed under
121 chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not
122 be considered available to pay that portion of a judgment or claim for which the
123 state legal expense fund is liable under this paragraph;

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

125 (5) Any attorney licensed to practice law in the state of Missouri who

126 practices law at or through a nonprofit community social services center qualified
127 as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue
128 Code of 1986, as amended, or through any agency of any federal, state, or local
129 government, if such legal practice is provided by the attorney without
130 compensation. In the case of any claim or judgment that arises under this
131 subdivision, the aggregate of payments from the state legal expense fund shall be
132 limited to a maximum of five hundred thousand dollars for all claims arising out
133 of and judgments based upon the same act or acts alleged in a single cause and
134 shall not exceed five hundred thousand dollars for any one claimant, and
135 insurance policies purchased pursuant to the provisions of section 105.721 shall
136 be limited to five hundred thousand dollars; or

137 (6) Any social welfare board created under section 205.770, RSMo, and the
138 members and officers thereof upon conduct of such officer or employee while
139 acting in his or her capacity as a board member or officer, and any physician,
140 nurse, physician assistant, dental hygienist, dentist, or other health care
141 professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,
142 337, or 338, RSMo, who is referred to provide medical care without compensation
143 by the board and who provides health care services within the scope of his or her
144 license or registration as prescribed by the board.

145 3. The department of health and senior services shall promulgate rules
146 regarding contract procedures and the documentation of care provided under
147 paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this
148 section. The limitation on payments from the state legal expense fund or any
149 policy of insurance procured pursuant to the provisions of section 105.721,
150 provided in subsection 7 of this section, shall not apply to any claim or judgment
151 arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection
152 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d),
153 (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the
154 state legal expense fund or any policy of insurance procured pursuant to section
155 105.721, to the extent damages are allowed under sections 538.205 to 538.235,
156 RSMo. Liability or malpractice insurance obtained and maintained in force by
157 any health care professional licensed or registered under chapter 330, 331, 332,
158 334, 335, 336, 337, or 338, RSMo, for coverage concerning his or her private
159 practice and assets shall not be considered available under subsection 7 of this
160 section to pay that portion of a judgment or claim for which the state legal
161 expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3)

162 of subsection 2 of this section. However, a health care professional licensed or
163 registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may
164 purchase liability or malpractice insurance for coverage of liability claims or
165 judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of
166 subdivision (3) of subsection 2 of this section which exceed the amount of liability
167 coverage provided by the state legal expense fund under those paragraphs. Even
168 if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this
169 section is repealed or modified, the state legal expense fund shall be available for
170 damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of
171 subdivision (3) of subsection 2 of this section is in effect.

172 4. The attorney general shall promulgate rules regarding contract
173 procedures and the documentation of legal practice provided under subdivision
174 (5) of subsection 2 of this section. The limitation on payments from the state
175 legal expense fund or any policy of insurance procured pursuant to section
176 105.721 as provided in subsection 7 of this section shall not apply to any claim
177 or judgment arising under subdivision (5) of subsection 2 of this section. Any
178 claim or judgment arising under subdivision (5) of subsection 2 of this section
179 shall be paid by the state legal expense fund or any policy of insurance procured
180 pursuant to section 105.721 to the extent damages are allowed under sections
181 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained
182 and maintained in force shall not be considered available under subsection 7 of
183 this section to pay that portion of a judgment or claim for which the state legal
184 expense fund is liable under subdivision (5) of subsection 2 of this
185 section. However, an attorney may obtain liability or malpractice insurance for
186 coverage of liability claims or judgments based upon legal practice rendered
187 under subdivision (5) of subsection 2 of this section that exceed the amount of
188 liability coverage provided by the state legal expense fund under subdivision (5)
189 of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this
190 section is repealed or amended, the state legal expense fund shall be available for
191 damages that occur while the pertinent subdivision (5) of subsection 2 of this
192 section is in effect.

193 5. All payments shall be made from the state legal expense fund by the
194 commissioner of administration with the approval of the attorney
195 general. Payment from the state legal expense fund of a claim or final judgment
196 award against a health care professional licensed or registered under chapter 330,
197 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b), (c),

198 (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an
199 attorney in subdivision (5) of subsection 2 of this section, shall only be made for
200 services rendered in accordance with the conditions of such paragraphs. In the
201 case of any claim or judgment against an officer or employee of the state or any
202 agency of the state based upon conduct of such officer or employee arising out of
203 and performed in connection with his or her official duties on behalf of the state
204 or any agency of the state that would give rise to a cause of action under section
205 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive
206 damages, for:

207 (1) Economic damages to any one claimant; and

208 (2) Up to three hundred fifty thousand dollars for noneconomic damages.

209 The state legal expense fund shall be the exclusive remedy and shall preclude any
210 other civil actions or proceedings for money damages arising out of or relating to
211 the same subject matter against the state officer or employee, or the officer's or
212 employee's estate. No officer or employee of the state or any agency of the state
213 shall be individually liable in his or her personal capacity for conduct of such
214 officer or employee arising out of and performed in connection with his or her
215 official duties on behalf of the state or any agency of the state. The provisions of
216 this subsection shall not apply to any defendant who is not an officer or employee
217 of the state or any agency of the state in any proceeding against an officer or
218 employee of the state or any agency of the state. Nothing in this subsection shall
219 limit the rights and remedies otherwise available to a claimant under state law
220 or common law in proceedings where one or more defendants is not an officer or
221 employee of the state or any agency of the state.

222 6. The limitation on awards for noneconomic damages provided for in this
223 subsection shall be increased or decreased on an annual basis effective January
224 first of each year in accordance with the Implicit Price Deflator for Personal
225 Consumption Expenditures as published by the Bureau of Economic Analysis of
226 the United States Department of Commerce. The current value of the limitation
227 shall be calculated by the director of the department of insurance, **financial**
228 **institutions and professional registration**, who shall furnish that value to
229 the secretary of state, who shall publish such value in the Missouri Register as
230 soon after each January first as practicable, but it shall otherwise be exempt from
231 the provisions of section 536.021, RSMo.

232 7. Except as provided in subsection 3 of this section, in the case of any
233 claim or judgment that arises under sections 537.600 and 537.610, RSMo, against

234 the state of Missouri, or an agency of the state, the aggregate of payments from
235 the state legal expense fund and from any policy of insurance procured pursuant
236 to the provisions of section 105.721 shall not exceed the limits of liability as
237 provided in sections 537.600 to 537.610, RSMo. No payment shall be made from
238 the state legal expense fund or any policy of insurance procured with state funds
239 pursuant to section 105.721 unless and until the benefits provided to pay the
240 claim by any other policy of liability insurance have been exhausted.

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

244 9. Any rule or portion of a rule, as that term is defined in section 536.010,
245 RSMo, that is promulgated under the authority delegated in sections 105.711 to
246 105.726 shall become effective only if it has been promulgated pursuant to the
247 provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to
248 repeal or affect the validity of any rule filed or adopted prior to August 28, 1999,
249 if it fully complied with the provisions of chapter 536, RSMo. This section and
250 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
251 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
252 date, or to disapprove and annul a rule are subsequently held unconstitutional,
253 then the grant of rulemaking authority and any rule proposed or adopted after
254 August 28, 1999, shall be invalid and void.

135.520. 1. The division of finance [of the department of economic
2 development] shall conduct an annual review of each Missouri certified capital
3 company and any qualified investing entities designated by it to determine if the
4 Missouri certified capital company is abiding by the requirements of
5 certifications, to advise the Missouri certified capital company as to the
6 certification status of its qualified investments and to ensure that no investment
7 has been made in violation of sections 135.500 to 135.529. The cost of the annual
8 review shall be paid by each Missouri certified capital company according to a
9 reasonable fee schedule adopted by the department. The division of finance shall
10 report its findings to the department as soon as practicable following completion
11 of the audit.

12 2. Any material violation of sections 135.500 to 135.529 shall be grounds
13 for decertification under this section. If the department determines that a
14 company is not in compliance with any requirements for continuing in
15 certification, it shall, by written notice, inform the officers of the company and the

16 board of directors, managers, trustees or general partners that they may be
17 decertified in one hundred twenty days from the date of mailing of the notice,
18 unless they correct the deficiencies and are again in compliance with the
19 requirements for certification.

20 3. At the end of the one hundred twenty-day grace period, if the Missouri
21 certified capital company is still not in compliance, the department may send a
22 notice of decertification to the company and to the directors of the department of
23 revenue and department of insurance, **financial institutions and**
24 **professional registration**. Decertification of a Missouri certified capital
25 company prior to the certified capital company meeting all requirements of
26 subdivisions (1) to (3) of subsection 1 of section 135.516 shall cause the recapture
27 of all premium tax credits previously claimed by an investor and the forfeiture of
28 all future credits to be claimed by an investor with respect to its investment in
29 the certified capital company. Decertification of a Missouri certified capital
30 company after it has met all requirements of subdivisions (1) to (3) of subsection
31 1 of section 135.516 shall cause the forfeiture of premium tax credits for the
32 taxable year of the investor in which the decertification arose and for future
33 taxable years with no recapture of tax credits obtained by an investor with
34 respect to the investor's tax years which ended before the decertification
35 occurred. Once a certified capital company has made cumulative qualified
36 investments, including those made through a qualified investing entity and
37 deemed to have been made by the certified capital company, in an amount equal
38 to at least one hundred percent of its certified capital, all future premium tax
39 credits to be claimed by investors with respect to said certified capital company
40 pursuant to sections 135.500 to 135.529 shall be nonforfeitable. Once a certified
41 capital company has made cumulative qualified investments, including those
42 made through a qualified investing entity and deemed to have been made by the
43 certified capital company, in an amount equal to at least one hundred percent of
44 its certified capital and has met all other requirements under sections 135.500 to
45 135.529, it shall no longer be subject to regulation by the department except with
46 respect to the payment of distributions to the Missouri development finance
47 board.

148.330. 1. Every such company shall, on or before the first day of March
2 in each year, make a return, verified by the affidavit of its president and
3 secretary, or other authorized officers, to the director of the department of
4 insurance, **financial institutions and professional registration** stating the

5 amount of all premiums received on account of policies issued in this state by the
6 company, whether in cash or in notes, during the year ending on the thirty-first
7 day of December, next preceding. Upon receipt of such returns the director of the
8 department of insurance, **financial institutions and professional**
9 **registration** shall verify the same and certify the amount of tax due from the
10 various companies on the basis and at the rates provided in section 148.320, and
11 shall certify the same to the director of revenue together with the amount of the
12 quarterly installments to be made as provided in subsection 2 of this section, on
13 or before the thirtieth day of April of each year.

14 2. Beginning January 1, 1983, the amount of the tax due for that calendar
15 year and each succeeding calendar year thereafter shall be paid in four
16 approximately equal estimated quarterly installments, and a fifth reconciling
17 installment. The first four installments shall be based upon the tax for the
18 immediately preceding taxable year ending on the thirty-first day of December,
19 next preceding. The quarterly installments shall be made on the first day of
20 March, the first day of June, the first day of September and the first day of
21 December. Immediately after receiving certification from the director of the
22 department of insurance, **financial institutions and professional**
23 **registration** of the amount of tax due from the various companies the director
24 of revenue shall notify and assess each company the amount of taxes on its
25 premiums for the calendar year ending on the thirty-first day of December, next
26 preceding. The director of revenue shall also notify and assess each company the
27 amount of the estimated quarterly installments to be made for the calendar year.
28 If the amount of the actual tax due for any year exceeds the total of the
29 installments made for such year, the balance of the tax due shall be paid on the
30 first day of June of the year following, together with the regular quarterly
31 payment due at that time. If the total amount of the tax actually due is less than
32 the total amount of the installments actually paid, the amount by which the
33 amount paid exceeds the amount due shall be credited against the tax for the
34 following year and deducted from the quarterly installment otherwise due on the
35 first day of June. If the March first quarterly installment made by a company is
36 less than the amount assessed by the director of revenue, the difference will be
37 due on June first, but no interest will accrue to the state on the difference unless
38 the amount paid by the company is less than eighty percent of one-fourth of the
39 total amount of tax assessed by the director of revenue for the immediately
40 preceding taxable year. The state treasurer, upon receiving the moneys paid as

41 a tax upon such premiums to the director of revenue, shall place the moneys to
42 the credit of a fund to be known as "The County Stock Insurance Fund", which
43 is hereby created and established. The county stock insurance fund shall be
44 included in the calculation of total state revenue pursuant to article X, section 18,
45 of the Missouri Constitution.

46 3. If the estimated quarterly tax installments are not so paid, the director
47 of revenue shall certify such fact to the director of the [division] **department** of
48 insurance, **financial institutions and professional registration** who shall
49 thereafter suspend such delinquent company or companies from the further
50 transaction of business in this state until such taxes shall be paid and such
51 companies shall be subject to the provisions of sections 148.410 to 148.461.

52 4. On or before the first day of September of each year the commissioner
53 of administration shall apportion all moneys in the county stock insurance fund
54 to the general revenue fund of the state, to the county treasurer and to the
55 treasurer of the school district in which the principal office of the company paying
56 the same is located. All premium tax credits described in sections 135.500 to
57 135.529, RSMo, and sections 348.430 and 348.432, RSMo, shall only reduce the
58 amounts apportioned to the general revenue fund of the state and shall not
59 reduce any moneys apportioned to any county treasurer or to the treasurer of the
60 school district in which the principal office of the company paying the same is
61 located. Apportionments shall be made in the same ratio which the rates of levy
62 for the same year for state purposes, for county purposes, and for all school
63 district purposes, bear to each other; provided that any proceeds from such tax
64 for prior years remaining on hand in the hands of the county collector or county
65 treasurer undistributed on the effective date of sections 148.310 to 148.460 and
66 any proceeds of such tax for prior years collected thereafter shall be distributed
67 and paid in accordance with the provisions of such sections. Whenever the word
68 "county" occurs herein it shall be construed to include the city of St. Louis.

209.285. As used in sections 209.285 to 209.339, unless the context clearly
2 requires otherwise, the following terms mean:

3 (1) "American sign language", a visual-gestural system of communication
4 that has its own syntax, rhetoric and grammar. American sign language is
5 recognized, accepted and used by many deaf Americans. This native language
6 represents concepts rather than words;

7 (2) "Board", the Missouri board for certification of interpreters,
8 established within the commission in section 209.287;

9 (3) "Certification", a document issued by the Missouri commission for the
10 deaf and hard of hearing declaring that the holder is qualified to practice
11 interpreting at a disclosed level;

12 (4) "Commission", the Missouri commission for the deaf and hard of
13 hearing;

14 (5) "Committee", the Missouri state committee of interpreters, established
15 in section 209.319;

16 (6) "Conversion levels", the process of granting levels of certification by
17 the commission to individuals holding certification from another state or within
18 another certification system in this state or another state;

19 (7) "Coordinator", a staff person, hired by the executive director of the
20 Missouri commission for the deaf and hard of hearing, who shall serve as
21 coordinator for the Missouri interpreter certification system;

22 (8) "Deaf person", any person who is not able to discriminate speech when
23 spoken in a normal conversational tone regardless of the use of amplification
24 devices;

25 (9) "Department", the [Missouri] department of [economic development]
26 **insurance, financial institutions and professional registration**;

27 (10) "Director", the director of the division of professional registration [in
28 the department of economic development];

29 (11) "Division", the division of professional registration;

30 (12) "Executive director", the executive director of the Missouri
31 commission for the deaf and hard of hearing;

32 (13) "Interpreter", any person who offers to render interpreting services
33 implying that he or she is trained, and experienced in interpreting, and holds a
34 current, valid certification and license to practice interpreting in this state;
35 provided that a telecommunications operator providing deaf relay service or a
36 person providing operator services for the deaf shall not be considered to be an
37 interpreter;

38 (14) "Interpreter trainer", a person, certified and licensed by the state of
39 Missouri as an interpreter, who trains new interpreters in the translating of
40 spoken English or written concepts to any necessary specialized vocabulary used
41 by a deaf consumer. Necessary specialized vocabularies include, but are not
42 limited to, American sign language, Pidgin Signed English, oral, tactile sign and
43 language deficient skills;

44 (15) "Interpreting", the translating of English spoken or written concepts

45 to any necessary specialized vocabulary used by a deaf person or the translating
46 of a deaf person's specialized vocabulary to English spoken or written concepts;
47 provided that a telecommunications operator providing deaf relay service or a
48 person providing operator services for the deaf shall not be considered to be
49 interpreting. Necessary specialized vocabularies include, but are not limited to,
50 American sign language, Pidgin Signed English, oral, tactile sign and language
51 deficient skills;

52 (16) "Language deficient", mode of communication used by deaf
53 individuals who lack crucial language components, including, but not limited to,
54 vocabulary, language concepts, expressive skills, language skills and receptive
55 skills;

56 (17) "Missouri commission for the deaf", Missouri commission for the deaf
57 and hard of hearing established in section 161.400;

58 (18) "Oral", mode of communication having characteristics of speech,
59 speech reading and residual hearing as a primary means of communication using
60 situational and culturally appropriate gestures, without the use of sign language;

61 (19) "Pidgin Signed English", a mode of communication having
62 characteristics of American sign language;

63 (20) "Practice of interpreting", rendering or offering to render or supervise
64 those who render to individuals, couples, groups, organizations, institutions,
65 corporations, schools, government agencies or the general public any interpreting
66 service involving the translation of any mode of communication used by a deaf
67 person to spoken English or of spoken English to a mode of communication used
68 by a deaf person;

69 (21) "Tactile sign", mode of communication, used by deaf and blind
70 individuals, using any one or a combination of the following: tactile sign,
71 constricted space sign or notetaking.

214.270. As used in sections 214.270 to 214.410, the following terms
2 mean:

3 (1) "Agent" or "authorized agent", any person empowered by the cemetery
4 operator to represent the operator in dealing with the general public, including
5 owners of the burial space in the cemetery;

6 (2) "Burial space", one or more than one plot, grave, mausoleum, crypt,
7 lawn, surface lawn crypt, niche or space used or intended for the interment of the
8 human dead;

9 (3) "Cemetery", property restricted in use for the interment of the human

10 dead by formal dedication or reservation by deed but shall not include any of the
11 foregoing held or operated by the state or federal government or any political
12 subdivision thereof, any incorporated city or town, any county or any religious
13 organization, cemetery association or fraternal society holding the same for sale
14 solely to members and their immediate families;

15 (4) "Cemetery association", any number of persons who shall have
16 associated themselves by articles of agreement in writing as a not-for-profit
17 association or organization, whether incorporated or unincorporated, formed for
18 the purpose of ownership, preservation, care, maintenance, adornment and
19 administration of a cemetery. Cemetery associations shall be governed by a board
20 of directors. Directors shall serve without compensation;

21 (5) "Cemetery operator" or "operator", any person who owns, controls,
22 operates or manages a cemetery;

23 (6) "Cemetery service", those services performed by a cemetery owner or
24 operator licensed pursuant to this chapter as an endowed care cemetery including
25 setting a monument, setting a tent, excavating a grave, or setting a vault;

26 (7) "Columbarium", a building or structure for the inurnment of cremated
27 human remains;

28 (8) "Community mausoleum", a mausoleum containing a substantial area
29 of enclosed space and having either a heating, ventilating or air conditioning
30 system;

31 (9) "Department", department of [economic development] **insurance,**
32 **financial institutions and professional registration;**

33 (10) "Developed acreage", the area which has been platted into grave
34 spaces and has been developed with roads, paths, features, or ornamentations and
35 in which burials can be made;

36 (11) "Director", director of the division of professional registration;

37 (12) "Division", division of professional registration;

38 (13) "Endowed care", the maintenance, repair and care of all burial space
39 subject to the endowment within a cemetery, including any improvements made
40 for the benefit of such burial space. Endowed care shall include the general
41 overhead expenses needed to accomplish such maintenance, repair, care and
42 improvements. Endowed care shall include the terms perpetual care, permanent
43 care, continual care, eternal care, care of duration, or any like term;

44 (14) "Endowed care cemetery", a cemetery, or a section of a cemetery,
45 which represents itself as offering endowed care and which complies with the

46 provisions of sections 214.270 to 214.410;

47 (15) "Endowed care fund", "endowed care trust", or "trust", any cash or
48 cash equivalent, to include any income therefrom, impressed with a trust by the
49 terms of any gift, grant, contribution, payment, devise or bequest to an endowed
50 care cemetery, or its endowed care trust, or funds to be delivered to an endowed
51 care cemetery's trust received pursuant to a contract and accepted by any
52 endowed care cemetery operator or his agent. This definition includes the terms
53 endowed care funds, maintenance funds, memorial care funds, perpetual care
54 funds, or any like term;

55 (16) "Family burial ground", a cemetery in which no burial space is sold
56 to the public and in which interments are restricted to persons related by blood
57 or marriage;

58 (17) "Fraternal cemetery", a cemetery owned, operated, controlled or
59 managed by any fraternal organization or auxiliary organizations thereof, in
60 which the sale of burial space is restricted solely to its members and their
61 immediate families;

62 (18) "Garden mausoleum", a mausoleum without a substantial area of
63 enclosed space and having its crypt and niche fronts open to the
64 atmosphere. Ventilation of the crypts by forced air or otherwise does not
65 constitute a garden mausoleum as a community mausoleum;

66 (19) "Government cemetery", or "municipal cemetery", a cemetery owned,
67 operated, controlled or managed by the federal government, the state or a
68 political subdivision of the state, including a county or municipality or
69 instrumentality thereof;

70 (20) "Grave" or "plot", a place of ground in a cemetery, used or intended
71 to be used for burial of human remains;

72 (21) "Human remains", the body of a deceased person in any state of
73 decomposition, as well as cremated remains;

74 (22) "Inurnment", placing an urn containing cremated remains in a burial
75 space;

76 (23) "Lawn crypt", a burial vault or other permanent container for a
77 casket which is permanently installed below ground prior to the time of the actual
78 interment. A lawn crypt may permit single or multiple interments in a grave
79 space;

80 (24) "Mausoleum", a structure or building for the entombment of human
81 remains in crypts;

82 (25) "Niche", a space in a columbarium used or intended to be used for
83 inurnment of cremated remains;

84 (26) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery
85 or a section of a cemetery for which no endowed care fund has been established
86 in accordance with sections 214.270 to 214.410;

87 (27) "Owner of burial space", a person to whom the cemetery operator or
88 his authorized agent has transferred the right of use of burial space;

89 (28) "Person", an individual, corporation, partnership, joint venture,
90 association, trust or any other legal entity;

91 (29) "Registry", the list of cemeteries maintained in the division office for
92 public review. The division may charge a fee for copies of the registry;

93 (30) "Religious cemetery", a cemetery owned, operated, controlled or
94 managed by any church, convention of churches, religious order or affiliated
95 auxiliary thereof in which the sale of burial space is restricted solely to its
96 members and their immediate families;

97 (31) "Surface lawn crypt", a sealed burial chamber whose lid protrudes
98 above the land surface;

99 (32) "Total acreage", the entire tract which is dedicated to or reserved for
100 cemetery purposes;

101 (33) "Trustee of an endowed care fund", the separate legal entity
102 appointed as trustee of an endowed care fund.

256.453. As used in sections 256.450 to 256.483, the following words and
2 phrases shall mean:

3 (1) "Board of geologist registration" or "board", the board of geologist
4 registration created in section 256.459;

5 (2) "Certificate of registration", a license issued by the board of geologist
6 registration granting its licensee the privilege to conduct geologic work and make
7 interpretations, reports, and other actions in accordance with the provisions of
8 sections 256.450 to 256.483;

9 (3) "Division [of professional registration]", the division of professional
10 registration [within the department of economic development];

11 (4) "Geologist", a person who has met or exceeded the minimum geological
12 educational requirements and who can interpret and apply geologic data,
13 principles, and concepts and who can conduct field or laboratory geological
14 investigations;

15 (5) "Geologist-registrant in-training", a person who meets the

16 requirements of subsection 7 of section 256.468;

17 (6) "Geology", that profession based on the investigation and
18 interpretation of the earth, including bedrock, overburden, groundwater and other
19 liquids, minerals, gases, and the history of the earth and its life;

20 (7) "Practice of geology", the practice of or the offer to practice geology for
21 others, such practice including, but not limited to, geological investigations to
22 describe and interpret the natural processes acting on earth materials, including
23 gases and fluids; predicting and interpreting mineral distribution, value, and
24 production; predicting and interpreting geologic factors affecting planning, design,
25 construction, and maintenance of engineered facilities such as waste disposal
26 sites or dams; and the teaching of the science of geology;

27 (8) "Public health, safety and welfare" shall include the following:
28 protection of groundwater; buildings and other construction projects including
29 dams, highways and foundations; waste disposal or causes of waste pollution
30 including human, animal, and other wastes including radionuclides; stability of
31 the earth's surface such as could be affected by earthquakes, landslides, or
32 collapse; the depth, casing, grouting, and other recommendations for the
33 construction of wells or other borings into earth that intersect one or more
34 aquifers; and excavation into the earth's materials where stability or other factors
35 are at risk. "Public health, safety, and welfare" does not refer to geologic work
36 conducted to determine mineral resources or other resources as could be available
37 for various uses, teaching, or basic geologic work including making geologic maps,
38 cross sections, stratigraphic determinations, and associated reports or other
39 presentations;

40 (9) "Qualified geologist" or "professional geologist", a geologist who
41 satisfies the educational requirements of subsection 2 of section 256.468 and who
42 has at least three years of experience in the practice of geology subsequent to
43 satisfying such educational requirements;

44 (10) "Registered geologist", a geologist who has met the qualifications
45 established by the board and has been issued a certificate of registration by the
46 board of geologist registration;

47 (11) "Responsible charge of work", the independent control and direction
48 of geological work or the supervision of such work pertaining to the practice of
49 geology;

50 (12) "Specialty", a branch of geologic study and work such as engineering
51 geology, environmental geology, hydrogeology, mineral resources, and other

52 related work requiring geologic education and experience.

285.230. 1. As used in this section, "transient employer" means an
2 employer as defined in sections 143.191, RSMo, 287.030, RSMo, and 288.032,
3 RSMo, making payment of wages taxable under chapters 143, RSMo, 287, RSMo,
4 and 288, RSMo, who is not domiciled in this state and who temporarily transacts
5 any business within the state, but shall not include any employer who is not
6 subject to Missouri income tax because of the provisions of 15 U.S.C. 381. The
7 transaction of business shall be considered temporary at any time it cannot be
8 reasonably expected to continue for a period of twenty-four consecutive
9 months. Professional athletic teams and professional entertainers domiciled in
10 a state other than Missouri shall be deemed a "transient employer" for the
11 purposes of this section, unless the person or entity who pays compensation to the
12 nonresident entertainer has fully complied with the provisions of section 143.183,
13 RSMo, in which case the nonresident entertainer shall not be considered a
14 transient employer.

15 2. Employers meeting the following criteria shall not be required to file
16 a financial assurance instrument as required by this section:

17 (1) The principal place of business of the employer must be in a county of
18 another state which is contiguous to the state of Missouri; and

19 (2) The employer must have been under contract to perform work in
20 Missouri for at least sixty days cumulatively out of twelve months during each of
21 the two calendar years immediately preceding the employer's initial application
22 for exemption from the provisions of this section; and

23 (3) The employer must have in his possession a tax clearance from the
24 department of revenue and the division of employment security stating that the
25 employer has faithfully complied with the tax laws of this state during the period
26 set out in subdivision (2) of this subsection.

27 Within ninety days of August 13, 1988, such employers must obtain initial tax
28 clearances in accordance with subdivision (3) of this subsection. Any tax
29 clearance issued under the provisions of this section by the division of
30 employment security shall be submitted to the department of revenue. On or
31 before January thirty-first of each year, except January thirty-first following the
32 year during which the employer first meets these criteria, the employer shall
33 submit application to the department of revenue and division of employment
34 security for a renewed tax clearance. Failure to submit such renewal applications
35 or failure to comply with applicable Missouri taxing and employment security

36 laws during the period between annual renewal dates or removal of the
37 employer's principal place of business from a county in another state which is
38 contiguous to Missouri to a state other than Missouri shall immediately subject
39 the employer to all provisions of this section. An employer meeting the
40 requirements of this subsection shall still be subject to the provisions of
41 subsection 5 of this section.

42 3. Every transient employer shall file with the director of revenue a
43 financial assurance instrument including, but not limited to, a cash bond, a
44 surety bond, or an irrevocable letter of credit as defined in section 400.5-103,
45 RSMo, issued by any state or federal financial institution. The financial
46 assurance instrument shall be in an amount not less than the average estimated
47 quarterly withholding tax liability of the applicant, but in no case less than five
48 thousand dollars nor more than twenty-five thousand dollars. Any corporate
49 surety shall be licensed to do such business in this state and approved by the
50 director of revenue to act as a surety. The transient employer shall be the
51 principal obligor and the state of Missouri shall be the obligee. The financial
52 assurance instrument shall be conditioned upon the prompt filing of true reports
53 and the payment by such employer to the director of revenue of any and all
54 withholding taxes which are now or which hereafter may be levied or imposed by
55 the state of Missouri, upon the employer, together with any and all penalties and
56 interest thereon, and generally upon the faithful compliance with the provisions
57 of chapters 143, RSMo, 287, RSMo, and 288, RSMo.

58 4. Any transient employer who is already otherwise required to file a
59 financial assurance instrument as a condition of any contract, provided said
60 financial assurance instrument guarantees payment of all applicable state taxes
61 and all withholding taxes levied or imposed by the state and provided that such
62 financial assurance instrument is delivered by certified mail to the department
63 of revenue by the applicable awarding entity at least fourteen days before the
64 execution of the contract for the performance of work, may use the same financial
65 assurance instrument to comply with the provisions of this section. Before such
66 financial assurance instrument is approved by the awarding entity, the director
67 of revenue shall be satisfied that such financial assurance instrument is sufficient
68 to cover all taxes imposed by this state and the director shall so notify the
69 awarding entity of the decision within the fourteen days prior to the execution of
70 the contract. Failure to do so by the director shall waive any right to disapprove
71 such financial assurance instrument. Before a financial assurance instrument is

72 released by the entity awarding the contract, a tax clearance shall be obtained
73 from the director of revenue that such transient employer has faithfully complied
74 with all the tax laws of this state.

75 5. Every transient employer shall certify to the director of revenue that
76 such employer has sufficient workers' compensation insurance either through a
77 self-insurance program or a policy of workers' compensation insurance issued by
78 an approved workers' compensation carrier. The self-insurance program shall be
79 approved by the division of workers' compensation pursuant to section 287.280,
80 RSMo. The insurance policy shall be in a contract form approved by the
81 department of insurance, **financial institutions and professional**
82 **registration.**

83 6. In the event that liability upon the financial assurance instrument thus
84 filed by the transient employer shall be discharged or reduced, whether by
85 judgment rendered, payment made or otherwise, or if in the opinion of the
86 director of revenue any surety on a bond theretofore given or financial institution
87 shall have become unsatisfactory or unacceptable, then the director of revenue
88 may require the employer to file a new financial assurance instrument in the
89 same form and amount. If such new financial assurance instrument shall be
90 furnished by such employer as above provided, the director of revenue shall upon
91 satisfaction of any liability that has accrued, release the surety on the old bond
92 or financial institution issuing the irrevocable letter of credit.

93 7. Any surety on any bond or financial institution issuing an irrevocable
94 letter of credit furnished by any transient employer as provided in this section
95 shall be released and discharged from any and all liability to the state of Missouri
96 accruing on such bond or irrevocable letter of credit after the expiration of sixty
97 days from the date upon which such surety or financial institution shall have
98 lodged with the director of revenue a written request to be released and
99 discharged; but the request shall not operate to relieve, release or discharge such
100 surety or financial institution from any liability already accrued or which shall
101 accrue during and before the expiration of said sixty-day period. The director of
102 revenue shall promptly on receipt of notice of such request notify the employer
103 who furnished such bond or irrevocable letter of credit and such employer shall
104 on or before the expiration of such sixty-day period file with the director of
105 revenue a new financial assurance instrument satisfactory to the director of
106 revenue in the amount and form provided in this section.

107 8. Notwithstanding the limitation as to the amount of any financial

108 assurance instrument fixed by this section, if a transient employer becomes
109 delinquent in the payment of any tax or tenders a check in payment of tax which
110 check is returned unpaid because of insufficient funds, the director may demand
111 an additional instrument of such employer in an amount necessary, in the
112 judgment of the director, to protect the revenue of the state. The penal sum of
113 the additional instrument and the instrument furnished under the provisions of
114 the law requiring such instrument may not exceed two quarters' estimated tax
115 liability.

116 9. For any period when a transient employer fails to meet the
117 requirements of this section, there shall be added to any deficiency assessed
118 against a transient employer, in addition to any other addition, interest, and
119 penalties, an amount equal to twenty-five percent of the deficiency.

120 10. A taxpayer commits the crime of failure to file a financial assurance
121 instrument if he knowingly fails to comply with the provisions of this section.

122 11. Failure to file a financial assurance instrument is a class A
123 misdemeanor. Pursuant to section 560.021, RSMo, a corporation found guilty of
124 failing to file a financial assurance instrument may be fined up to five thousand
125 dollars or any higher amount not exceeding twice the amount the employer
126 profited from the commission of the offense.

127 12. Failing to register with the department of revenue and execute the
128 financial assurance instrument herein provided, prior to beginning the
129 performance of any contract, shall prohibit the employer from performing on such
130 contract until he complies with such requirements.

131 13. Each employer shall keep full and accurate records clearly indicating
132 the names, occupations, and crafts, if applicable, of every person employed by him
133 together with an accurate record of the number of hours worked by each employee
134 and the actual wages paid. The payroll records required to be so kept shall be
135 open to inspection by any authorized representative of the department of revenue
136 at any reasonable time and as often as may be necessary and such records shall
137 not be destroyed or removed from the state for a period of one year following the
138 completion of the contract in connection with which the records are made.

139 14. The entering into of any contract for the performance of work in the
140 state of Missouri by any such employer shall be deemed to constitute an
141 appointment of the secretary of state as registered agent of such employer for
142 purposes of accepting service of any process, or of any notice or demand required
143 or permitted by law. The service of any such process, notice or demand, when

144 served on the secretary of state shall have the same legal force and validity as if
145 served upon the employer personally within the state.

146 15. In addition, any employer who fails to file a financial assurance
147 instrument as required by this section shall be prohibited from contracting for or
148 performing labor on any public works project in this state for a period of one year.

149 16. Whenever a transient employer ceases to engage in activity within the
150 state it shall be the duty of such transient employer to notify the director of
151 revenue in writing at least ten days prior to the time the discontinuance takes
152 effect.

320.082. Every insurance company doing the business of fire insurance
2 within this state which shall have reason to believe that any fire loss reported to
3 it is the result of arson or incendiarism shall forthwith report the same along
4 with all relevant facts thereof to the prosecuting or circuit attorney of the city or
5 county in which said fire loss occurred and the prosecuting or circuit attorney
6 shall acknowledge receipt. The prosecuting or circuit attorney shall give
7 notification of receipt and shall provide such report, upon request, to the state
8 fire marshal, the [division] **department of insurance, financial institutions**
9 **and professional registration** and the law enforcement agency having
10 jurisdiction over the fire loss.

324.001. 1. For the purposes of this section, the following terms
2 **mean:**

3 (1) **"Department", the department of insurance, financial**
4 **institutions and professional registration;**

5 (2) **"Director", the director of the division of professional**
6 **registration; and**

7 (3) **"Division", the division of professional registration.**

8 2. **There is hereby established a "Division of Professional**
9 **Registration" assigned to the department of insurance, financial**
10 **institutions and professional registration as a type III transfer, headed**
11 **by a director appointed by the governor with the advice and consent of**
12 **the senate. All of the general provisions, definitions and powers**
13 **enumerated in section 1 of the Omnibus State Reorganization Act of**
14 **1974 and Executive Order 06-04 shall apply to this department and its**
15 **divisions, agencies, and personnel.**

16 3. **The director of the division of professional registration shall**
17 **promulgate rules and regulations which designate for each board or**

18 commission assigned to the division the renewal date for licenses or
19 certificates. After the initial establishment of renewal dates, no
20 director of the division shall promulgate a rule or regulation which
21 would change the renewal date for licenses or certificates if such
22 change in renewal date would occur prior to the date on which the
23 renewal date in effect at the time such new renewal date is specified
24 next occurs. Each board or commission shall by rule or regulation
25 establish licensing periods of one, two, or three years. Registration
26 fees set by a board or commission shall be effective for the entire
27 licensing period involved, and shall not be increased during any
28 current licensing period. Persons who are required to pay their first
29 registration fees shall be allowed to pay the pro rata share of such fees
30 for the remainder of the period remaining at the time the fees are
31 paid. Each board or commission shall provide the necessary forms for
32 initial registration, and thereafter the director may prescribe standard
33 forms for renewal of licenses and certificates. Each board or
34 commission shall by rule and regulation require each applicant to
35 provide the information which is required to keep the board's records
36 current. Each board or commission shall issue the original license or
37 certificate.

38 4. The division shall provide clerical and other staff services
39 relating to the issuance and renewal of licenses for all the professional
40 licensing and regulating boards and commissions assigned to the
41 division. The division shall perform the financial management and
42 clerical functions as they each relate to issuance and renewal of
43 licenses and certificates. "Issuance and renewal of licenses and
44 certificates" means the ministerial function of preparing and delivering
45 licenses or certificates, and obtaining material and information for the
46 board or commission in connection with the renewal thereof. It does
47 not include any discretionary authority with regard to the original
48 review of an applicant's qualifications for licensure or certification, or
49 the subsequent review of licensee's or certificate holder's
50 qualifications, or any disciplinary action contemplated against the
51 licensee or certificate holder. The division may develop and implement
52 microfilming systems and automated or manual management
53 information systems.

54 5. The director of the division shall maintain a system of

55 accounting and budgeting, in cooperation with the director of the
56 department, the office of administration, and the state auditor's office,
57 to ensure proper charges are made to the various boards for services
58 rendered to them. The general assembly shall appropriate to the
59 division and other state agencies from each board's funds, moneys
60 sufficient to reimburse the division and other state agencies for all
61 services rendered and all facilities and supplies furnished to that
62 board.

63 6. For accounting purposes, the appropriation to the division and
64 to the office of administration for the payment of rent for quarters
65 provided for the division shall be made from the "Professional
66 Registration Fees Fund", which is hereby created, and is to be used
67 solely for the purpose defined in subsection 5 of this section. The fund
68 shall consist of moneys deposited into it from each board's fund. Each
69 board shall contribute a prorated amount necessary to fund the
70 division for services rendered and rent based upon the system of
71 accounting and budgeting established by the director of the division as
72 provided in subsection 5 of this section. Transfers of funds to the
73 professional registration fees fund shall be made by each board on July
74 first of each year; provided, however, that the director of the division
75 may establish an alternative date or dates of transfers at the request
76 of any board. Such transfers shall be made until they equal the
77 prorated amount for services rendered and rent by the division. The
78 provisions of section 33.080, RSMo, to the contrary notwithstanding,
79 money in this fund shall not be transferred and placed to the credit of
80 general revenue.

81 7. The director of the division shall be responsible for collecting
82 and accounting for all moneys received by the division or its
83 component agencies. Any money received by a board or commission
84 shall be promptly given, identified by type and source, to the
85 director. The director shall keep a record by board and state
86 accounting system classification of the amount of revenue the director
87 receives. The director shall promptly transmit all receipts to the
88 department of revenue for deposit in the state treasury to the credit of
89 the appropriate fund. The director shall provide each board with all
90 relevant financial information in a timely fashion. Each board shall
91 cooperate with the director by providing necessary information.

92 8. All educational transcripts, test scores, complaints,
93 investigatory reports, and information pertaining to any person who is
94 an applicant or licensee of any agency assigned to the division of
95 professional registration by statute or by the department are
96 confidential and may not be disclosed to the public or any member of
97 the public, except with the written consent of the person whose records
98 are involved. The agency which possesses the records or information
99 shall disclose the records or information if the person whose records
100 or information is involved has consented to the disclosure. Each
101 agency is entitled to the attorney-client privilege and work-product
102 privilege to the same extent as any other person. Provided, however,
103 that any board may disclose confidential information without the
104 consent of the person involved in the course of voluntary interstate
105 exchange of information, or in the course of any litigation concerning
106 that person, or pursuant to a lawful request, or to other administrative
107 or law enforcement agencies acting within the scope of their statutory
108 authority. Information regarding identity, including names and
109 addresses, registration, and currency of the license of the persons
110 possessing licenses to engage in a professional occupation and the
111 names and addresses of applicants for such licenses is not confidential
112 information.

113 9. Any deliberations conducted and votes taken in rendering a
114 final decision after a hearing before an agency assigned to the division
115 shall be closed to the parties and the public. Once a final decision is
116 rendered, that decision shall be made available to the parties and the
117 public.

118 10. A compelling governmental interest shall be deemed to exist
119 for the purposes of section 536.025, RSMo, for licensure fees to be
120 reduced by emergency rule, if the projected fund balance of any agency
121 assigned to the division of professional registration is reasonably
122 expected to exceed an amount that would require transfer from that
123 fund to general revenue.

124 11. (1) The following boards and commissions are assigned by
125 specific type transfers to the division of professional registration:
126 Missouri state board of accountancy, chapter 326, RSMo; board of
127 cosmetology and barber examiners, chapters 328 and 329, RSMo; state
128 board of registration for architects, professional engineers and

129 professional land surveyors and landscape architects, chapter 327,
130 RSMo; state board of chiropractic examiners, chapter 331, RSMo; state
131 board of registration for the healing arts, chapter 334, RSMo; Missouri
132 dental board, chapter 332, RSMo; state board of embalmers and funeral
133 directors, chapter 333, RSMo; state board of optometry, chapter 336,
134 RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy,
135 chapter 338, RSMo; state board of podiatry, chapter 330, RSMo;
136 Missouri real estate commission, chapter 339, RSMo; and Missouri
137 veterinary medical board, chapter 340, RSMo. The governor shall
138 appoint members of these boards by and with the advice and consent
139 of the senate.

140 (2) The boards and commissions assigned to the division shall
141 exercise all their respective statutory duties and powers, except those
142 clerical and other staff services involving collecting and accounting for
143 moneys and financial management relating to the issuance and renewal
144 of licenses, which services shall be provided by the division, within the
145 appropriation therefor. Nothing herein shall prohibit employment of
146 professional examining or testing services from professional
147 associations or others as required by the boards or commissions on
148 contract. Nothing herein shall be construed to affect the power of a
149 board or commission to expend its funds as appropriated. However, the
150 division shall review the expense vouchers of each board. The results
151 of such review shall be submitted to the board reviewed and to the
152 house and senate appropriations committees annually.

153 (3) Notwithstanding any other provisions of law, the director of
154 the division shall exercise only those management functions of the
155 boards and commissions specifically provided in the Reorganization
156 Act of 1974, and those relating to the allocation and assignment of
157 space, personnel other than board personnel, and equipment.

158 (4) "Board personnel", as used in this section or chapters 317, 326,
159 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345,
160 RSMo, shall mean personnel whose functions and responsibilities are
161 in areas not related to the clerical duties involving the issuance and
162 renewal of licenses, to the collecting and accounting for moneys, or to
163 financial management relating to issuance and renewal of licenses;
164 specifically included are executive secretaries (or comparable
165 positions), consultants, inspectors, investigators, counsel, and

166 secretarial support staff for these positions; and such other positions
167 as are established and authorized by statute for a particular board or
168 commission. Boards and commissions may employ legal counsel, if
169 authorized by law, and temporary personnel if the board is unable to
170 meet its responsibilities with the employees authorized above. Any
171 board or commission which hires temporary employees shall annually
172 provide the division director and the appropriation committees of the
173 general assembly with a complete list of all persons employed in the
174 previous year, the length of their employment, the amount of their
175 remuneration, and a description of their responsibilities.

176 (5) Board personnel for each board or commission shall be
177 employed by and serve at the pleasure of the board or commission,
178 shall be supervised as the board or commission designates, and shall
179 have their duties and compensation prescribed by the board or
180 commission, within appropriations for that purpose, except that
181 compensation for board personnel shall not exceed that established for
182 comparable positions as determined by the board or commission
183 pursuant to the job and pay plan of the department of insurance,
184 financial institutions and professional registration. Nothing herein
185 shall be construed to permit salaries for any board personnel to be
186 lowered except by board action.

187 12. All the powers, duties, and functions of the division of
188 athletics, chapter 317, RSMo, and others, are assigned by type I transfer
189 to the division of professional registration.

190 13. Wherever the laws, rules, or regulations of this state make
191 reference to the "division of professional registration of the department
192 of economic development", such references shall be deemed to refer to
193 the division of professional registration.

324.002. Each board or commission shall receive complaints
2 concerning its licensees' business or professional practices. Each board
3 or commission shall establish by rule a procedure for the handling of
4 such complaints prior to the filing of formal complaints before the
5 administrative hearing commission. The rule shall provide, at a
6 minimum, for the logging of each complaint received, the recording of
7 the licensee's name, the name of the complaining party, the date of the
8 complaint, and a brief statement of the complaint and its ultimate
9 disposition. The rule shall provide for informing the complaining party

10 of the progress of the investigation, the dismissal of the charges or the
11 filing of a complaint before the administrative hearing commission.

324.016. No new licensing activity or other statutory
2 requirements assigned to the division of professional registration shall
3 become effective until expenditures or personnel are specifically
4 appropriated for the purpose of conducting the business as required
5 and the initial rules filed, if appropriate, have become effective. The
6 director of the division of professional registration shall have the
7 authority to borrow funds from any agency within the division to
8 commence operations upon appropriation for such purpose. This
9 authority shall cease at such time that a sufficient fund has been
10 established by the agency to fund its operations and repay the amount
11 borrowed.

324.017. 1. Contrary provisions of the law notwithstanding, no
2 complaint, investigatory report, or information received from any
3 source must be disclosed prior to its review by the appropriate agency.

4 2. At its discretion an agency may disclose complaints, completed
5 investigatory reports, and information obtained from state
6 administrative and law enforcement agencies to a licensee or license
7 applicant in order to further an investigation or to facilitate settlement
8 negotiations.

9 3. Information obtained from a federal administrative or law
10 enforcement agency shall be disclosed only after the agency has
11 obtained written consent to the disclosure from the federal
12 administrative or law enforcement agency.

13 4. At its discretion an agency may disclose complaints and
14 investigatory reports in the course of a voluntary interstate exchange
15 of information, or in the course of any litigation concerning a licensee
16 or license applicant, or pursuant to a lawful request, or to other state
17 or federal administrative or law enforcement agencies.

18 5. Except as disclosure is specifically provided above and in
19 section 610.021, RSMo, deliberations, votes, or minutes of closed
20 proceedings of agencies shall not be subject to disclosure or discovery.

324.021. When making appointments to the boards governed by
2 sections 209.285 to 209.339, RSMo, sections 256.010 to 256.453, RSMo,
3 this chapter, and chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335,
4 336, 337, 338, 339, 340, 345, and 346, RSMo, the governor shall take

5 affirmative action to appoint women and members of minority groups.
6 In addition, the governor shall not discriminate against or in favor of
7 any person on the basis of race, sex, religion, national origin, ethnic
8 background, or language.

324.022. No rule or portion of a rule promulgated under the
2 authority of sections 209.285 to 209.339, RSMo, sections 214.270 to
3 214.516, RSMo, sections 256.010 to 256.453, RSMo, this chapter, and
4 chapters 317, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338,
5 339, 340, 345, and 346, RSMo, shall become effective unless it has been
6 promulgated pursuant to the provisions of section 536.024, RSMo.

324.024. Notwithstanding any provision of law to the contrary,
2 every application for a license, certificate, registration, or permit, or
3 renewal of a license, certificate, registration, or permit issued in this
4 state shall contain the Social Security number of the applicant. This
5 provision shall not apply to an original application for a license,
6 certificate, registration, or permit submitted by a citizen of a foreign
7 country who has never been issued a Social Security number and who
8 previously has not been licensed by any other state, United States
9 territory, or federal agency. A citizen of a foreign country applying for
10 licensure with the division of professional registration shall be
11 required to submit his or her visa or passport identification number in
12 lieu of the Social Security number.

324.026. An orientation program for appointees to all boards or
2 commissions in the division of professional registration shall be
3 prepared under the direction of the director of the division, which shall
4 acquaint new appointees with their duties and provide available
5 information on subject matters of concern to the board or commission
6 to which each public member has been appointed.

324.028. Any member authorized under the provisions of sections
2 256.459, RSMo, 324.063, 324.177, 324.203, 324.243, 324.406, and 324.478,
3 326.259, RSMo, 327.031, RSMo, 328.030, RSMo, 329.190, RSMo, 330.110,
4 RSMo, 331.090, RSMo, 332.021, RSMo, 333.151, RSMo, 334.120, 334.430,
5 334.625, 334.717, 334.736, and 334.830, RSMo, 335.021, RSMo, 336.130,
6 RSMo, 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.210, RSMo,
7 345.080, RSMo, and 346.120, RSMo, who misses three consecutive
8 regularly scheduled meetings of the board or council on which he
9 serves shall forfeit his membership on that board or council. A new

10 member shall be appointed to the respective board or council by the
11 governor with the advice and consent of the senate.

324.029. Except as otherwise specifically provided by law, no
2 license for any occupation or profession shall be denied solely on the
3 grounds that an applicant has been previously convicted of a felony.

324.031. 1. All fees charged by each board assigned to the
2 division of professional registration shall be collected by that division
3 and promptly transmitted to the department of revenue for deposit in
4 the state treasury, credited to the proper account as provided by law.

5 2. The division and its component agencies shall permit any
6 licensee to submit payment for fees established by rule in the form of
7 personal check, money order, or cashier's check. All checks or money
8 orders shall be made payable to the appropriate board. Any check or
9 financial instrument which is returned to the division or one of its
10 agencies due to insufficient funds, a closed account, or for other
11 circumstances in which the check or financial instrument is not
12 honored may subject an individual to additional costs, substantial
13 penalties, or other actions by the division or one of its agencies. In
14 such cases involving renewal of licenses, the renewal license may be
15 withheld, and if issued, is not valid until the appropriate fee and any
16 additional costs are collected. The division may require the payment
17 of collection costs or other expenses. The affected board may establish
18 penalty fees by rule and may suspend or revoke a license if such
19 behavior is repetitive or the licensee fails to pay required penalty fees.

20 3. License renewal fees are generally nonrefundable. Overpayments
21 or other incorrect fees may be refundable. The division shall establish a
22 refund reserve through the appropriation to the professional
23 registration fees fund.

24 4. Notwithstanding any other provision of law to the contrary,
25 no board, commission, or any other registration, licensing, or certifying
26 agency of the division of professional registration shall be required to
27 collect or distribute any fee which is required for administering any
28 test to qualify for a license, registration, or certificate, if any portion
29 of the fee is to be remitted to a private testing service.

324.032. The division of professional registration shall maintain,
2 for each board in the division, a registry of each person holding a
3 current license, permit, or certificate issued by that board. The

4 registry shall contain the name, Social Security number, and address
5 of each person licensed or registered together with other relevant
6 information as determined by the board. The registry for each board
7 shall at all times be available to the board and copies shall be supplied
8 to the board on request. Copies of the registry, except for the
9 registrant's Social Security number, shall be available from the division
10 or the board to any individual who pays the reasonable copying
11 cost. Any individual may copy the registry during regular business
12 hours. The information in the registry shall be furnished upon request
13 to the division of child support enforcement. Questions concerning the
14 currency of license of any individual shall be answered, without charge,
15 by the appropriate board. Each year each board may publish, or cause
16 to be published, a directory containing the name and address of each
17 person licensed or registered for the current year together with any
18 other information the board deems necessary. Any expense incurred
19 by the state relating to such publication shall be charged to the board.
20 An official copy of any such publication shall be filed with the director.

324.034. 1. Notwithstanding other provisions of law, the director
2 of the division of professional registration may destroy records and
3 documents of the division or the boards in the division at any time if
4 such records and documents have been photographed,
5 microphotographed, imaged, electronically generated, electronically
6 recorded, photostatted, reproduced on film, or other process capable of
7 producing a clear, accurate, and permanent copy of the original. Such
8 film or reproducing material shall be of durable material and the
9 device used to reproduce the records, reports, returns, and other
10 related documents on film or material shall be such as to accurately
11 reproduce and perpetuate the original records and documents in all
12 details.

13 2. The reproductions so made may be used as permanent records
14 of the original. When microfilm, electronic image, or a similar
15 reproduction is used as a permanent record by the director of revenue,
16 one copy shall be stored in a fireproof vault and other copies may be
17 made for use by any person entitled thereto. All reproductions shall
18 retain the same confidentiality as is provided in the law regarding the
19 original record.

20 3. Such photostatic copy, photograph, microphotograph, image,

21 electronically generated, electronically recorded, or other process copy
22 shall be deemed to be an original record for all purposes, and shall be
23 admissible in evidence in all courts or administrative agencies. A
24 transcript, exemplification, or certified copy of any records or
25 documents made from such photostatic copy, photograph,
26 microphotograph, electronically generated, electronically recorded, or
27 other process copy shall, for all purposes be deemed to be a transcript,
28 exemplification, or certified copy of the original and shall be
29 admissible in evidence in all courts or administrative agencies. No
30 document shall be admissible pursuant to this section unless the offeror
31 shall comply with section 490.692, RSMo, when applicable.

32 4. "Records and documents" include, but are not limited to,
33 papers, documents, facsimile information, microphotographic process,
34 electronically generated or electronically recorded image or
35 information, deposited or filed with the division of professional
36 registration or any of the boards in the division.

324.036. Notwithstanding any other law to the contrary, the
2 director of the division of professional registration is authorized to
3 contract with third parties to collect, account for, and deposit fees on
4 behalf of the division and licensing agencies within the division.

324.038. 1. Whenever a board within or assigned to the division
2 of professional registration, including the division itself when so
3 empowered, may refuse to issue a license for reasons which also serve
4 as a basis for filing a complaint with the administrative hearing
5 commission seeking disciplinary action against a holder of a license,
6 the board, as an alternative to refusing to issue a license, may, at its
7 discretion, issue to an applicant a license subject to probation.

8 2. The board shall notify the applicant in writing of the terms of
9 the probation imposed, the basis therefor, and the date such action
10 shall become effective. The notice shall also advise the applicant of the
11 right to a hearing before the administrative hearing commission, if the
12 applicant files a complaint with the administrative hearing commission
13 within thirty days of the date of delivery or mailing by certified mail
14 of written notice of the probation. If the board issues a probated
15 license, the applicant may file, within thirty days of the date of delivery
16 or mailing by certified mail of written notice of the probation, a written
17 complaint with the administrative hearing commission seeking review

18 of the board's determination. Such complaint shall set forth that the
19 applicant or licensee is qualified for nonprobated licensure pursuant
20 to the laws and administrative regulations relating to his or her
21 profession. Upon receipt of such complaint the administrative hearing
22 commission shall cause a copy of such complaint to be served upon the
23 board by certified mail or by delivery of such copy to the office of the
24 board, together with a notice of the place of and the date upon which
25 the hearing on such complaint will be held. Hearings shall be held
26 pursuant to chapter 621, RSMo. The burden shall be on the board to
27 demonstrate the existence of the basis for imposing probation on the
28 licensee. If no written request for a hearing is received by the
29 administrative hearing commission within the thirty-day period, the
30 right to seek review of the board's decision shall be considered waived.

31 3. If the probation imposed includes restrictions or limitations
32 on the scope of practice, the license issued shall plainly state such
33 restriction or limitation. When such restriction or limitation is
34 removed, a new license shall be issued.

324.039. There shall be established in each board within the
2 division of professional registration, including the division itself when
3 empowered with licensing authority, which was on August 28, 1998,
4 required or authorized to revoke a license for failure to submit an
5 application for renewal, failure to provide information required for
6 renewal or nonpayment of the required renewal fee, a classification for
7 a licensee who, desires to remove himself or herself from participating
8 in the licensing system of the board or division. This classification
9 shall be distinguished from revocation of a license and from surrender
10 of a license pursuant to an agreement between the board or division
11 and the licensee filed with and approved by the administrative hearing
12 commission. This classification shall not be available to a licensee
13 during the time there is an investigation of the licensee or the
14 licensee's practices or during the pendency of a disciplinary complaint
15 filed with the administrative hearing commission. Each board within
16 the division or the division when empowered with licensing authority
17 shall establish by rule qualifications for such classification and
18 procedures for a licensee to request an inactive license as provided in
19 this section. Notwithstanding any other law to the contrary, no board
20 within the division or the division shall be required to revoke a license

21 when the licensee qualifies for the classification authorized by this
22 section, as provided by rule. An inactive license authorized by this
23 section shall be subject to the same requirements for reinstatement or
24 restoration as a lapsed, expired, or revoked license due to failure to
25 renew the license. This section shall not affect those boards which are
26 otherwise authorized to classify a license as inactive.

324.041. For the purpose of determining whether cause for
2 discipline or denial exists under the statutes of any board, commission,
3 or committee within the division of professional registration, any
4 licensee, registrant, permittee, or applicant that test positive for a
5 controlled substance, as defined in chapter 195, RSMo, is presumed to
6 have unlawfully possessed the controlled substance in violation of the
7 drug laws or rules and regulations of this state, any other state, or the
8 federal government unless he or she has a valid prescription for the
9 controlled substance. The burden of proof that the controlled
10 substance was not unlawfully possessed in violation of the drug laws or
11 rules and regulations of this state, any other state, or the federal
12 government is upon the licensee, registrant, permittee, or applicant.

324.042. Any board, commission, or committee within the division
2 of professional registration may impose additional discipline when it
3 finds after hearing that a licensee, registrant, or permittee has violated
4 any disciplinary terms previously imposed or agreed to pursuant to
5 settlement. The board, commission, or committee may impose as
6 additional discipline, any discipline it would be authorized to impose
7 in an initial disciplinary hearing.

324.043. 1. Except as provided in this section, no disciplinary
2 proceeding against any person or entity licensed, registered, or
3 certified to practice a profession within the division of professional
4 registration shall be initiated unless such action is commenced within
5 three years of the date upon which the licensing, registering, or
6 certifying agency received notice of an alleged violation of an
7 applicable statute or regulation.

8 2. For the purpose of this section, notice shall be limited to:

- 9 (1) A written complaint;
- 10 (2) Notice of final disposition of a malpractice claim, including
11 exhaustion of all extraordinary remedies and appeals;
- 12 (3) Notice of exhaustion of all extraordinary remedies and

13 **appeals of a conviction based upon a criminal statute of this state, any**
14 **other state, or the federal government;**

15 **(4) Notice of exhaustion of all extraordinary remedies and**
16 **appeals in a disciplinary action by a hospital, state licensing,**
17 **registering or certifying agency, or an agency of the federal**
18 **government.**

19 **3. For the purposes of this section, an action is commenced when**
20 **a complaint is filed by the agency with the administrative hearing**
21 **commission, any other appropriate agency, or in a court; or when a**
22 **complaint is filed by the agency's legal counsel with the agency in**
23 **respect to an automatic revocation or a probation violation.**

24 **4. Disciplinary proceedings based upon repeated negligence shall**
25 **be exempt from all limitations set forth in this section.**

26 **5. Disciplinary proceedings based upon a complaint involving**
27 **sexual misconduct shall be exempt from all limitations set forth in this**
28 **section.**

29 **6. Any time limitation provided in this section shall be tolled:**

30 **(1) During any time the accused licensee, registrant, or**
31 **certificant is practicing exclusively outside the state of Missouri or**
32 **residing outside the state of Missouri and not practicing in Missouri;**

33 **(2) As to an individual complainant, during the time when such**
34 **complainant is less than eighteen years of age;**

35 **(3) During any time the accused licensee, registrant, or**
36 **certificant maintains legal action against the agency; or**

37 **(4) When a settlement agreement is offered to the accused**
38 **licensee, registrant, or certificant, in an attempt to settle such**
39 **disciplinary matter without formal proceeding pursuant to section**
40 **621.045, RSMo, until the accused licensee, registrant, or certificant**
41 **rejects or accepts the settlement agreement.**

42 **7. The licensing agency may, in its discretion, toll any time**
43 **limitation when the accused licensee, registrant, or certificant enters**
44 **into and participates in a treatment program for chemical dependency**
45 **or mental impairment.**

324.050. 1. Sections 324.050 to 324.089 shall be known and may be cited
2 as the "Occupational Therapy Practice Act".

3 2. For the purposes of sections 324.050 to 324.089, the following terms
4 mean:

- 5 (1) "Board", the Missouri board of occupational therapy;
- 6 (2) "Certifying entity", the nongovernmental agency or association which
7 certifies or registers individuals who have completed academic and training
8 requirements;
- 9 (3) "Director", the director of the division of professional registration;
- 10 (4) "Division", the division of professional registration [of the department
11 of economic development];
- 12 (5) "Occupational therapist", a person licensed to practice occupational
13 therapy as defined in this section and whose license issued pursuant to sections
14 324.050 to 324.089;
- 15 (6) "Occupational therapy", the use of purposeful activity or interventions
16 designed to achieve functional outcomes which promote health, prevent injury or
17 disability and which develop, improve, sustain or restore the highest possible
18 level of independence of any individual who has an injury, illness, cognitive
19 impairment, psychosocial dysfunction, mental illness, developmental or learning
20 disability, physical disability or other disorder or condition. It shall include
21 assessment by means of skill observation or evaluation through the
22 administration and interpretation of standardized or nonstandardized tests and
23 measurements. Occupational therapy services include, but are not limited to:
- 24 (a) The assessment and provision of treatment in consultation with the
25 individual, family or other appropriate persons;
- 26 (b) Interventions directed toward developing, improving, sustaining or
27 restoring daily living skills, including self-care skills and activities that involve
28 interactions with others and the environment, work readiness or work
29 performance, play skills or leisure capacities or enhancing educational
30 performances skills;
- 31 (c) Developing, improving, sustaining or restoring sensorimotor,
32 oral-motor, perceptual or neuromuscular functioning; or emotional, motivational,
33 cognitive or psychosocial components of performance; and
- 34 (d) Education of the individual, family or other appropriate persons in
35 carrying out appropriate interventions.
- 36 Such services may encompass assessment of need and the design, development,
37 adaptation, application or training in the use of assistive technology devices; the
38 design, fabrication or application of rehabilitative technology such as selected
39 orthotic devices, training in the use of orthotic or prosthetic devices; the
40 application of ergonomic principles; the adaptation of environments and processes

41 to enhance functional performance; or the promotion of health and wellness;

42 (7) "Occupational therapy aide", a person who assists in the practice of
43 occupational therapy under the direct supervision of an occupational therapist or
44 occupational therapy assistant at all times and whose activities require an
45 understanding of occupational therapy but do not require training in the basic
46 anatomical, biological, psychological and social sciences involved in the practice
47 of occupational therapy;

48 (8) "Occupational therapy assistant", a person who is licensed as an
49 occupational therapy assistant by the division, in collaboration with the
50 board. The function of an occupational therapy assistant is to assist an
51 occupational therapist in the delivery of occupational therapy services in
52 compliance with federal regulations and rules promulgated by the division, in
53 collaboration with the Missouri board of occupational therapy.

324.128. As used in sections 324.125 to 324.183, the following terms
2 mean:

3 (1) "Board", the state board of registration for the healing arts;

4 (2) "Division", the division of professional registration [of the department
5 of economic development];

6 (3) "Extracorporeal circulation", the diversion of a patient's blood through
7 a heart-lung machine or a similar device that assumes the functions of the
8 patient's heart, lungs, kidney, liver or other organs;

9 (4) "Licensed clinical perfusionist", a person licensed pursuant to sections
10 324.125 to 324.183;

11 (5) "Perfusion", the functions necessary for the support, treatment,
12 measurement or supplementation of the cardiovascular, circulatory, respiratory
13 systems or other organs, or a combination of such activities, and to ensure the
14 safe management of physiologic functions by monitoring and analyzing the
15 parameters of the systems under an order and under the supervision of a licensed
16 physician, including:

17 (a) The use of extracorporeal circulation, long-term cardiopulmonary
18 support techniques including extracorporeal carbon-dioxide removal and
19 extracorporeal membrane oxygenation and associated therapeutic and diagnostic
20 technologies;

21 (b) Counterpulsation, ventricular assistance, autotransfusion, blood
22 conservation techniques, myocardial and organ preservation, extracorporeal life
23 support and isolated limb perfusion;

24 (c) The use of techniques involving blood management, advanced life
25 support and other related functions; and

26 (d) In the performance of the acts described in this subdivision:

27 a. The administration of:

28 i. Pharmacological and therapeutic agents;

29 ii. Blood products or anesthetic agents through the extracorporeal circuit
30 or through an intravenous line as ordered by a physician;

31 b. The performance and use of:

32 i. Anticoagulation monitoring and analysis;

33 ii. Physiologic monitoring and analysis;

34 iii. Blood gas and chemistry monitoring and analysis;

35 iv. Hematologic monitoring and analysis;

36 v. Hypothermia and hyperthermia;

37 vi. Hemoconcentration and hemodilution;

38 vii. Hemodialysis;

39 c. The observation of signs and symptoms related to perfusion services,
40 the determination of whether the signs and symptoms exhibit abnormal
41 characteristics and the implementation of appropriate reporting, clinical
42 perfusion protocols or changes in, or the initiation of, emergency procedures;

43 (6) "Perfusion protocols", perfusion-related policies and protocols
44 developed or approved by a licensed health care facility or a physician through
45 collaboration with administrators, licensed clinical perfusionists and other health
46 care professionals;

47 (7) "Provisional clinical licensed perfusionist", a person provisionally
48 licensed pursuant to sections 324.125 to 324.183.

324.159. The board shall:

2 (1) Adopt and publish a code of ethics;

3 (2) Establish the qualifications and fitness of applicants of licenses,
4 renewal of licenses and reciprocal licenses;

5 (3) Revoke, suspend or deny a license, suspend a license or reprimand a
6 license holder for a violation of sections 324.125 to 324.183, the code of ethics or
7 the rules adopted by the board;

8 (4) Provide for the expenditure of funds necessary for the proper
9 administration of its assigned duties;

10 (5) Establish reasonable and necessary fees for the administration and
11 implementation of sections 324.125 to 324.183. Fees shall be established at a

12 rate that does not significantly exceed the cost of administering the provisions of
13 sections 324.125 to 324.183;

14 (6) Establish continuing professional education requirements for licensed
15 clinical perfusionists and provisional licensed clinical perfusionists, the standards
16 of which shall be at least as stringent as those of the American Board of
17 Cardiovascular Perfusion or its successor agency;

18 (7) Within the limits of its appropriation, employ and remove board
19 personnel, as defined in subdivision (4) of subsection [15] 10 of section [620.010,
20 RSMo.] 324.001 as may be necessary for the efficient operation of the board;

21 (8) Adopt the training and clinical competency requirements established
22 by the department of health and senior services through hospital licensing
23 regulations promulgated pursuant to chapter 197, RSMo. The provisions of
24 sections 324.125 to 324.183 to the contrary notwithstanding, the board shall not
25 regulate a perfusionist's training, education or fitness to practice except as
26 specifically provided by the hospital licensing regulations of the department of
27 health and senior services. In promulgating such regulations, the department of
28 health and senior services shall adopt the standards of the American Board of
29 Cardiovascular Perfusion, or its successor organization, or comparable standards
30 for training and experience. The department shall by rule and regulation provide
31 that individuals providing perfusion services who do meet such standards may
32 continue their employment in accordance with section 324.130. The department
33 shall also establish standards for provisional licensed clinical perfusionists
34 pursuant to section 324.147.

324.200. 1. Sections 324.200 to 324.225 shall be known and may be cited
2 as the "Dietitian Practice Act".

3 2. As used in sections 324.200 to 324.225, the following terms shall mean:

4 (1) "Commission on Accreditation for Dietetics Education (CADE)", the
5 American Dietetic Association's accrediting agency for education programs
6 preparing students for professions as registered dietitians;

7 (2) "Committee", the state committee of dietitians established in section
8 324.203;

9 (3) "Dietetics practice", the application of principles derived from
10 integrating knowledge of food, nutrition, biochemistry, physiology, management,
11 and behavioral and social science to achieve and maintain the health of people by
12 providing nutrition assessment and nutrition care services. The primary function
13 of dietetic practice is the provision of nutrition care services that shall include,

14 but not be limited to:

15 (a) Assessing the nutrition needs of individuals and groups and
16 determining resources and constraints in the practice setting;

17 (b) Establishing priorities, goals, and objectives that meet nutrition needs
18 and are consistent with available resources and constraints;

19 (c) Providing nutrition counseling or education in health and disease;

20 (d) Developing, implementing, and managing nutrition care systems;

21 (e) Evaluating, making changes in, and maintaining appropriate
22 standards of quality and safety in food and in nutrition services;

23 (f) Engaged in medical nutritional therapy as defined in subdivision (8)
24 of this section;

25 (4) "Dietitian", one engaged in dietetic practice as defined in subdivision
26 (3) of this section;

27 (5) "Director", the director of the division of professional registration [in
28 the department of economic development];

29 (6) "Division", the division of professional registration [of economic
30 development];

31 (7) "Licensed dietitian", a person who is licensed pursuant to the
32 provisions of sections 324.200 to 324.225 to engage in the practice of dietetics or
33 medical nutrition therapy;

34 (8) "Medical nutrition therapy", nutritional diagnostic, therapy, and
35 counseling services which are furnished by a registered dietitian;

36 (9) "Registered dietitian", a person who:

37 (a) Has completed a minimum of a baccalaureate degree granted by a
38 United States regionally accredited college or university or foreign equivalent;

39 (b) Completed the academic requirements of a didactic program in
40 dietetics, as approved by CADE;

41 (c) Successfully completed the registration examination for dietitians; and

42 (d) Accrued seventy-five hours of approved continuing professional units
43 every five years; as determined by the committee on dietetic registration.

324.203. 1. There is hereby created within the division of professional
2 registration, a committee to be known as the "State Committee of
3 Dietitians". The committee shall assist the division in administering and
4 enforcing the provisions of sections 324.200 to 324.225, adopt, publish, and
5 enforce such rules and regulations within the scope and purview of the provisions
6 of sections 324.200 to 324.225 as may be considered to be necessary or proper for

7 the effective administration and interpretation of the provisions of sections
8 324.200 to 324.225, and for the conduct of its business and management of its
9 internal affairs.

10 2. The committee shall approve the examination required by section
11 324.210.

12 3. The committee shall consist of six members including one public
13 member, appointed by the governor with the advice and consent of the
14 senate. Each member of the committee shall be a citizen of the United States and
15 a resident of this state, and, except as provided in this section and except for the
16 first members appointed, shall be licensed as a dietitian by this state. Beginning
17 with the first appointments made after August 28, 1998, two members shall be
18 appointed for four years, two members shall be appointed for three years and two
19 members shall be appointed for two years. Thereafter, all members shall be
20 appointed to serve four-year terms. No person shall be eligible for reappointment
21 who has served as a member of the committee for a total of eight years. The
22 membership of the committee shall reflect the differences in levels of education
23 and work experience with consideration being given to race, gender, and ethnic
24 origins. No more than three members shall be from the same political party. The
25 membership shall be representative of the various geographic regions of the state.

26 4. A vacancy in the office of a member shall be filled by appointment by
27 the governor for the remainder of the unexpired term.

28 5. Each member of the committee shall receive as compensation an
29 amount set by the division not to exceed fifty dollars, and shall be reimbursed for
30 necessary and actual expenses incurred in the performance of the member's
31 official duties. The director[, in collaboration with the department of economic
32 development,] **of the division of professional registration** shall establish by
33 rule, guidelines for payment. All staff for the committee shall be provided by the
34 division.

35 6. The committee shall hold an annual meeting at which it shall elect
36 from its membership a chairperson and secretary. The committee may hold such
37 additional meetings as may be required in the performance of its duties, provided
38 that notice of every meeting shall be given to each member at least three days
39 prior to the date of the meeting. A quorum of the committee shall consist of a
40 majority of its members.

41 7. The governor may remove a committee member for misconduct,
42 incompetency, neglect of the member's official duties, or for cause.

43 8. The public member shall be at the time of the person's appointment a
44 citizen of the United States; a resident of this state for a period of one year and
45 a registered voter; a person who is not and never was a member of any profession
46 licensed or regulated by sections 324.200 to 324.225, or the spouse of such a
47 person; and a person who does not have and never has had a material financial
48 interest in either the providing of the professional services regulated by sections
49 324.200 to 324.225, or an activity or organization directly related to any
50 profession licensed or regulated by sections 324.200 to 324.225. The duties of the
51 public member shall not include the determination of the technical requirements
52 to be met for licensure or whether any person meets such technical requirements
53 or of the technical competence or technical judgment of a licensee or a candidate
54 for licensure.

 324.240. As used in sections 324.240 to 324.275, the following terms shall
2 mean:

3 (1) "Board", the board of therapeutic massage;

4 (2) "Certified mentor", a practitioner who is qualified for license in this
5 state pursuant to sections 324.240 to 324.275 and who has practiced
6 professionally for five years, with an average of four hundred fifty hours per year
7 of teaching and massage hours and who has been approved by the board as a
8 massage therapy instructor;

9 (3) "Director", the director of the division of professional registration [of
10 the department of economic development];

11 (4) "Division", the division of professional registration [of the department
12 of economic development];

13 (5) "Massage business", any place of business in which massage therapy
14 is practiced;

15 (6) "Massage therapist", a health care practitioner who provides or offers
16 to provide massage therapy, as provided in sections 324.240 to 324.275, to any
17 person at no cost or for a fee, monetary or otherwise, implying that the massage
18 therapist is trained, experienced and licensed in massage therapy, and who holds
19 a current, valid license to practice massage therapy;

20 (7) "Massage therapy", a health care profession which involves the
21 treatment of the body's tonus system through the scientific or skillful touching,
22 rubbing, pressing or other movements of the soft tissues of the body with the
23 hands, forearms, elbows, or feet, or with the aid of mechanical apparatus, for
24 relaxation, therapeutic, remedial or health maintenance purposes to enhance the

25 mental and physical well-being of the client, but does not include the prescription
26 of medication, spinal or joint manipulation, the diagnosis of illness or disease, or
27 any service or procedure for which a license to practice medicine, chiropractic,
28 physical therapy, or podiatry is required by law, or to those occupations defined
29 in chapter 329, RSMo;

30 (8) "Massage therapy instructor", an individual who possesses teaching
31 credentials satisfactory to the board for the purpose of teaching massage therapy;

32 (9) "Person", an individual, corporation, association or other legal entity.

324.243. 1. There is hereby established in the division of professional
2 registration [in the department of economic development] the "Board of
3 Therapeutic Massage" which shall guide, advise and make recommendations to
4 the division and fulfill other responsibilities designated by sections 324.240 to
5 324.275. The board shall approve the examination required by section 324.265
6 and shall assist the division in carrying out the provisions of sections 324.240 to
7 324.275.

8 2. The board shall consist of seven voting members, including one public
9 member, and one nonvoting member, appointed by the governor with the advice
10 and consent of the senate. Each member of the board shall be a citizen of the
11 United States and a resident of this state and, except for the members first
12 appointed, shall be licensed as a massage therapist by this state. The nonvoting
13 member shall be a member of the massage education community in the state and
14 shall serve a four-year term. Beginning with the appointments made after
15 August 28, 1998, three voting members shall be appointed for four years, two
16 voting members shall be appointed for three years and two voting members shall
17 be appointed for two years. Thereafter, all voting members shall be appointed to
18 serve four-year terms. No person shall be eligible for reappointment who has
19 served as a member of the board for a total of eight years. The membership of
20 the board shall reflect the differences in work experience and the professional
21 affiliations of therapists with consideration being given to race, gender and ethnic
22 origins.

23 3. A vacancy in the office of a member shall be filled by appointment by
24 the governor for the remainder of the unexpired term.

25 4. The board shall hold an annual meeting at which it shall elect from its
26 membership a chairperson, vice chairperson and secretary. The board may hold
27 such additional meetings as may be required in the performance of its duties,
28 provided that notice of every meeting shall be given to each member at least three

29 days prior to the date of the meeting. A quorum of the board shall consist of a
30 majority of its voting members.

31 5. The governor may remove a board member for misconduct,
32 incompetence or neglect of official duties after giving the board member written
33 notice of the charges and allowing the board member an opportunity to be heard.

34 6. The public member shall be, at the time of appointment, a citizen of the
35 United States; a resident of this state for a period of one year and a registered
36 voter; but may not have been a member of any profession licensed or regulated
37 pursuant to sections 324.240 to 324.275 or an immediate family member of such
38 a person; and may not have had a material, financial interest in either the
39 providing of massage therapy as defined in sections 324.240 to 324.275 or in an
40 activity or organization directly related to any profession licensed or regulated
41 pursuant to sections 324.240 to 324.275. The duties of the public member shall
42 not include any determination of the technical requirements to be met for
43 licensure, whether a candidate for licensure meets such technical requirements,
44 or of the technical competence or technical judgment of a licensee or a candidate
45 for licensure.

46 7. The professional members shall not be officers in a professional
47 massage organization, nor may they be the owners or managers of any massage
48 educational entity.

49 8. Notwithstanding any other provision of law to the contrary, any
50 appointed member of the board shall receive as compensation an amount
51 established by the director of the division of professional registration not to
52 exceed seventy dollars per day for commission business plus actual and necessary
53 expenses. The director of the division of professional registration shall establish
54 by rule guidelines for payment. All staff for the board shall be provided by the
55 division.

324.400. As used in sections 324.400 to 324.439, the following terms
2 mean:

3 (1) "Council", the interior design council created in section 324.406;

4 (2) ["Department", the department of economic development;

5 (3)] "Division", the division of professional registration [of the department
6 of economic development];

7 [(4)] (3) "Registered interior designer", a design professional who
8 provides services including preparation of documents and specifications relative
9 to nonload-bearing interior construction, furniture, finishes, fixtures and

10 equipment and who meets the criteria of education, experience and examination
11 as provided in sections 324.400 to 324.439.

324.406. 1. There is hereby created within the division of professional
2 registration a council to be known as the "Interior Design Council". The council
3 shall consist of four interior designers and one public member appointed by the
4 governor with the advice and consent of the senate. The governor shall give due
5 consideration to the recommendations by state organizations of the interior
6 design profession for the appointment of the interior design members to the
7 council. Council members shall be appointed to serve a term of four years; except
8 that of the members first appointed, one interior design member and the public
9 member shall be appointed for terms of four years, one member shall be
10 appointed for a term of three years, one member shall be appointed for a term of
11 two years and one member shall be appointed for a term of one year. No member
12 of the council shall serve more than two terms.

13 2. Each council member, other than the public member, shall be a citizen
14 of the United States, a resident of the state of Missouri for at least one year, meet
15 the qualifications for professional registration, practice interior design as the
16 person's principal livelihood and, except for the first members appointed, be
17 registered pursuant to sections 324.400 to 324.439 as an interior designer.

18 3. The public member shall be, at the time of such person's appointment,
19 a citizen of the United States, a registered voter, a person who is not and never
20 was a member of the profession regulated by sections 324.400 to 324.439 or the
21 spouse of such a person and a person who does not have and never has had a
22 material financial interest in the providing of the professional services regulated
23 by sections 324.400 to 324.439. The duties of the public member shall not include
24 the determination of the technical requirements for the registration of persons as
25 interior designers. The provisions of section [620.132, RSMo,] **324.028** pertaining
26 to public members of certain state boards and commissions shall apply to the
27 public member of the council.

28 4. Members of the council may be removed from office for cause. Upon the
29 death, resignation or removal from office of any member of the council, the
30 appointment to fill the vacancy shall be for the unexpired portion of the term so
31 vacated and shall be filled in the same manner as the first appointment and due
32 notice be given to the state organizations of the interior design profession prior
33 to the appointment.

34 5. Each member of the council may receive as compensation an amount

35 set by the division not to exceed fifty dollars per day and shall be reimbursed for
36 the member's reasonable and necessary expenses incurred in the official
37 performance of the member's duties as a member of the council. The director[,
38 in collaboration with the department of economic development,] shall establish
39 by rule, guidelines for payment.

40 6. The council shall meet at least twice each year and advise the division
41 on matters within the scope of sections 324.400 to 324.439. The organization of
42 the council shall be established by the members of the council.

43 7. The council may sue and be sued as the interior design council and the
44 council members need not be named as parties. Members of the council shall not
45 be personally liable either jointly or severally for any act committed in the
46 performance of their official duties as council members. No council member shall
47 be personally liable for any costs which accrue in any action by or against the
48 council.

324.475. For the purposes of sections 324.475 to 324.499, the following
2 terms mean:

3 (1) "Acupuncture", the use of needles inserted into the body by piercing
4 of the skin and related modalities, for the assessment, evaluation, prevention,
5 treatment or correction of any abnormal physiology or pain by means of
6 controlling and regulating the flow and balance of energy in the body so as to
7 restore the body to its proper functioning and state of health;

8 (2) "Acupuncturist", any person licensed as provided in sections 324.475
9 to 324.499, to practice acupuncture as defined in subdivision (1) of this section;

10 (3) "Auricular detox technician", a person trained solely in, and who
11 performs only, auricular detox treatment. An auricular detox technician shall
12 practice under the supervision of a licensed acupuncturist. Such treatment shall
13 take place in a hospital, clinic or treatment facility which provides comprehensive
14 substance abuse services, including counseling, and maintains all licenses and
15 certifications necessary and applicable;

16 (4) "Auricular detox treatment", a very limited procedure consisting of
17 acupuncture needles inserted into specified points in the outer ear of a person
18 undergoing treatment for drug or alcohol abuse or both drug and alcohol abuse;

19 (5) "Board", the state board of chiropractic examiners established in
20 chapter 331, RSMo;

21 (6) "Committee", the Missouri acupuncture advisory committee;

22 (7) "Department", the [Missouri] department of [economic development]

23 **insurance, financial institutions and professional registration;**

24 (8) "Director", the director of the division of professional registration;

25 (9) "Division", the division of professional registration [of the department
26 of economic development];

27 (10) "License", the document of authorization issued by the board for a
28 person to engage in the practice of acupuncture.

324.526. 1. Notwithstanding any other law to the contrary, the director
2 of the division of professional registration shall issue a temporary license to
3 practice tattooing, body piercing, or branding under the following requirements:

4 (1) The applicant for temporary licensure is entering the state for the sole
5 purpose of participating in a state or national convention at which the applicant
6 will be practicing the profession of tattooing, body piercing, or branding;

7 (2) The applicant files a completed application with the division at least
8 two days prior to the start of the convention and tenders a fee of fifty dollars; and

9 (3) The applicant is otherwise qualified for licensure under sections
10 324.520 to 324.526 and the rule promulgated under the authority of this statute.

11 2. A temporary license to practice tattooing, body piercing, or branding
12 issued under this section shall be valid for a period not to exceed fourteen days
13 and shall not be renewable.

14 3. Notwithstanding the requirements of sections [620.127] **324.024** and
15 [620.145, RSMo] **324.032**, an applicant for temporary licensure under this section
16 shall not be required to provide a Social Security number if the application is
17 submitted by a citizen of a foreign country who has not yet been issued a Social
18 Security number and who previously has not been licensed by any other state,
19 United States territory, or federal agency. A citizen of a foreign country who
20 applies for a temporary permit under this section shall provide the division of
21 professional registration with his or her visa or passport identification number
22 in lieu of the Social Security number.

325.010. As used in sections 325.010 to 325.055, unless the context clearly
2 requires another meaning, the following words and phrases mean:

3 (1) "Director", the director of the [division] **department** of insurance [of
4 the state of Missouri], **financial institutions and professional registration;**

5 (2) "Public adjuster", any person, partnership, association or corporation
6 engaging in the adjustment or settlement of claims for losses or damages arising
7 out of policies of fire or allied lines of insurances; but does not include persons,
8 partnerships, associations or corporations engaged in the adjustment or

9 settlement of claims for losses or damages arising out of other types of policies for
10 casualty insurance; and does not include attorneys at law; and does not include
11 an agent or employee of an issuer of policies of insurance against loss or damage
12 by fire or allied casualty; nor to an insurance broker acting as an adjuster
13 without compensation for a client for whom he is acting as broker;

14 (3) "Public adjuster solicitor", any person, other than clerical employees,
15 employed by a public adjuster who solicits or aids in securing any contract for
16 adjustment for a public adjuster, or who acts for or with a public adjuster in
17 making settlements or adjustments of claims.

326.265. 1. The board shall elect annually one of its members as
2 president, one as vice president, one as secretary and one as treasurer, and shall
3 make an annual report to the governor and the general assembly. The board
4 shall file and preserve all written applications, petitions, complaints, charges or
5 requests made or presented to the board and all affidavits and other verified
6 documents, and shall keep accurate records and minutes of its proceedings. A
7 copy of any entry in the register, or of any records or minutes of the board,
8 certified by the president or secretary of the board under its seal shall constitute
9 and have the full force and effect of the original.

10 2. The board may employ legal counsel and board personnel as defined in
11 subdivision (4) of subsection [15] 10 of section [620.010] 324.001, RSMo, and
12 incur such travel and other expense as in its judgment shall be necessary for the
13 effective administration of this chapter.

14 3. The board may also appoint a continuing education committee of not
15 less than five members consisting of certified public accountants of this
16 state. Such committee shall:

17 (1) Evaluate continuing education programs to determine if they meet
18 continuing education regulations adopted by the board;

19 (2) Consider applications for exceptions to continuing education
20 regulations adopted pursuant to the provisions of section 326.271; and

21 (3) Consider other matters regarding continuing education as may be
22 assigned by the board.

327.051. 1. The board shall meet at least twice a year at such times and
2 places as are fixed by the board.

3 2. The board may appoint and employ legal counsel and such board
4 personnel, as defined in subdivision (4) of subsection [15] 10 of section [620.010]
5 324.001, RSMo, as it deems necessary within the appropriation therefor.

6 3. The board shall keep records of its official acts and decisions and
7 certified copies of any such records attested by the executive director with the
8 board's seal affixed shall be received as evidence in all courts to the same extent
9 as the board's original records would be received.

10 4. Each member of the board shall receive as compensation an amount set
11 by the board not to exceed fifty dollars for each day devoted to the affairs of the
12 board, and shall be entitled to reimbursement of such member's expenses
13 necessarily incurred in the discharge of such member's official duties.

328.050. 1. Each member of the board shall receive as compensation an
2 amount set by the board not to exceed fifty dollars for each day devoted to the
3 affairs of the board, and shall be entitled to reimbursement of his expenses
4 necessarily incurred in the discharge of his official duties. All money payable
5 under this chapter shall be collected by the division of professional registration
6 in the department of [economic development] **insurance, financial**
7 **institutions and professional registration** which shall transmit them to the
8 department of revenue for deposit in the state treasury to the credit of a "Board
9 of Barbers Fund". Warrants shall be drawn upon the treasurer out of this fund
10 only for the payment of the salaries, office and other necessary expenses of the
11 board. A detailed statement of the expenses incurred by the board, approved by
12 the secretary-treasurer of the board, shall be filed with the commissioner of
13 administration before warrants are drawn for their payment.

14 2. The provisions of section 33.080, RSMo, to the contrary
15 notwithstanding, money in this fund shall not be transferred and placed to the
16 credit of general revenue until the amount in the fund at the end of the biennium
17 exceeds two times the amount of the appropriation from the board's funds for the
18 preceding fiscal year or, if the board requires by rule permit renewal less
19 frequently than yearly, then three times the appropriation from the board's funds
20 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
21 is that amount in the fund which exceeds the appropriate multiple of the
22 appropriations from the board's funds for the preceding fiscal year.

329.025. 1. The board shall have power to:

2 (1) Prescribe by rule for the examination of applicants for licensure to
3 practice the classified occupations of barbering and cosmetology and issue
4 licenses;

5 (2) Prescribe by rule for the inspection of barber and cosmetology
6 establishments and schools and appoint the necessary inspectors and examining

7 assistants;

8 (3) Prescribe by rule for the inspection of establishments and schools of
9 barbering and cosmetology as to their sanitary conditions and to appoint the
10 necessary inspectors and, if necessary, examining assistants;

11 (4) Set the amount of the fees that this chapter and chapter 328, RSMo,
12 authorize and require, by rules promulgated under section 536.021, RSMo. The
13 fees shall be set at a level sufficient to produce revenue that shall not
14 substantially exceed the cost and expense of administering this chapter and
15 chapter 328, RSMo;

16 (5) Employ and remove board personnel, as set forth in subdivision (4) of
17 subsection [15] 10 of section [620.010] **324.001**, RSMo, including an executive
18 secretary or comparable position, inspectors, investigators, legal counsel and
19 secretarial support staff, as may be necessary for the efficient operation of the
20 board, within the limitations of its appropriation;

21 (6) Elect one of its members president, one vice president, and one
22 secretary with the limitation that no single profession can hold the positions of
23 president and vice president at the same time;

24 (7) Promulgate rules necessary to carry out the duties and responsibilities
25 designated by this chapter and chapter 328, RSMo;

26 (8) Determine the sufficiency of the qualifications of applicants; and

27 (9) Prescribe by rule the minimum standards and methods of
28 accountability for the schools of barbering and cosmetology licensed under this
29 chapter and chapter 328, RSMo.

30 2. The board shall create no expense exceeding the sum received from
31 time to time from fees imposed under this chapter and chapter 328, RSMo.

32 3. A majority of the board, with at least one representative of each
33 profession being present, shall constitute a quorum for the transaction of
34 business.

35 4. The board shall meet not less than six times annually.

36 5. Any rule or portion of a rule, as that term is defined in section 536.010,
37 RSMo, that is created under the authority delegated in this chapter and chapter
38 328, RSMo, shall become effective only if it complies with and is subject to all of
39 the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
40 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
41 powers vested with the general assembly under chapter 536, RSMo, to review, to
42 delay the effective date or to disapprove and annul a rule are subsequently held

43 unconstitutional, then the grant of rulemaking authority and any rule proposed
44 or adopted after August 28, 2001, shall be invalid and void.

329.028. 1. There is hereby created in the state treasury a fund to be
2 known as the "Board of Cosmetology and Barber Examiners Fund", which shall
3 consist of all moneys collected by the board. All fees provided for in this chapter
4 and chapter 328, RSMo, shall be payable to the director of the division of
5 professional registration [in the department of economic development], who shall
6 keep a record of the account showing the total payments received and shall
7 immediately thereafter transmit them to the department of revenue for deposit
8 in the state treasury to the credit of the board of cosmetology and barber
9 examiners fund. All the salaries and expenses for the operation of the board shall
10 be appropriated and paid from such fund.

11 2. The provisions of section 33.080, RSMo, to the contrary
12 notwithstanding, money in this fund shall not be transferred and placed to the
13 credit of general revenue until the amount in the fund at the end of the biennium
14 exceeds two times the amount of the appropriation from the board's funds for the
15 preceding fiscal year or, if the board requires by rule license renewal less
16 frequently than yearly, then three times the appropriation from the board's funds
17 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
18 is that amount in the fund which exceeds the appropriate multiple of the
19 appropriations from the board's funds for the preceding fiscal year.

20 3. Upon appointment by the governor and confirmation by the senate of
21 the board, all moneys deposited in the board of barbers fund created in section
22 328.050, RSMo, and the state board of cosmetology fund created in section
23 329.240, shall be transferred to the board of cosmetology and barber examiners
24 fund created in subsection 1 of this section. The board of barbers fund and the
25 state board of cosmetology fund shall be abolished when all moneys are
26 transferred to the board of cosmetology and barber examiners fund.

329.210. 1. The board shall have power to:

2 (1) Prescribe by rule for the examinations of applicants for licensure to
3 practice the classified occupation of cosmetology and issue licenses;

4 (2) Prescribe by rule for the inspection of cosmetology establishments and
5 schools and appoint the necessary inspectors and examining assistants;

6 (3) Prescribe by rule for the inspection of establishments and schools of
7 cosmetology as to their sanitary conditions and to appoint the necessary
8 inspectors and, if necessary, examining assistants; and set the amount of the fees

9 which this chapter authorizes and requires, by rules and regulations promulgated
10 pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to
11 produce revenue which shall not substantially exceed the cost and expense of
12 administering this chapter;

13 (4) Employ and remove board personnel, as defined in subdivision (4) of
14 subsection [15] **10** of section [620.010] **324.001**, RSMo, as may be necessary for
15 the efficient operation of the board, within the limitations of its appropriation;

16 (5) Elect one of its members president, one vice president and one
17 secretary;

18 (6) Determine the sufficiency of the qualifications of applicants; and

19 (7) Prescribe by rule the minimum standards and methods of
20 accountability for the schools of cosmetology licensed pursuant to this chapter.

21 2. The board shall create no expense exceeding the sum received from
22 time to time from fees imposed pursuant to this chapter.

23 3. Any rule or portion of a rule, as that term is defined in section 536.010,
24 RSMo, that is created under the authority delegated in this chapter shall become
25 effective only if it complies with and is subject to all of the provisions of chapter
26 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
27 536, RSMo, are nonseverable and if any of the powers vested with the general
28 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
29 or to disapprove and annul a rule are subsequently held unconstitutional, then
30 the grant of rulemaking authority and any rule proposed or adopted after August
31 28, 2001, shall be invalid and void.

330.190. The board shall investigate all complaints of violations of the
2 provisions of this chapter as provided in [subdivision (6) of subsection 16 of
3 section 620.010] **section 324.002**, RSMo, and shall report any such violations to
4 the proper prosecuting officers or other public officials charged with the
5 enforcement of the provisions of this chapter. The board may employ such board
6 personnel, as defined in subdivision (4) of subsection [16] **10** of section [620.010]
7 **324.001**, RSMo, as it deems necessary within appropriations therefor.

331.100. 1. The board shall elect a president and secretary at the first
2 regular meeting held after January first of each year. Each member of the board
3 shall receive as compensation for his services the sum of fifty dollars per day
4 while discharging the actual duties of the board, and each member shall receive
5 necessary traveling expenses while actually engaged in the performance of his
6 duties as a member of the board.

7 2. The board shall have a common seal, and shall adopt rules and
8 regulations for the application and enforcement of this chapter. The president
9 and secretary shall have power to administer oaths. Four members shall
10 constitute a quorum. They shall publish the dates and places for examinations
11 at least thirty days prior to the meeting. The board shall create no expenses
12 exceeding the sums received from time to time as herein provided.

13 3. The board shall employ such board personnel as may be necessary to
14 carry out the provisions of this chapter. Board personnel shall include an
15 executive secretary or comparable position, inspectors, investigators, attorneys,
16 and secretarial support staff for these positions.

17 4. Board personnel shall have their duties and compensation prescribed
18 by the board within appropriations for that purpose, except that compensation for
19 board personnel shall not exceed that established for comparable positions, as
20 determined by the board, under the job and pay plan of the department of
21 **[economic development] insurance, financial institutions and professional**
22 **registration.**

23 5. Members of the board shall not be personally liable either jointly or
24 separately for any act or acts committed in the performance of their official duties
25 as board members except gross negligence.

332.041. 1. The board shall meet at least twice a year at such times and
2 places in the state of Missouri as may be fixed by the board. The board shall
3 elect from its membership a president, a vice president, and a secretary-treasurer,
4 each of whom shall be elected at the times and serve for the terms as are
5 determined by the board, and each of whose duties shall be prescribed by the
6 board.

7 2. The board shall keep records of its official acts, and certified copies of
8 any such records attested by a designee of the board with the board's seal affixed
9 shall be received as evidence in all courts to the same extent as the board's
10 original records would be received.

11 3. Each member of the board shall receive as compensation an amount set
12 by the board not to exceed fifty dollars for each day devoted to the affairs of the
13 board, and shall be entitled to reimbursement of his expenses necessarily
14 incurred in the discharge of his official duties. The board may employ and pay
15 legal counsel and such board personnel, as defined in subdivision (4) of subsection
16 **[16] 10** of section **[620.010] 324.001**, RSMo, as it deems necessary within
17 appropriations therefor.

332.327. 1. The board may establish an impaired dentist or dental
2 hygienist committee, to be designated as the well-being committee, to promote the
3 early identification, intervention, treatment and rehabilitation of dentists or
4 dental hygienists who may be impaired by reasons of illness, substance abuse, or
5 as a result of any physical or mental condition. The board may enter into a
6 contractual agreement with a nonprofit corporation or a dental association for the
7 purpose of creating, supporting and maintaining a committee to be designated as
8 the well-being committee. The board may promulgate administrative rules
9 subject to the provisions of this section and chapter 536, RSMo, to effectuate and
10 implement any committee formed pursuant to this section. The board may
11 expend appropriated funds necessary to provide for operational expenses of the
12 committee formed pursuant to this section. Any member of the well-being
13 committee, as well as any administrator, staff member, consultant, agent or
14 employee of the committee, acting within the scope of his or her duties and
15 without actual malice and, all other persons who furnish information to the
16 committee in good faith and without actual malice, shall not be liable for any
17 claim of damages as a result of any statement, decision, opinion, investigation or
18 action taken by the committee, or by any individual member of the committee.

19 2. All information, interviews, reports, statements, memoranda or other
20 documents furnished to or produced by the well-being committee, as well as
21 communications to or from the committee, any findings, conclusions,
22 interventions, treatment, rehabilitation or other proceedings of the committee
23 which in any way pertain to a licensee who may be, or who actually is, impaired
24 shall be privileged and confidential.

25 3. All records and proceedings of the well-being committee which pertain
26 or refer to a licensee who may be, or who actually is, impaired shall be privileged
27 and confidential and shall be used by the committee and its members only in the
28 exercise of the proper function of the committee and shall not be considered
29 public records pursuant to chapter 610, RSMo, and shall not be subject to court
30 subpoena or subject to discovery or introduction as evidence in any civil, criminal
31 or administrative proceedings except as provided in subsection 4 of this section.

32 4. The well-being committee may disclose information relative to an
33 impaired licensee only when:

34 (1) It is essential to disclose the information to further the intervention,
35 treatment or rehabilitation needs of the impaired licensee and only to those
36 persons or organization with a need to know;

37 (2) Its release is authorized in writing by the impaired licensee;

38 (3) The committee is required to make a report to the board; or

39 (4) The information is subject to a court order.

40 5. In lieu of pursuing discipline against a dentist or dental hygienist for
41 violating one or more causes stated in subsection 2 of section 332.321, the board
42 may enter into a diversion agreement with a dentist or dental hygienist to refer
43 the licensee to the dental well-being committee under such terms and conditions
44 as are agreed to by the board and licensee for a period not to exceed five
45 years. The board shall enter into no more than two diversion agreements with
46 any individual licensee. If the licensee violates a term or condition of a diversion
47 agreement entered into pursuant to this section, the board may elect to pursue
48 discipline against the licensee pursuant to chapter 621, RSMo, for the original
49 conduct that resulted in the diversion agreement, or for any subsequent violation
50 of subsection 2 of section 332.321. While the licensee participates in the
51 well-being committee, the time limitations of section [620.154] **324.043**, RSMo,
52 shall toll pursuant to subsection 7 of section [620.154] **324.043**, RSMo. All
53 records pertaining to diversion agreements are confidential and may only be
54 released pursuant to [subdivision (7) of] subsection [14] **8** of section [620.010]
55 **324.001**, RSMo.

56 6. The board may disclose information and records to the well-being
57 committee to assist the committee in the identification, intervention, treatment,
58 and rehabilitation of dentists or dental hygienists who may be impaired by reason
59 of illness, substance abuse, or as the result of any physical or mental
60 condition. The well-being committee shall keep all information and records
61 provided by the board confidential to the extent the board is required to treat the
62 information and records as closed to the public pursuant to chapter [620] **324**,
63 RSMo.

333.221. 1. Each member of the board shall receive as compensation an
2 amount set by the board not to exceed fifty dollars for each day devoted to the
3 affairs of the board, and shall be entitled to reimbursement of his expenses
4 necessarily incurred in the discharge of his official duties.

5 2. The board may employ such board personnel, as defined in subdivision
6 (4) of subsection [16] **10** of section [620.010] **324.001**, RSMo, as is necessary for
7 the administration of this chapter.

334.123. The board shall elect its own president and secretary, each to
2 serve for a term of one year, and shall maintain an office and employ an executive

3 director and such other board personnel, as defined in section [620.010] **324.001**,
4 RSMo, as the board in its discretion deems necessary. Without limiting the
5 foregoing, the board is specifically authorized to obtain the services of specially
6 trained and qualified persons or organizations to assist in conducting
7 examinations of applicants for licenses and may employ legal counsel. The
8 executive director shall have the degree of bachelor of arts or the equivalent
9 combination of education and experience from which comparable knowledge and
10 abilities can be acquired. The board shall meet annually in Jefferson City and
11 at such other times and places as the members of the board may designate, and
12 shall keep a record of its proceedings and shall cause a register to be kept of all
13 applicants for certificates of licensure. The records and register shall be prima
14 facie evidence of all matters recorded therein. Four members of the board shall
15 constitute a quorum, at least one of whom shall be a graduate of a professional
16 school approved and accredited as reputable by the American Medical Association
17 or the Liaison Committee on Medical Education, and at least one of whom shall
18 be a graduate of a professional school approved and accredited as reputable by
19 the American Osteopathic Association.

334.240. Upon receiving information that any provision of sections
2 334.010, 334.190 and 334.250 has been or is being violated, the secretary of the
3 board or other person designated by the board shall investigate, and upon
4 probable cause appearing, the secretary shall, under the direction of the board,
5 file a complaint with the administrative hearing commission or appropriate
6 official or court. All such complaints shall be handled as provided by rule
7 promulgated pursuant to [subdivision (6) of subsection 16 of section 620.010]
8 **section 324.002**, RSMo.

334.400. As used in sections 334.400 to 334.430, the following terms shall
2 mean:

3 (1) "Anesthesiologist", a physician who has completed a residency in
4 anesthesiology approved by the American Board of Anesthesiology or the
5 American Osteopathic Board of Anesthesiology;

6 (2) "Anesthesiologist assistant", a person who meets each of the following
7 conditions:

8 (a) Has graduated from an anesthesiologist assistant program accredited
9 by the American Medical Association's Committee on Allied Health Education and
10 Accreditation or by its successor agency;

11 (b) Has passed the certifying examination administered by the National

12 Commission on Certification of Anesthesiologist Assistants;

13 (c) Has active certification by the National Commission on Certification
14 of Anesthesiologist Assistants; and

15 (d) Provides health care services delegated by a licensed anesthesiologist;

16 (3) "Anesthesiologist assistant supervision agreement", a written
17 agreement, jointly agreed upon protocols or standing order between a supervising
18 anesthesiologist and an anesthesiologist assistant, which provides for the
19 delegation of health care services from a supervising anesthesiologist to an
20 anesthesiologist assistant and the review of such services;

21 (4) "Applicant", any individual who seeks to become licensed as an
22 anesthesiologist assistant;

23 (5) "Continuing education", the offering of instruction or information to
24 license holders for the purpose of maintaining or increasing skills necessary for
25 the safe and competent practice of anesthetic care;

26 (6) "Department", the department of [economic development] **insurance,**
27 **financial institutions and professional registration** or a designated agency
28 thereof;

29 (7) "Immediately available", in the same physical location or facility in
30 which the services are provided;

31 (8) "Physician", an individual licensed pursuant to this chapter to practice
32 medicine and surgery or osteopathic medicine and surgery;

33 (9) "Supervision", medical direction by an anesthesiologist of an
34 anesthesiologist assistant as defined in conditions of 42 CFR 415.110 which limits
35 supervision to no more than four anesthesiologist assistants concurrently.

334.702. As used in sections 334.700 to 334.725, unless the context clearly
2 requires otherwise, the following terms mean:

3 (1) "Athlete", a person who participates in a sanctioned amateur or
4 professional sport or recreational sport activity;

5 (2) "Athletic trainer", a person who meets the qualifications of section
6 334.708 and who, upon the direction of the team physician and/or consulting
7 physician, practices prevention, emergency care, first aid, treatment, or physical
8 rehabilitation of injuries incurred by athletes in the manner, means, and methods
9 deemed necessary to effect care or rehabilitation, or both;

10 (3) "Board", the Missouri board for the healing arts;

11 (4) "Committee", the athletic trainers advisory committee;

12 (5) "Division", the division of professional registration [of the department

13 of economic development];

14 (6) "Student athletic trainer", a person who assists in the duties usually
15 performed by a licensed athletic trainer and who works under the direct
16 supervision of a licensed athletic trainer.

334.735. 1. As used in sections 334.735 to 334.749, the following terms
2 mean:

3 (1) "Applicant", any individual who seeks to become licensed as a
4 physician assistant;

5 (2) "Certification" or "registration", a process by a certifying entity that
6 grants recognition to applicants meeting predetermined qualifications specified
7 by such certifying entity;

8 (3) "Certifying entity", the nongovernmental agency or association which
9 certifies or registers individuals who have completed academic and training
10 requirements;

11 (4) "Department", the department of [economic development] **insurance,**
12 **financial institutions and professional registration** or a designated agency
13 thereof;

14 (5) "License", a document issued to an applicant by the [department]
15 **board** acknowledging that the applicant is entitled to practice as a physician
16 assistant;

17 (6) "Physician assistant", a person who has graduated from a physician
18 assistant program accredited by the American Medical Association's Committee
19 on Allied Health Education and Accreditation or by its successor agency, who has
20 passed the certifying examination administered by the National Commission on
21 Certification of Physician Assistants and has active certification by the National
22 Commission on Certification of Physician Assistants who provides health care
23 services delegated by a licensed physician. A person who has been employed as
24 a physician assistant for three years prior to August 28, 1989, who has passed the
25 National Commission on Certification of Physician Assistants examination, and
26 has active certification of the National Commission on Certification of Physician
27 Assistants;

28 (7) "Recognition", the formal process of becoming a certifying entity as
29 required by the provisions of sections 334.735 to 334.749;

30 (8) "Supervision", control exercised over a physician assistant working
31 within the same facility as the supervising physician sixty-six percent of the time
32 a physician assistant provides patient care, except a physician assistant may

33 make follow-up patient examinations in hospitals, nursing homes, patient homes,
34 and correctional facilities, each such examination being reviewed, approved and
35 signed by the supervising physician, except as provided by subsection 2 of this
36 section. The supervising physician must be readily available in person or via
37 telecommunication during the time the physician assistant is providing patient
38 care. The board shall promulgate rules pursuant to chapter 536, RSMo, for
39 documentation of joint review of the physician assistant activity by the
40 supervising physician and the physician assistant. The physician assistant shall
41 be limited to practice at locations where the supervising physician is no further
42 than thirty miles by road using the most direct route available, or in any other
43 fashion so distanced as to create an impediment to effective intervention and
44 supervision of patient care or adequate review of services. Any other provisions
45 of this chapter notwithstanding, for up to ninety days following the effective date
46 of rules promulgated by the board to establish the waiver process under
47 subsection 2 of this section, any physician assistant practicing in a health
48 professional shortage area as of April 1, 2007, shall be allowed to practice under
49 the on-site requirements stipulated by the supervising physician on the
50 supervising physician form that was in effect on April 1, 2007.

51 2. The board shall promulgate rules under chapter 536, RSMo, to direct
52 the advisory commission on physician assistants to establish a formal waiver
53 mechanism by which an individual physician-physician assistant team may apply
54 for alternate minimum amounts of on-site supervision and maximum distance
55 from the supervising physician. After review of an application for a waiver, the
56 advisory commission on physician assistants shall present its recommendation to
57 the board for its advice and consent on the approval or denial of the
58 application. The rule shall establish a process by which the public is invited to
59 comment on the application for a waiver, and shall specify that a waiver may only
60 be granted if a supervising physician and physician assistant demonstrate to the
61 board's satisfaction in accordance with its uniformly applied criteria that:

62 (1) Adequate supervision will be provided by the physician for the
63 physician assistant, given the physician assistant's training and experience and
64 the acuity of patient conditions normally treated in the clinical setting;

65 (2) The physician assistant shall be limited to practice at locations where
66 the supervising physician is no further than fifty miles by road using the most
67 direct route available, or in any other fashion so distanced as to create an
68 impediment to effective intervention and supervision of patient care or adequate

69 review of services;

70 (3) The community or communities served by the supervising physician
71 and physician assistant would experience reduced access to health care services
72 in the absence of a waiver; and

73 (4) The applicant will practice in an area designated at the time of
74 application as a health professional shortage area.

75 3. The scope of practice of a physician assistant shall consist only of the
76 following services and procedures:

77 (1) Taking patient histories;

78 (2) Performing physical examinations of a patient;

79 (3) Performing or assisting in the performance of routine office laboratory
80 and patient screening procedures;

81 (4) Performing routine therapeutic procedures;

82 (5) Recording diagnostic impressions and evaluating situations calling for
83 attention of a physician to institute treatment procedures;

84 (6) Instructing and counseling patients regarding mental and physical
85 health using procedures reviewed and approved by a licensed physician;

86 (7) Assisting the supervising physician in institutional settings, including
87 reviewing of treatment plans, ordering of tests and diagnostic laboratory and
88 radiological services, and ordering of therapies, using procedures reviewed and
89 approved by a licensed physician;

90 (8) Assisting in surgery;

91 (9) Performing such other tasks not prohibited by law under the
92 supervision of a licensed physician as the physician's assistant has been trained
93 and is proficient to perform;

94 (10) Physician assistants shall not perform abortions.

95 4. Physician assistants shall not prescribe nor dispense any drug,
96 medicine, device or therapy independent of consultation with the supervising
97 physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or
98 correction of vision or the measurement of visual power or visual efficiency of the
99 human eye, nor administer or monitor general or regional block anesthesia during
100 diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of
101 drugs, medications, devices or therapies by a physician assistant shall be
102 pursuant to a physician assistant supervision agreement which is specific to the
103 clinical conditions treated by the supervising physician and the physician
104 assistant shall be subject to the following:

- 105 (1) A physician assistant shall not prescribe controlled substances;
- 106 (2) The types of drugs, medications, devices or therapies prescribed or
107 dispensed by a physician assistant shall be consistent with the scopes of practice
108 of the physician assistant and the supervising physician;
- 109 (3) All prescriptions shall conform with state and federal laws and
110 regulations and shall include the name, address and telephone number of the
111 physician assistant and the supervising physician;
- 112 (4) A physician assistant or advanced practice nurse as defined in section
113 335.016, RSMo, may request, receive and sign for noncontrolled professional
114 samples and may distribute professional samples to patients;
- 115 (5) A physician assistant shall not prescribe any drugs, medicines, devices
116 or therapies the supervising physician is not qualified or authorized to prescribe;
117 and
- 118 (6) A physician assistant may only dispense starter doses of medication
119 to cover a period of time for seventy-two hours or less.
- 120 5. A physician assistant shall clearly identify himself or herself as a
121 physician assistant and shall not use or permit to be used in the physician
122 assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out
123 in any way to be a physician or surgeon. No physician assistant shall practice or
124 attempt to practice without physician supervision or in any location where the
125 supervising physician is not immediately available for consultation, assistance
126 and intervention, except as otherwise provided in this section, and in an
127 emergency situation, nor shall any physician assistant bill a patient
128 independently or directly for any services or procedure by the physician assistant.
- 129 6. For purposes of this section, the licensing of physician assistants shall
130 take place within processes established by the state board of registration for the
131 healing arts through rule and regulation. The board of healing arts is authorized
132 to establish rules pursuant to chapter 536, RSMo, establishing licensing and
133 renewal procedures, supervision, supervision agreements, fees, and addressing
134 such other matters as are necessary to protect the public and discipline the
135 profession. An application for licensing may be denied or the license of a
136 physician assistant may be suspended or revoked by the board in the same
137 manner and for violation of the standards as set forth by section 334.100, or such
138 other standards of conduct set by the board by rule or regulation. Persons
139 licensed pursuant to the provisions of chapter 335, RSMo, shall not be required
140 to be licensed as physician assistants. All applicants for physician assistant

141 licensure who complete a physician assistant training program after January 1,
142 2008, shall have a master's degree from a physician assistant program.

143 7. "Physician assistant supervision agreement" means a written
144 agreement, jointly agreed-upon protocols or standing order between a supervising
145 physician and a physician assistant, which provides for the delegation of health
146 care services from a supervising physician to a physician assistant and the review
147 of such services.

148 8. When a physician assistant supervision agreement is utilized to provide
149 health care services for conditions other than acute self-limited or well-defined
150 problems, the supervising physician or other physician designated in the
151 supervision agreement shall see the patient for evaluation and approve or
152 formulate the plan of treatment for new or significantly changed conditions as
153 soon as practical, but in no case more than two weeks after the patient has been
154 seen by the physician assistant.

155 9. At all times the physician is responsible for the oversight of the
156 activities of, and accepts responsibility for, health care services rendered by the
157 physician assistant.

158 10. It is the responsibility of the supervising physician to determine and
159 document the completion of at least a one-month period of time during which the
160 licensed physician assistant shall practice with a supervising physician
161 continuously present before practicing in a setting where a supervising physician
162 is not continuously present.

163 11. No contract or other agreement shall require a physician to act as a
164 supervising physician for a physician assistant against the physician's will. A
165 physician shall have the right to refuse to act as a supervising physician, without
166 penalty, for a particular physician assistant. No contract or other agreement
167 shall limit the supervising physician's ultimate authority over any protocols or
168 standing orders or in the delegation of the physician's authority to any physician
169 assistant, but this requirement shall not authorize a physician in implementing
170 such protocols, standing orders, or delegation to violate applicable standards for
171 safe medical practice established by hospital's medical staff.

172 12. Physician assistants shall file with the board a copy of their
173 supervising physician form.

174 13. No physician shall be designated to serve as supervising physician for
175 more than three full-time equivalent licensed physician assistants. This
176 limitation shall not apply to physician assistant agreements of hospital employees

177 providing inpatient care service in hospitals as defined in chapter 197, RSMo.

334.746. All staff for the health care providers certification and
2 registration program shall be provided by the director of the department of
3 [economic development] **insurance, financial institutions and professional**
4 **registration** through the director of the division of professional registration.

334.800. 1. Sections 334.800 to 334.930 shall be known and may be cited
2 as the "Respiratory Care Practice Act".

3 2. For the purposes of sections 334.800 to 334.930, the following terms
4 mean:

5 (1) "Board", the Missouri board for respiratory care, established in section
6 334.830;

7 (2) "Certified respiratory therapist" or "CRT", a person meeting entry-level
8 qualifying educational requirements, having passed the certification examination
9 and having been certified by the certifying entity;

10 (3) "Certifying entity", the cognitive competency testing organization as
11 authorized by the board;

12 (4) "Continuing education", the offering of instruction or information to
13 license holders for the purpose of maintaining or increasing skills necessary for
14 the safe and competent practice of respiratory care;

15 (5) "CRT" and "RRT", abbreviations for certified respiratory therapist and
16 registered respiratory therapist and are registered trademarks of a certifying
17 entity of the National Board for Respiratory Care but does not include certified
18 clinical perfusionists;

19 (6) "Direct clinical supervision", availability of a licensed respiratory care
20 practitioner for purposes of immediate communication and consultation with, and
21 the assistance of, the permit holder;

22 (7) "Division", the division of professional registration [of the department
23 of economic development];

24 (8) "Practice of respiratory care", as provided in section 334.810;

25 (9) "Protocol", a written agreement of medical care plan delegating
26 professional responsibilities to a person who is qualified by training, competency,
27 experience or licensure to perform such responsibilities. A protocol is a defined
28 response to a specific clinical situation and shall be written, signed and dated by
29 a physician prior to its implementation;

30 (10) "Registered respiratory therapist" or "RRT", a person meeting
31 advanced-level qualifying professional educational requirements, having passed

32 the registry examination and having been registered by the certifying entity;

33 (11) "Respiratory care", the allied health profession whose practitioners
34 function under the supervision of a physician or in accordance with clinical
35 protocols accepted by the physician in the administration of pharmacologic,
36 diagnostic and therapeutic agents related to respiratory care necessary to
37 implement or modify diagnostic regimens, treatment, disease prevention or
38 pulmonary rehabilitation of patients with deficiencies and abnormalities
39 associated with the cardiopulmonary system;

40 (12) "Respiratory care practitioner", a person:

41 (a) Duly licensed by the board;

42 (b) Employed in the practice of respiratory care who has the knowledge
43 and skill necessary to administer respiratory care as defined in this section;

44 (c) Who is able to function in situations of unsupervised patient contact
45 requiring individual judgment; and

46 (d) Who is capable of serving as a resource to the physician in relation to
47 the technical aspects of respiratory care as to safe and effective methods for
48 administering respiratory care modalities;

49 (13) "Special training":

50 (a) Is a deliberate systematic educational activity in the affective,
51 psychomotor and cognitive domains;

52 (b) Is intended to develop new proficiencies with an application in mind;

53 (c) Is presented with an attention to needs, objectives, activities and a
54 defined means of evaluation.

335.036. 1. The board shall:

2 (1) Elect for a one-year term a president and a secretary, who shall also
3 be treasurer, and the board may appoint, employ and fix the compensation of a
4 legal counsel and such board personnel as defined in subdivision (4) of subsection
5 [16] 10 of section [620.010] **324.001**, RSMo, as are necessary to administer the
6 provisions of sections 335.011 to 335.096;

7 (2) Adopt and revise such rules and regulations as may be necessary to
8 enable it to carry into effect the provisions of sections 335.011 to 335.096;

9 (3) Prescribe minimum standards for educational programs preparing
10 persons for licensure pursuant to the provisions of sections 335.011 to 335.096;

11 (4) Provide for surveys of such programs every five years and in addition
12 at such times as it may deem necessary;

13 (5) Designate as "approved" such programs as meet the requirements of

14 sections 335.011 to 335.096 and the rules and regulations enacted pursuant to
15 such sections; and the board shall annually publish a list of such programs;

16 (6) Deny or withdraw approval from educational programs for failure to
17 meet prescribed minimum standards;

18 (7) Examine, license, and cause to be renewed the licenses of duly
19 qualified applicants;

20 (8) Cause the prosecution of all persons violating provisions of sections
21 335.011 to 335.096, and may incur such necessary expenses therefor;

22 (9) Keep a record of all the proceedings; and make an annual report to the
23 governor and to the director of the department of [economic development]
24 **insurance, financial institutions and professional registration;**

25 (10) Establish an impaired nurse program.

26 2. The board shall set the amount of the fees which this chapter
27 authorizes and requires by rules and regulations. The fees shall be set at a level
28 to produce revenue which shall not substantially exceed the cost and expense of
29 administering this chapter.

30 3. All fees received by the board pursuant to the provisions of sections
31 335.011 to 335.096 shall be deposited in the state treasury and be placed to the
32 credit of the state board of nursing fund. All administrative costs and expenses
33 of the board shall be paid from appropriations made for those purposes.

34 4. The provisions of section 33.080, RSMo, to the contrary
35 notwithstanding, money in this fund shall not be transferred and placed to the
36 credit of general revenue until the amount in the fund at the end of the biennium
37 exceeds two times the amount of the appropriation from the board's funds for the
38 preceding fiscal year or, if the board requires by rule, permit renewal less
39 frequently than yearly, then three times the appropriation from the board's funds
40 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
41 is that amount in the fund which exceeds the appropriate multiple of the
42 appropriations from the board's funds for the preceding fiscal year.

43 5. Any rule or portion of a rule, as that term is defined in section 536.010,
44 RSMo, that is created under the authority delegated in this chapter shall become
45 effective only if it complies with and is subject to all of the provisions of chapter
46 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority
47 delegated prior to August 28, 1999, is of no force and effect and
48 repealed. Nothing in this section shall be interpreted to repeal or affect the
49 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied

50 with all applicable provisions of law. This section and chapter 536, RSMo, are
51 nonseverable and if any of the powers vested with the general assembly pursuant
52 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
53 annul a rule are subsequently held unconstitutional, then the grant of
54 rulemaking authority and any rule proposed or adopted after August 28, 1999,
55 shall be invalid and void.

336.160. 1. The board may adopt reasonable rules and regulations within
2 the scope and terms of this chapter for the proper administration and
3 enforcement thereof. It may employ such board personnel, as defined in
4 subdivision (4) of subsection [16] 10 of section [620.010] **324.001**, RSMo, as it
5 deems necessary within appropriations therefor.

6 2. The board shall set the amount of the fees which this chapter
7 authorizes and requires by rules and regulations promulgated pursuant to section
8 536.021, RSMo. The fees shall be set at a level to produce revenue which shall
9 not substantially exceed the cost and expense of administering this chapter.

337.010. As used in sections 337.010 to 337.090 the following terms mean:

2 (1) "Committee", the state committee of psychologists;

3 (2) "Department", the department of [economic development] **insurance,**
4 **financial institutions and professional registration;**

5 (3) "Division", the division of professional registration [within the
6 department of economic development];

7 (4) "Licensed psychologist", any person who offers to render psychological
8 services to individuals, groups, organizations, institutions, corporations, schools,
9 government agencies or the general public for a fee, monetary or otherwise,
10 implying that such person is trained, experienced and licensed to practice
11 psychology and who holds a current and valid, whether temporary, provisional or
12 permanent, license in this state to practice psychology;

13 (5) "Provisional licensed psychologist", any person who is a graduate of a
14 recognized educational institution with a doctoral degree in psychology as defined
15 in section 337.025, and who otherwise meets all requirements to become a
16 licensed psychologist except for passage of the licensing exams, oral examination
17 and completion of the required period of postdegree supervised experience as
18 specified in subsection 2 of section 337.025;

19 (6) "Recognized educational institution":

20 (a) A school, college, university or other institution of higher learning in
21 the United States, which, at the time the applicant was enrolled and graduated,

22 had a graduate program in psychology and was accredited by one of the regional
23 accrediting associations approved by the Council on Postsecondary Accreditation;
24 or

25 (b) A school, college, university or other institution of higher learning
26 outside the United States, which, at the time the applicant was enrolled and
27 graduated, had a graduate program in psychology and maintained a standard of
28 training substantially equivalent to the standards of training of those programs
29 accredited by one of the regional accrediting associations approved by the Council
30 of Postsecondary Accreditation;

31 (7) "Temporary license", a license which is issued to a person licensed as
32 a psychologist in another jurisdiction, who has applied for licensure in this state
33 either by reciprocity or endorsement of the score from the Examination for
34 Professional Practice in Psychology, and who is awaiting either a final
35 determination by the committee relative to such person's eligibility for licensure
36 or who is awaiting the results of the jurisprudence examination or oral
37 examination.

337.090. The committee and division in issuing licenses and in publishing
2 the directory as provided in section [620.145] **324.032**, RSMo, shall not include
3 or list the degree upon which the license or certificate was issued. Any person
4 licensed on the basis of a master's degree who has then earned a doctoral degree
5 may use the title "doctor" or hold himself out in his practice as a psychologist as
6 having a doctoral degree so long as it is from an accredited institution of higher
7 education and so long as the degree is relevant to the practice of psychology.

337.500. As used in sections 337.500 to 337.540, unless the context clearly
2 requires otherwise, the following words and phrases mean:

- 3 (1) "Committee or board", the committee for professional counselors;
4 (2) "Department", the Missouri department of [economic development]
5 **insurance, financial institutions and professional registration**;
6 (3) "Director", the director of the division of professional registration [in
7 the department of economic development];
8 (4) "Division", the division of professional registration;
9 (5) "Licensed professional counselor", any person who offers to render
10 professional counseling services to individuals, groups, organizations, institutions,
11 corporations, government agencies or the general public for a fee, monetary or
12 otherwise, implying that the person is trained, experienced, and licensed in
13 counseling, and who holds a current, valid license to practice counseling;

14 (6) "Practice of professional counseling", rendering, offering to render, or
15 supervising those who render to individuals, couples, groups, organizations,
16 institutions, corporations, schools, government agencies, or the general public any
17 counseling service involving the application of counseling procedures, and the
18 principles and methods thereof, to assist in achieving more effective intrapersonal
19 or interpersonal, marital, decisional, social, educational, vocational,
20 developmental, or rehabilitative adjustments;

21 (7) "Professional counseling", includes, but is not limited to:

22 (a) The use of verbal or nonverbal counseling or both techniques, methods,
23 or procedures based on principles for assessing, understanding, or influencing
24 behavior (such as principles of learning, conditioning, perception, motivation,
25 thinking, emotions, or social systems);

26 (b) Appraisal or assessment, which means selecting, administering,
27 scoring, or interpreting instruments designed to assess a person's or group's
28 aptitudes, intelligence, attitudes, abilities, achievement, interests, and personal
29 characteristics;

30 (c) The use of referral or placement techniques or both which serve to
31 further the goals of counseling;

32 (d) Therapeutic vocational or personal or both rehabilitation in relation
33 to coping with or adapting to physical disability, emotional disability, or
34 intellectual disability or any combination of the three;

35 (e) Designing, conducting, and interpreting research;

36 (f) The use of group methods or techniques to promote the goals of
37 counseling;

38 (g) The use of informational and community resources for career, personal,
39 or social development;

40 (h) Consultation on any item in paragraphs (a) through (g) above; and

41 (i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375,
42 RSMo, shall be construed to mandate benefits or third-party reimbursement for
43 services of professional counselors in the policies or contracts of any insurance
44 company, health services corporation or other third-party payer;

45 (8) "Provisional licensed professional counselor", any person who is a
46 graduate of an acceptable educational institution, as defined by division rules,
47 with at least a master's degree with a major in counseling, or its equivalent, and
48 meets all requirements of a licensed professional counselor, other than the
49 supervised counseling experience prescribed by subdivision (1) of section 337.510,

50 and who is supervised by a person who is qualified for the practice of professional
51 counseling.

337.600. As used in sections 337.600 to 337.689, the following terms
2 mean:

3 (1) "Advanced macro social worker", the applications of social work theory,
4 knowledge, methods, principles, values, and ethics; and the professional use of
5 self to community and organizational systems, systemic and macrocosm issues,
6 and other indirect nonclinical services; specialized knowledge and advanced
7 practice skills in case management, information and referral, nonclinical
8 assessments, counseling, outcome evaluation, mediation, nonclinical supervision,
9 nonclinical consultation, expert testimony, education, outcome evaluation,
10 research, advocacy, social planning and policy development, community
11 organization, and the development, implementation and administration of
12 policies, programs, and activities. A licensed advanced macro social worker may
13 not treat mental or emotional disorders or provide psychotherapy without the
14 direct supervision of a licensed clinical social worker, or diagnose a mental
15 disorder;

16 (2) "Clinical social work", the application of social work theory, knowledge,
17 values, methods, principles, and techniques of case work, group work,
18 client-centered advocacy, administration, consultation, research, psychotherapy
19 and counseling methods and techniques to persons, families and groups in
20 assessment, diagnosis, treatment, prevention and amelioration of mental and
21 emotional conditions;

22 (3) "Committee", the state committee for social workers established in
23 section 337.622;

24 (4) "Department", the Missouri department of [economic development]
25 **insurance, financial institutions and professional registration**;

26 (5) "Director", the director of the division of professional registration;

27 (6) "Division", the division of professional registration;

28 (7) "Independent practice", any practice of social workers outside of an
29 organized setting such as a social, medical, or governmental agency in which a
30 social worker assumes responsibility and accountability for services required;

31 (8) "Licensed advanced macro social worker", any person who offers to
32 render services to individuals, groups, families, couples, organizations,
33 institutions, communities, government agencies, corporations, or the general
34 public for a fee, monetary or otherwise, implying that the person is trained,

35 experienced, and licensed as an advanced macro social worker, and who holds a
36 current valid license to practice as an advanced macro social worker;

37 (9) "Licensed baccalaureate social worker", any person who offers to
38 render services to individuals, groups, organizations, institutions, corporations,
39 government agencies, or the general public for a fee, monetary or otherwise,
40 implying that the person is trained, experienced, and licensed as a baccalaureate
41 social worker, and who holds a current valid license to practice as a baccalaureate
42 social worker;

43 (10) "Licensed clinical social worker", any person who offers to render
44 services to individuals, groups, organizations, institutions, corporations,
45 government agencies, or the general public for a fee, monetary or otherwise,
46 implying that the person is trained, experienced, and licensed as a clinical social
47 worker, and who holds a current, valid license to practice as a clinical social
48 worker;

49 (11) "Licensed master social worker", any person who offers to render
50 services to individuals, groups, families, couples, organizations, institutions,
51 communities, government agencies, corporations, or the general public for a fee,
52 monetary or otherwise, implying that the person is trained, experienced, and
53 licensed as a master social worker, and who holds a current valid license to
54 practice as a master social worker. A licensed master social worker may not treat
55 mental or emotional disorders, provide psychotherapy without the direct
56 supervision of a licensed clinical social worker, or diagnose a mental disorder;

57 (12) "Master social work", the application of social work theory,
58 knowledge, methods, and ethics and the professional use of self to restore or
59 enhance social, psychosocial, or biopsychosocial functioning of individuals,
60 couples, families, groups, organizations, communities, institutions, government
61 agencies, or corporations. The practice includes the applications of specialized
62 knowledge and advanced practice skills in the areas of assessment, treatment
63 planning, implementation and evaluation, case management, mediation,
64 information and referral, counseling, client education, supervision, consultation,
65 education, research, advocacy, community organization and development,
66 planning, evaluation, implementation and administration of policies, programs,
67 and activities. Under supervision as provided in this section, the practice of
68 master social work may include the practices reserved to clinical social workers
69 or advanced macro social workers;

70 (13) "Practice of advanced macro social work", rendering, offering to

71 render, or supervising those who render to individuals, couples, families, groups,
72 organizations, institutions, corporations, government agencies, communities, or
73 the general public any service involving the application of methods, principles,
74 and techniques of advanced practice macro social work;

75 (14) "Practice of baccalaureate social work", rendering, offering to render,
76 or supervising those who render to individuals, families, groups, organizations,
77 institutions, corporations, or the general public any service involving the
78 application of methods, principles, and techniques of baccalaureate social work;

79 (15) "Practice of clinical social work", rendering, offering to render, or
80 supervising those who render to individuals, couples, groups, organizations,
81 institutions, corporations, or the general public any service involving the
82 application of methods, principles, and techniques of clinical social work;

83 (16) "Practice of master social work", rendering, offering to render, or
84 supervising those who render to individuals, couples, families, groups,
85 organizations, institutions, corporations, government agencies, communities, or
86 the general public any service involving the application of methods, principles,
87 and techniques of master social work;

88 (17) "Provisional licensed clinical social worker", any person who is a
89 graduate of an accredited school of social work and meets all requirements of a
90 licensed clinical social worker, other than the supervised clinical social work
91 experience prescribed by subdivision (2) of subsection 1 of section 337.615, and
92 who is supervised by a person who is qualified to practice clinical social work, as
93 defined by rule;

94 (18) "Qualified advanced macro supervisor", any licensed social worker
95 who meets the qualifications of a qualified clinical supervisor or a licensed
96 advanced macro social worker who has:

97 (a) Practiced in the field for which he or she is supervising the applicant
98 for a minimum uninterrupted period of five years;

99 (b) Successfully completed a minimum of sixteen hours of supervisory
100 training from the Association of Social Work boards, the National Association of
101 Social Workers, an accredited university, or a program approved by the state
102 committee for social workers. All organizations providing the supervisory
103 training shall adhere to the basic content and quality standards outlined by the
104 state committee on social work; and

105 (c) Met all the requirements of sections 337.600 to 337.689, and as defined
106 by rule by the state committee for social workers;

107 (19) "Qualified baccalaureate supervisor", any licensed social worker who
108 meets the qualifications of a qualified clinical supervisor, qualified master
109 supervisor, qualified advanced macro supervisor, or a licensed baccalaureate
110 social worker who has:

111 (a) Practiced in the field for which he or she is supervising the applicant
112 for a minimum uninterrupted period of five years;

113 (b) Successfully completed a minimum of sixteen hours of supervisory
114 training from the Association of Social Work boards, the National Association of
115 Social Workers, an accredited university, or a program approved by the state
116 committee for social workers. All organizations providing the supervisory
117 training shall adhere to the basic content and quality standards outlined by the
118 state committee on social workers; and

119 (c) Met all the requirements of sections 337.600 to 337.689, and as defined
120 by rule by the state committee for social workers;

121 (20) "Qualified clinical supervisor", any licensed clinical social worker who
122 has:

123 (a) Practiced in the field for which he or she is supervising the applicant
124 uninterrupted since August 28, 2004, or a minimum of five years;

125 (b) Successfully completed a minimum of sixteen hours of supervisory
126 training from the Association of Social Work boards, the National Association of
127 Social Workers, an accredited university, or a program approved by the state
128 committee for social workers. All organizations providing the supervisory
129 training shall adhere to the basic content and quality standards outlined by the
130 state committee on social work; and

131 (c) Met all the requirements of sections 337.600 to 337.689, and as defined
132 by rule by the state committee for social workers;

133 (21) "Social worker", any individual that has:

134 (a) Received a baccalaureate or master's degree in social work from an
135 accredited social work program approved by the council on social work education;

136 (b) Received a doctorate or Ph.D. in social work; or

137 (c) A current social worker license as set forth in sections 337.600 to
138 337.689.

337.700. As used in sections 337.700 to 337.739, the following terms
2 mean:

3 (1) "Committee", the state committee for family and marital therapists;

4 (2) "Department", the Missouri department of [economic development]

5 **insurance, financial institutions and professional registration;**

6 (3) "Director", the director of the division of professional registration [in
7 the department of economic development];

8 (4) "Division", the division of professional registration;

9 (5) "Fund", the marital and family therapists' fund created in section
10 337.712;

11 (6) "Licensed marital and family therapist", a person to whom a license
12 has been issued pursuant to the provisions of sections 337.700 to 337.739, whose
13 license is in force and not suspended or revoked;

14 (7) "Marital and family therapy", the use of scientific and applied
15 marriage and family theories, methods and procedures for the purpose of
16 describing, diagnosing, evaluating and modifying marital, family and individual
17 behavior within the context of marital and family systems, including the context
18 of marital formation and dissolution. Marriage and family therapy is based on
19 systems theories, marriage and family development, normal and dysfunctional
20 behavior, human sexuality and psychotherapeutic, marital and family therapy
21 theories and techniques and includes the use of marriage and family therapy
22 theories and techniques in the diagnosis, evaluation, assessment and treatment
23 of intrapersonal or interpersonal dysfunctions within the context of marriage and
24 family systems. Marriage and family therapy may also include clinical research
25 into more effective methods for the treatment and prevention of the above-named
26 conditions;

27 (8) "Practice of marital and family therapy", the rendering of professional
28 marital and family therapy services to individuals, family groups and marital
29 pairs, singly or in groups, whether such services are offered directly to the
30 general public or through organizations, either public or private, for a fee,
31 monetary or otherwise.

338.130. 1. Each member of the board shall receive as compensation an
2 amount set by the board not to exceed fifty dollars for each day devoted to the
3 affairs of the board, and shall be entitled to reimbursement of the member's
4 expenses necessarily incurred in the discharge of the member's official duties.

5 2. The board may employ such board personnel, as defined in subdivision
6 (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, as it deems
7 necessary to carry out the provisions of this chapter. The compensation and
8 expenses of such personnel and all expenses incurred by the board in carrying
9 into execution the provisions of this chapter, shall be paid out of the board of

10 pharmacy fund upon a warrant on the state treasurer.

339.120. 1. There is hereby created the "Missouri Real Estate
2 Commission", to consist of seven persons, citizens of the United States and
3 residents of this state for at least one year prior to their appointment, for the
4 purpose of carrying out and enforcing the provisions of sections 339.010 to
5 339.180 and sections 339.710 to 339.860. The commission shall be appointed by
6 the governor with the advice and consent of the senate. All members, except one
7 voting public member, of the commission must have had at least ten years'
8 experience as a real estate broker prior to their appointment. The terms of the
9 members of the commission shall be for five years, and until their successors are
10 appointed and qualified. Members to fill vacancies shall be appointed by the
11 governor for the unexpired term. The president of the Missouri Association of
12 Realtors in office at the time shall, at least ninety days prior to the expiration of
13 the term of the board member, other than the public member, or as soon as
14 feasible after the vacancy on the board otherwise occurs, submit to the director
15 of the division of professional registration a list of five realtors qualified and
16 willing to fill the vacancy in question, with the request and recommendation that
17 the governor appoint one of the five persons so listed, and with the list so
18 submitted, the president of the Missouri Association of Realtors shall include in
19 his or her letter of transmittal a description of the method by which the names
20 were chosen by that association. The commission shall organize annually by
21 selecting from its members a chairman. The commission may do all things
22 necessary and convenient for carrying into effect the provisions of sections
23 339.010 to 339.180 and sections 339.710 to 339.860, and may promulgate
24 necessary rules compatible with the provisions of sections 339.010 to 339.180 and
25 sections 339.710 to 339.860. Each member of the commission shall receive as
26 compensation an amount set by the commission not to exceed seventy-five dollars
27 for each day devoted to the affairs of the commission, and shall be entitled to
28 reimbursement of his or her expenses necessarily incurred in the discharge of his
29 or her official duties. The governor may remove any commissioner for cause.

30 2. The public member shall be at the time of his or her appointment a
31 citizen of the United States; a resident of this state for a period of one year and
32 a registered voter; a person who is not and never was a member of any profession
33 licensed or regulated pursuant to sections 339.010 to 339.180 and sections
34 339.710 to 339.860 or the spouse of such person; and a person who does not have
35 and never has had a material, financial interest in either the providing of the

36 professional services regulated by sections 339.010 to 339.180 and sections
37 339.710 to 339.860, or an activity or organization directly related to any
38 profession licensed or regulated pursuant to sections 339.010 to 339.180 and
39 sections 339.710 to 339.860. All members, including public members, shall be
40 chosen from lists submitted by the director of the division of professional
41 registration. The duties of the public member shall not include the determination
42 of the technical requirements to be met for licensure or whether any person meets
43 such technical requirements or of the technical competence or technical judgment
44 of a licensee or a candidate for licensure.

45 3. The commission shall employ such board personnel, as defined in
46 subdivision (4) of subsection [15] 10 of section [620.010] **324.001**, RSMo, as it
47 shall deem necessary to discharge the duties imposed by the provisions of sections
48 339.010 to 339.180 and sections 339.710 to 339.860.

49 4. Any rule or portion of a rule, as that term is defined in section 536.010,
50 RSMo, that is created under the authority delegated in sections 339.010 to
51 339.180 and sections 339.710 to 339.860 shall become effective only if it complies
52 with and is subject to all of the provisions of chapter 536, RSMo, and, if
53 applicable, section 536.028, RSMo. All rulemaking authority delegated prior to
54 August 28, 1999, is of no force and effect and repealed. Nothing in this section
55 shall be interpreted to repeal or affect the validity of any rule filed or adopted
56 prior to August 28, 1999, if it fully complied with all applicable provisions of
57 law. This section and chapter 536, RSMo, are nonseverable and if any of the
58 powers vested with the general assembly pursuant to chapter 536, RSMo, to
59 review, to delay the effective date or to disapprove and annul a rule are
60 subsequently held unconstitutional, then the grant of rulemaking authority and
61 any rule proposed or adopted after August 28, 1999, shall be invalid and void.

339.507. 1. There is hereby created within the division of professional
2 registration [of the department of economic development] the "Missouri Real
3 Estate Appraisers Commission", which shall consist of seven members appointed
4 by the governor with the advice and consent of the senate, six of whom shall be
5 appraiser members, and one shall be a public member. Each member shall be a
6 resident of this state and a registered voter for a period of one year prior to the
7 person's appointment. The president of the Missouri Appraiser Advisory Council
8 in office at the time shall, at least ninety days prior to the expiration of the term
9 of the commission member, other than the public member, or as soon as feasible
10 after the vacancy on the commission otherwise occurs, submit to the director of

11 the division of professional registration a list of five appraisers qualified and
12 willing to fill the vacancy in question, with the request and recommendation that
13 the governor appoint one of the five persons so listed, and with the list so
14 submitted, the president of the Missouri Appraiser Advisory Council shall include
15 in his or her letter of transmittal a description of the method by which the names
16 were chosen by that association. The public member shall have never been
17 engaged in the businesses of real estate appraisal, real estate sales or making
18 loans secured by real estate.

19 2. The real estate appraiser members appointed by the governor shall be
20 Missouri residents who have real estate appraisal experience in the state of
21 Missouri for not less than five years immediately preceding their
22 appointment. Appraiser members of the commission shall be appointed from the
23 registry of state-certified real estate appraisers and state-licensed real estate
24 appraisers.

25 3. All members shall be appointed for three-year terms. All members
26 shall serve until their successors have been appointed and qualified. Vacancies
27 occurring in the membership of the commission for any reason shall be filled by
28 appointment by the governor for the unexpired term. Upon expiration of their
29 terms, members of the commission shall continue to hold office until the
30 appointment and qualification of their successors. No more than four members
31 of the commission shall be members of the same political party. No person shall
32 be appointed for more than two consecutive terms. The governor may remove a
33 member for cause.

34 4. The commission shall meet at least once each calendar quarter to
35 conduct its business. A quorum of the commission shall consist of four members.

36 5. Each member of the commission shall be entitled to a per diem
37 allowance of fifty dollars for each meeting of the commission at which the member
38 is present and shall be entitled to reimbursement of the member's expenses
39 necessarily incurred in the discharge of the member's official duties. Each
40 member of the commission shall be entitled to reimbursement of travel expenses
41 necessarily incurred in attending meetings of the commission.

340.212. 1. The board shall cause the executive director to prepare and
2 maintain a written record of all board proceedings whether or not such
3 proceedings are formal, informal, open or closed to the public. All records so
4 prepared and maintained and other documents or reports incorporated therein
5 shall be open to the public except where specifically required or allowed to be

6 closed to the public pursuant to chapter 610, RSMo.

7 2. Other provisions of section [620.010] **324.001**, RSMo, to the contrary
8 notwithstanding, the board shall publish a list of the names and addresses of all
9 persons who hold licenses under the provisions of sections 340.200 to 340.330,
10 and shall publish a list of all persons whose licenses have been suspended,
11 revoked, surrendered, restricted, denied, withheld, or otherwise disciplined,
12 whether voluntarily or not. The board shall mail a copy of such list to any
13 person, agency or professional association upon request and payment of a fee
14 necessary for photocopying and postage as established by board rule. The board
15 may forward such lists at no charge and upon its own motion for the purpose of
16 voluntary interstate exchange of information or to other administrative or law
17 enforcement agencies acting within the scope of their statutory authority, whether
18 the same be interstate or intrastate.

19 3. Other provisions of section [620.010] **324.001**, RSMo, to the contrary
20 notwithstanding, the board shall prepare and make available to the public a
21 report upon the final disciplinary actions taken by the board or denial of
22 licensure. Such report shall set forth findings of fact, grounds for such denial or
23 discipline, names of board members who were present, and any resulting order
24 or directive of the board; the same to apply whether or not discipline or denial is
25 voluntarily agreed to by the licensee or applicant. Whenever a person possessing
26 a license voluntarily enters chemical or alcohol treatment and monitoring
27 programs for purposes of rehabilitation by informal agreement with the board, the
28 action shall not be reported with any other actions taken or agreed to between the
29 board and the licensee or applicant.

30 4. Where the board does not recommend disciplinary action, a report
31 stating that no action is recommended shall be prepared and forwarded to the
32 complaining party and the licensee or applicant.

33 5. Members of the board or employees of the board shall be immune from
34 any suit predicated on the publication of information, reports or lists required by
35 this section.

345.035. 1. The board may, within the limits of appropriations, employ
2 such board personnel as defined in subdivision (4) of subsection [15] **10** of section
3 [620.010] **324.001**, RSMo, as may be necessary to carry out its duties.

4 2. All expenses of the board shall be paid only from appropriations made
5 for that purpose from the board of registration for the healing arts fund.

346.010. As used in sections 346.010 to 346.250, except as the context may

2 require otherwise, the following terms mean:

3 (1) "Audiologist", a clinical audiologist licensed pursuant to chapter 345,
4 RSMo;

5 (2) "Board", the Missouri board of examiners for hearing instrument
6 specialists, which is established in section 346.120;

7 (3) "Department", the department of [economic development] **insurance,**
8 **financial institutions and professional registration;**

9 (4) "Division", the division of professional registration [in the department
10 of economic development];

11 (5) "Hearing instrument" or "hearing aid", any wearable instrument or
12 device designed for or offered for the purpose of aiding or compensating for
13 impaired human hearing and any parts, attachments, or accessories, including
14 earmold, but excluding batteries, cords, receivers and repairs;

15 (6) "Hearing instrument specialist" or "specialist", a person licensed by the
16 state pursuant to sections 346.010 to 346.250 who is authorized to engage in the
17 practice of fitting hearing instruments;

18 (7) "Hearing instrument specialist in-training", a person who holds a
19 temporary permit issued by the division to fit hearing instruments under the
20 supervision of a hearing instrument specialist;

21 (8) "License", a license issued by the state under sections 346.010 to
22 346.250 to hearing instrument specialists;

23 (9) "Otolaryngologist", a person licensed to practice medicine and surgery
24 in the state of Missouri pursuant to chapter 334, RSMo, and who spends the
25 majority of the person's practice seeing patients with ear, nose, and throat
26 diseases;

27 (10) "Person", an individual, corporation, partnership, joint venture,
28 association, trust or any other legal entity;

29 (11) "Practice of fitting hearing instruments", the selection, adaptation,
30 and sale of hearing instruments, including the testing and evaluation of hearing
31 by means of an audiometer and the making of impressions for earmolds;

32 (12) "Sell or sale", any transfer of title or of the right to use by lease,
33 bailment, or any other contract, excluding wholesale transactions with
34 distributors or dealers;

35 (13) "Registration of supervision", the process of obtaining a certificate of
36 authority issued by the division to a hearing instrument specialist that enables
37 the specialist to supervise one or more hearing instrument specialists in-training,

38 as defined by division rules;

39 (14) "Supervised training", the program of education and experience, as
40 defined by division rule, required to be followed by each hearing instrument
41 specialist in-training;

42 (15) "Supervisor", a hearing instrument specialist who has filed a
43 registration of supervision with the board and has received from the division a
44 certificate of authority;

45 (16) "Temporary permit", a permit issued by the division while the
46 applicant is in training to become a licensed hearing instrument specialist.

354.305. 1. Whenever any corporation subject to the provisions of sections
2 354.010 to 354.380 doing business in this state advertises its assets, either in any
3 newspaper or periodical, or by any sign, circular, card, policy of insurance or
4 certificate of renewal thereof, it shall, in the same connection, equally
5 conspicuously advertise its liabilities, the same to be determined in the manner
6 required in making statement to the [insurance division] **department**, and all
7 advertisements purporting to show the amount of capital of the company shall
8 show only the amount of capital actually paid up in cash.

9 2. Any corporation subject to the provisions of sections 354.010 to 354.380
10 or enrollment representative violating the provisions of this section shall, upon
11 conviction thereof, be guilty of a class B misdemeanor, punishable as provided by
12 law.

361.010. 1. There is hereby created a "State Division of Finance", which
2 shall be under the management and control of a chief officer who shall be called
3 the "Director of Finance".

4 2. The director of finance shall maintain his office at the City of Jefferson,
5 reside in the state of Missouri, and shall devote all of his time to the duties of his
6 office. The division of design and construction is hereby required to provide the
7 director of finance and the state division of finance with suitable rooms.

8 **3. The division of finance with all of its powers, duties, and**
9 **functions is assigned by type III transfer under the authority of the**
10 **Omnibus State Reorganization Act of 1974 and Executive Order 06-04,**
11 **to the department of insurance, financial institutions and professional**
12 **registration. All of the general provisions, definitions, and powers**
13 **enumerated in section 1 of the Omnibus State Reorganization Act of**
14 **1974 and Executive Order 06-04 shall apply to this department and its**
15 **divisions, agencies, and personnel.**

16 **4. Wherever the laws, rules, or regulations of this state make**
17 **reference to the "division of finance of the department of economic**
18 **development" or to the "division of finance", such references shall be**
19 **deemed to refer to the division of finance of the department of**
20 **insurance, financial institutions and professional registration.**

 361.092. There is hereby created [in the department of economic
2 development], a "State Banking Board" which shall have such powers and duties
3 as are conferred upon it by law. **The state banking board with all of its**
4 **powers, duties, and functions is assigned by type III transfer under the**
5 **authority of the Omnibus State Reorganization Act of 1974 and**
6 **Executive Order 06-04, to the department of insurance, financial**
7 **institutions and professional registration.**

 361.140. 1. The director of finance shall prepare the following information
2 to be included in the report of the director of the department of [economic
3 development] **insurance, financial institutions and professional**
4 **registration:**

5 (1) A summary of the state and condition of every corporation required to
6 report to him or her and from which reports have been received or obtained
7 pursuant to subsection 3 of section 361.130 during the preceding two years, at the
8 several dates to which such reports refer, with an abstract of the whole amount
9 of capital reported by them, the whole amount of their debts and liabilities and
10 the total amount of their resources, specifying in the case of banks and trust
11 companies the amount of lawful money held by them at the time of their several
12 reports, and such other information in relation to such corporations as, in his or
13 her judgment, may be useful;

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

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

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

25 of this chapter;

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

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

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

361.160. 1. The director of finance at least once each year, either
2 personally or by a deputy or examiner appointed by the director, shall visit and
3 examine every bank and trust company organized and doing business under the
4 laws of this state, and every other corporation which is by law required to report
5 to the director; except, for banks or trust companies receiving a Camel 1 or Camel
6 2 rating from the division of finance, the director of finance at least once each
7 eighteen calendar months either personally or by a deputy or examiner appointed
8 by the director, shall visit and examine such bank or trust company, and the
9 director of finance, at the director's discretion, may conduct the director's
10 examination, or any part thereof, on the basis of information contained in
11 examination reports of other states, the Federal Deposit Insurance Corporation
12 or the Federal Reserve Board or in audits performed by certified public
13 accountants. The director shall be afforded prompt and free access to any
14 workpapers upon which a certified public accountant bases an audit. A certified
15 public accountant shall retain workpapers for a minimum of three years after the
16 date of issuance of the certified public accountant's report to the bank or trust
17 company. The director or the director's agent may concentrate the examinations
18 on institutions which the director believes have safety or soundness concerns.

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

26 3. The director and the director's deputy and examiners shall have power
27 to administer oaths to any person whose testimony may be required in such

28 examination or investigation of any such corporation or agency, and to compel the
29 appearance and attendance of any person for the purpose of any such examination
30 or investigation.

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

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

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

46 7. The result of each examination shall be certified by the director or the
47 examiner upon the records of the corporation examined and the result of all
48 examinations during the biennial period shall be embodied in the report to be
49 made by the director of the department of [economic development] **insurance,**
50 **financial institutions and professional registration** to the legislature.

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

362.109. Notwithstanding any law to the contrary, any order or ordinance
2 by any political subdivision shall be consistent with and not more restrictive than
3 state law and regulations governing lending or deposit taking entities regulated
4 by the division of finance or the division of credit unions [within the department
5 of economic development].

362.332. 1. As used in this section, the following words and phrases shall
2 mean:

3 (1) "Bank", any bank subject to the provisions of chapter 362, which is

4 duly authorized to exercise trust powers, and any national bank which is
5 authorized to exercise trust powers under the laws of the United States and
6 which has its principal place of business in Missouri, including a national bank
7 whose operations include providing trust and other fiduciary services and related
8 activities;

9 (2) "Beneficiary", any person or entity which benefits from, or has a
10 present or future interest in, any money or property administered by a person
11 with a fiduciary obligation;

12 (3) "Director", the director of the division of finance [of the department of
13 economic development];

14 (4) "Fiduciary obligation", any obligation of any bank or trust company to
15 a person or entity resulting from an appointment, designation or undertaking to
16 act alone or jointly with others primarily for the benefit of others in matters
17 connected with such appointment, designation or undertaking, and including, but
18 is not limited to, acting as a trustee of a trust, including a testamentary or
19 nontestamentary trust, or a trustee of a common trust fund; executor;
20 administrator; personal representative; guardian; conservator; custodian;
21 assignee; depository; receiver; attorney-in-fact; registrar or transfer agent with
22 respect to stocks, bonds or other evidences of indebtedness of any corporation,
23 association, state, municipality, or public authority; agent, including escrow agent
24 or agent for the investment of money; or in any other similar capacity. The term
25 "fiduciary obligation" includes any obligation occurring as a result of an
26 appointment or designation to any foregoing capacity upon the death of a person
27 serving in such capacity or upon the happening of any other future event;

28 (5) "Transferee", a bank or trust company assuming fiduciary obligations
29 pursuant to this section from a transferor;

30 (6) "Transferor", a bank or trust company transferring fiduciary
31 obligations pursuant to this section to a transferee;

32 (7) "Trust company", any trust company or bank organized under the laws
33 of this state which is duly authorized to exercise trust powers.

34 2. Notwithstanding any other provision of law to the contrary, a bank or
35 trust company may transfer by assignment to another bank or trust company any
36 or all of the fiduciary obligations of such bank or trust company, without any
37 order of or other action by any court or any consent or other approval of any
38 interested person, except as provided in subsection 5 of this section, upon the
39 prior approval of the director and provided that the transferor and transferee

40 comply with the provisions of this section. The assignment may encompass all
41 fiduciary obligations, a general class or classes of fiduciary obligations, or
42 specified individual accounts or other particularly identified fiduciary obligations.

43 3. The transferor, transferee or any beneficiary on behalf of all
44 beneficiaries jointly, shall file an application for approval of the transfer of a
45 fiduciary obligation with the director, and shall provide all relevant information
46 as the director may deem necessary. The transferee shall also file proof with the
47 director that the transferee has given written notice by certified mail of the
48 proposed transfer, including a summary of the provisions of subsection 5 of this
49 section relating to objections to the transfer of the fiduciary obligation, at least
50 thirty days and not more than sixty days prior to the filing of the application, to
51 the transferor, all persons, firms, organizations or corporations who are known
52 to the applicant to be living or existing grantors under each affected trust or
53 other fiduciary obligation, or if there is no such known living or existing grantor,
54 to each living or existing beneficiary thereof known to the transferee. If any
55 living or existing grantor or any such beneficiary delivers to the applicant any
56 communication regarding the proposed transfer, the applicant shall furnish the
57 director with a copy of such communication together with any accompanying
58 documents. If the director determines that the transferee has the authority and
59 is qualified to complete the fiduciary obligation, and that the transfer of the
60 fiduciary obligation will not materially adversely affect the fiduciary obligation,
61 he shall issue an order approving the transfer of the fiduciary obligation. If the
62 director fails to approve or deny the transfer of the fiduciary obligation within
63 thirty days of the date of the filing of the application with the director, the
64 application shall be deemed approved by the director.

65 4. If the director approves the transfer of a fiduciary obligation, within
66 twenty days of the approval, the transferee shall publish a notice of the transfer
67 of the fiduciary obligation pursuant to this section in a newspaper of general
68 circulation in the county or city where the transferor's main banking house or
69 principal place of business, respectively, is located. The transfer of the fiduciary
70 obligation shall be effective upon the thirtieth day after the date of such
71 publication except with respect to any fiduciary obligation which upon that date
72 is the subject of notice of objection made pursuant to subsection 5 of this section.

73 5. Within thirty days after the publication of notice of approval by the
74 director of the transfer of a fiduciary obligation pursuant to subsection 4 of this
75 section, any grantor or beneficiary who was entitled to receive a written notice

76 pursuant to subsection 3 of this section may give written notice to the transferee
77 objecting to the transfer of the fiduciary obligation in which such person has an
78 interest. In order to complete the transfer, the transferee may petition the
79 probate division of the circuit court of the county or city not within a county in
80 which the notice was published to determine whether the transfer of the fiduciary
81 capacity will materially adversely affect the administration of the fiduciary
82 account. After notice to all interested parties and a hearing on the issues, the
83 circuit court may deny the relief sought by the petitioning transferee and not
84 transfer the fiduciary obligation to the petitioning transferee, may appoint a new
85 fiduciary to succeed the transferor if the court finds that the appointment of a
86 new fiduciary is in the best interests of the beneficiaries of the fiduciary
87 obligation but that the transfer of the fiduciary obligation to the petitioning
88 transferee will materially adversely affect the administration of the fiduciary
89 account, or shall order the transferor to transfer by assignment the fiduciary
90 obligation to the petitioning transferee.

91 6. On the effective date of the transfer of a fiduciary obligation pursuant
92 to this section, the transferor shall be released from all transferred fiduciary
93 obligations and all liability relating to such transferred fiduciary obligations, and
94 shall cease to act regarding all such transferred fiduciary obligations, except that
95 such transferor shall not be relieved of any liabilities arising out of a breach of
96 a fiduciary obligation occurring prior to such effective date. The transferor shall
97 file an itemized accounting of all assets and liabilities in each transferred
98 fiduciary account with the transferee upon the effective date of the
99 transfer. Notwithstanding the provision of any law or the provision of any
100 agreement to the contrary, the transferor shall not impose fees relating to the
101 transfer of the fiduciary obligation in excess of the actual cost to the transferor
102 of the transfer of the fiduciary obligation. The failure by a bank or trust company
103 to give any notice required by subsection 3 of this section with respect to any
104 fiduciary account shall not affect the validity of the transfer of a fiduciary
105 obligation pursuant to this section with respect to any other fiduciary obligation
106 or account.

107 7. Any appointment or other designation of a bank or trust company to a
108 fiduciary obligation in a trust, will or other instrument shall be deemed to be
109 made based only on facts and circumstances in existence on the date and at the
110 time that the appointment or designation is made, and the director or a court,
111 when considering the transfer of a fiduciary obligation, shall consider whether the

112 transferee has the authority to complete the fiduciary obligation and is qualified
113 to do so, the effect of the transfer of the fiduciary obligation including whether
114 the transfer of the fiduciary obligation will materially adversely affect the
115 fiduciary obligation, and whether the transfer of the fiduciary obligation is in the
116 best interests of the beneficiaries of the fiduciary obligation.

362.910. As used in sections 362.910 to 362.940, unless the context clearly
2 indicates otherwise, the following terms mean:

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

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

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

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

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

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

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

25 (d) Provided, however, no company shall be deemed to have control over
26 a bank or a company by virtue of its ownership or control of shares acquired by
27 it in connection with its underwriting of securities and which are held only for
28 such period of time as will permit the sale thereof upon a reasonable basis, or
29 which is formed for the sole purpose of participating in a proxy solicitation, or
30 which acquires ownership or control of shares in securing or collecting a debt
31 previously contracted in good faith, until two years after the date of acquisition,

32 or which acquires ownership or control of shares in a fiduciary capacity. For the
33 purpose of sections 362.910 to 362.940, bank shares shall not be deemed to have
34 been acquired in a fiduciary capacity if the acquiring bank or company in its
35 capacity as trustee of a trust has sole discretionary authority to exercise voting
36 rights with reference thereto; except that this limitation is applicable in the case
37 of a bank or company which acquired such shares prior to December 31, 1970,
38 only if the bank or company had the right consistent with its obligations under
39 the instrument, agreement, or other arrangement establishing the trust
40 relationship to divest itself of such voting rights and failed to exercise that right
41 to divest prior to December 31, 1971;

42 (5) "Director" or "director of finance", the director of the division of finance
43 [of the department of economic development];

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

367.500. As used in sections 367.500 to 367.533, unless the context
2 otherwise requires, the following terms mean:

3 (1) "Borrower", a person who borrows money pursuant to a title loan
4 agreement;

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

8 (3) "Certificate of title", a state-issued certificate of title or certificate of
9 ownership for personal property;

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

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

14 (6) "Pledged property", personal property, ownership of which is evidenced
15 and delineated by a title;

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

18 (8) "Title lender", a person qualified to make title loans pursuant to
19 sections 367.500 to 367.533 who maintains at least one title lending office within
20 the state of Missouri, which office is open for the conduct of business not less
21 than thirty hours per week, excluding legal holidays;

22 (9) "Title loan agreement", a written agreement between a borrower and

23 a title lender in a form which complies with the requirements of sections 367.500
24 to 367.533. The title lender shall perfect its lien pursuant to sections 301.600 to
25 301.660, RSMo, but need not retain physical possession of the titled personal
26 property at any time; and

27 (10) "Titled personal property", any personal property excluding property
28 qualified to be a personal dwelling the ownership of which is evidenced by a
29 certificate of title.

**370.006. There is hereby created a "Division of Credit Unions", to
2 be headed by a director appointed by the governor with the advice and
3 consent of the senate. The division of credit unions with all of its
4 powers, duties, and functions is assigned by type III transfer under the
5 authority of the Omnibus State Reorganization Act of 1974 and
6 Executive Order 06-04, to the department of insurance, financial
7 institutions and professional registration. All of the general provisions,
8 definitions, and powers enumerated in section 1 of the Omnibus State
9 Reorganization Act of 1974 and Executive Order 06-04 shall apply to
10 this department and its divisions, agencies, and personnel. The salary
11 of the director of the division of credit unions shall be set by the
12 director of the department within the limits of the appropriations
13 therefor. Wherever the laws, rules, or regulations of this state make
14 reference to the "division of credit unions of the department of
15 economic development" or to the "division of credit unions", such
16 references shall be deemed to refer to the division of credit unions of
17 the department of insurance, financial institutions and professional
18 registration.**

370.366. 1. Upon compliance with any applicable laws of the United
2 States and upon obtaining the approval of the directors of the division of finance
3 and the division of credit unions [within the department of economic
4 development], any central credit union organized pursuant to section 370.365 may
5 be converted under the laws of this state into a bank or trust company located in
6 this state, or may be consolidated or merged with one or more banks or trust
7 companies or central credit unions incorporated under the laws of the United
8 States or any state under the charter of a bank or trust company incorporated
9 under the laws of this state; provided, however, that the central credit union and
10 its members must comply with the procedure, notice and voting requirements of
11 sections 370.351 to 370.357, and that the approval of the director of finance shall

12 not be required for transactions not involving a bank or trust company. The
13 name of the resulting or surviving bank or trust company in the case of
14 conversion, consolidation or merger may be the name of a party to the conversion,
15 consolidation or merger, provided that in no case shall the name contain the word
16 "national" or "federal" or be the same as or deceptively similar to the name of any
17 bank or trust company incorporated under the laws of this state which is engaged
18 in business at the time of the particular conversion, consolidation or merger and
19 is not a party thereto.

20 2. (1) In the case of conversion the majority of the board of directors of
21 the central credit union shall proceed as is provided by law for other individuals
22 incorporating a bank or trust company under the laws of this state except that
23 the articles of agreement:

24 (a) May provide that instead of the capital stock having actually been paid
25 up in money it is to be paid up in assets of the converting central credit union,
26 the net value of which is equal to at least the full amount of the capital stock of
27 the proposed resulting bank or trust company which capital stock shall be no less
28 than that required by law for a bank or trust company, as the case may be, to be
29 located in the state of Missouri;

30 (b) Shall provide that the proposed resulting bank or trust company is and
31 shall be considered the same business and corporate entity as, and a continuation
32 of the corporate entity and identity of, the converting central credit union
33 although as to rights, powers and duties the proposed resulting institution is a
34 bank or trust company incorporated under the laws of the state of Missouri;

35 (c) Shall set out the names and addresses of all persons who are to be
36 officers of the proposed bank or trust company; and

37 (d) Shall set out the manner as provided in subdivision (1) of section
38 370.356 in which the ownership interest of the members shall be converted into
39 stock of the resulting bank or trust company which stock ownership by the
40 member or shareholder shall be lawful for this sole purpose; provided, however,
41 that the director of finance may reject any such application upon a determination
42 that the statutory treatment accorded the members of the converting central
43 credit union is not fair and reasonable.

44 (2) If the director of finance, as the result of an examination and
45 investigation made by the division of finance, is satisfied that such assets are of
46 such value and that the character, responsibility and general fitness of the
47 persons named in the articles of agreement are such as to command confidence

48 and warrant belief that the business of the proposed corporation will be honestly
49 and efficiently conducted in accordance with the purpose and intent of the laws
50 of this state relative to banks or trust companies, the director of finance shall
51 grant the charter. If the director of finance is not satisfied, the director of finance
52 shall forthwith give notice thereof to the majority of the board of directors of the
53 converting central credit union who shall have the same right of appeal as is
54 provided by the laws of this state in the case of the proposed incorporators of a
55 new bank or trust company.

56 (3) Upon the approval of the particular conversion being granted, the
57 director of finance shall execute and deliver to the majority of the board of
58 directors of the converting central credit union a certificate declaring that the
59 bank or trust company therein named has been duly organized and is the
60 institution resulting from the conversion of the central credit union into the
61 resulting bank or trust company, and that the resulting bank or trust company
62 is and shall be considered the same business and corporate entity as, and a
63 continuation of the corporate entity and identity of, the converting central credit
64 union. The certificate shall be recorded in the office of the recorder of deeds of
65 the county or city in which the resulting bank or trust company is located and the
66 certificate so recorded, or certified copies thereof, shall be taken in all the courts
67 of this state as evidence of the conversion of the central credit union into the
68 resulting bank or trust company and that the resulting bank or trust company is
69 the same business and corporate entity as, and a continuation of the corporate
70 entity and identity of, the converting central credit union.

71 (4) When the director of finance has given a certificate as aforesaid:

72 (a) The resulting bank or trust company and all its stockholders,
73 directors, officers, and employees shall have the same powers and privileges and
74 be subject to the same duties and liabilities in all respects as if such an
75 institution had originally been organized as a bank or trust company under the
76 laws of this state;

77 (b) All the rights, franchises, and interests of the converting central credit
78 union in and to every type of property, real, personal and mixed, and choses in
79 action thereto belonging shall be deemed to be transferred to and vest in the
80 resulting bank or trust company without any deed or other transfer; and

81 (c) The resulting bank or trust company by virtue of the conversion and
82 without any order of any court or otherwise shall hold and enjoy the same and all
83 rights of property and interests including, but not limited to, appointments,

84 designations and nominations and all other rights and interests, as trustee,
85 personal representative, conservator, receiver, registrar, assignee and every other
86 fiduciary capacity in the same manner and to the same extent as these rights and
87 interests were held or enjoyed by the converting central credit union at the time
88 of its conversion into the resulting bank or trust company; provided, however,
89 that its corporate powers shall be limited to those granted to a bank or trust
90 company under the laws of this state.

91 3. In the case of consolidation or merger, the same shall be consummated
92 by each federally chartered central credit union complying with the laws of the
93 United States relating to the consent of its members, by each state chartered
94 central credit union complying with sections 370.351 to 370.357 relating to the
95 consent of its members, and also by each bank or trust company complying with
96 the provisions of the laws of this state relating to consolidation or merger of
97 banks or trust companies, except that where the resulting institution is a bank
98 rather than a trust company the number and qualifications of directors and any
99 requirement that directors shall or may be divided into classes shall be
100 determined as provided by law for banks. The rights of dissenting shareholders
101 of the bank or trust company shall be determined as provided by the laws of this
102 state in the case of consolidation or merger of banks or trust companies. The
103 rights of dissenting shareholders of the central credit union shall be determined
104 as provided by section 370.356. In the case of consolidation or merger the
105 resulting bank or trust company shall be considered the same business and
106 corporate entity as, and a continuation of the corporate entity and identity of,
107 each central credit union and each bank or trust company which is a party to the
108 consolidation or merger.

**374.005. 1. The department of insurance created by section 36(b)
2 of article IV of the Missouri constitution shall operate under the name
3 "Department of Insurance, Financial Institutions and Professional
4 Registration". Under the authority of the Omnibus State
5 Reorganization Act of 1974 and Executive Order 06-04, the department
6 shall administer and enforce the laws assigned to the department.**

7 **2. Unless otherwise clearly indicated by the context, the
8 following words, as used in this chapter, mean:**

9 **(1) "Department", the department of insurance, financial
10 institutions and professional registration; and**

11 **(2) "Director", the director of the department of insurance,**

12 **financial institutions and professional registration.**

13 **3. Wherever the laws, rules, or regulations of this state make**
14 **reference to the "department of insurance" or the "department of**
15 **insurance, financial institutions and professional registration", such**
16 **references shall be deemed to refer to the department created by**
17 **section 36(b) of article IV of the Missouri constitution and this chapter.**

374.007. 1. The revisor of statutes shall change all references in
2 **the revised statutes of Missouri from "department of insurance",**
3 **"insurance department" or "department of insurance, financial and**
4 **professional regulation" to "department of insurance, financial**
5 **institutions and professional registration".**

6 **2. The revisor of statutes shall change all references in the**
7 **revised statutes of Missouri from "director of insurance" or**
8 **"commissioner of insurance" to "director of the department of**
9 **insurance, financial institutions and professional registration".**

374.045. 1. The director shall have the full power and authority to make
2 all reasonable rules and regulations to accomplish the following purposes:

3 (1) To regulate the internal affairs of the department of insurance,
4 **financial institutions and professional registration;**

5 (2) To prescribe forms and procedures to be followed in proceedings before
6 the department of insurance, **financial institutions and professional**
7 **registration;** and

8 (3) To effectuate or aid in the interpretation of any law of this state
9 **[pertaining to the business of insurance] in this chapter, chapter 354, RSMo,**
10 **chapters 375 to 385, RSMo, or as otherwise authorized by law.**

11 2. The director may from time to time withdraw or amend any rule or
12 regulation **in this chapter, chapter 354, RSMo, chapters 375 to 385, RSMo,**
13 **or as otherwise authorized by law.**

14 3. No rule or regulation shall conflict with any law of this state. No rule
15 or portion of a rule promulgated under the authority of this chapter shall become
16 effective unless it has been promulgated pursuant to the provisions of section
17 536.024, RSMo.

18 4. At least fifteen days prior to the adoption of any rule or regulation, or
19 any amendment thereof, to be issued under the provisions of subdivision (3) of
20 subsection 1, the director shall give notice of a hearing on the proposed
21 action. The notice shall be mailed to all persons who have made timely requests

22 of the [department of insurance] **director** for advance notice of its rulemaking
23 proceedings. The notice shall contain a statement of the terms or the substance
24 of the proposed rule or regulation. In addition, the notice shall give the time and
25 place where a hearing on the proposed rule or regulation will be held and the
26 manner in which interested parties may present their views thereon. On the date
27 of the hearing, all interested parties shall be given reasonable opportunity to
28 present their views or arguments in writing or orally. The failure of any person
29 to receive any notice of a hearing on any proposed rule or regulation shall not
30 invalidate any rule or regulation subsequently adopted.

31 5. The willful violation of any rule or regulation shall subject the person
32 violating it to such penalty as may be applicable and which the director has
33 within his power to impose under the laws of this state relating to the business
34 of insurance for violation of the law to which the rule or regulation relates.

35 6. Upon request and payment of the reasonable cost thereof, if required
36 and fixed by the director, the director shall furnish a copy of any rule, regulation,
37 or order to any person so requesting.

374.070. 1. The office shall be a public office and the records shall be
2 public records and shall at all times be open to the inspection of the public
3 subject to such rules as the director shall make for their safekeeping; provided,
4 however, that the work product of the director, the director's employees and
5 agents, including but not limited to work papers of examinations of companies,
6 work papers of investigations of **insurance** companies[, agents, brokers and
7 insurance agencies] **and producers and other persons licensed or with a**
8 **certificate of authority under this chapter, chapter 354, RSMo, and**
9 **chapters 375 to 385, RSMo, or of other entities as provided by law** and
10 confidential communications to the [department of insurance] **director**, shall not
11 be considered public records except as [the director may decide otherwise]
12 **provided by law.**

13 2. When requested, the director shall furnish certified copies of any paper,
14 report, or documents on file in the director's office to any person requesting them,
15 upon payment of the fees allowed by law.

16 3. Five years after the conclusion of the transactions to which they relate,
17 the director is authorized to destroy or otherwise dispose of all correspondence,
18 complaints, claim files, working papers of examinations of companies,
19 examination reports of companies made by the insurance supervisory officials of
20 states other than Missouri, rating files, void or obsolete or superseded rate filings

21 and schedules, individual company rating experience data, applications,
22 requisitions, and requests for licenses, all license cards and records, all expired
23 bonds, all records of hearings, and all similar records, papers, documents, and
24 memoranda now or hereafter in the possession of the director.

25 4. Ten years after the conclusion of the transactions to which they relate,
26 the director is authorized to destroy or otherwise dispose of all foreign companies'
27 and alien companies' annual statements, valuation reports, tax reports, and all
28 similar records, papers, documents and memoranda now or hereafter in the
29 possession of the director.

30 5. Disposal and destruction of records shall be in accordance with sections
31 109.200 to 109.310, RSMo.

374.075. 1. The director [of the department of insurance] may establish
2 **[two] three** or more divisions within the department **to administer and**
3 **enforce the laws of this state relating to insurance.** The director shall
4 establish at least one division, to be known as the "Division of Consumer Affairs",
5 which shall perform the functions of the consumer services section in addition to
6 such other functions as may be assigned to it by the director. **The director**
7 **shall establish a division to be known as the "Division of Insurance**
8 **Company Regulation", which shall perform the functions of insurance**
9 **company admissions and financial supervision, in addition to such**
10 **other functions as may be assigned to it by the director, and a division**
11 **to be known as the "Division of Insurance Market Regulation", which**
12 **shall perform the functions of rate and form regulation in addition to**
13 **such other functions as may be assigned to it by the director.**

14 2. [Any division established by the director shall be considered as though
15 it were transferred to the insurance department under a type I transfer under
16 section 1 of the Reorganization Act of 1974, except that the advisory commission
17 on insurance regulation, established in section 374.281, shall review the need for
18 the division of consumer affairs to be transferred under a type III transfer and
19 report its findings to the general assembly within one year after June 26, 1991.

20 3. All property, functions, duties and funds of the division of insurance as
21 it existed under the department of economic development shall be transferred to
22 the department of insurance. In addition, the property, functions, duties and
23 funds formerly possessed, performed, assigned or appropriated to the department
24 of economic development on behalf or for the benefit of the division of insurance
25 shall be transferred to the department of insurance.

26 4.] Wherever the laws, rules or regulations of this state make reference
27 to the "division of insurance" or to the "insurance division", such references shall
28 be deemed to refer to the department of insurance, **financial institutions and**
29 **professional registration.**

 374.085. 1. The division of consumer affairs of the department of
2 insurance, **financial institutions and professional registration** shall
3 perform the following functions:

4 (1) The division shall receive complaints and inquiries from the general
5 public concerning insurance companies, health services corporations and health
6 maintenance organizations, their agents and employees, **insurance producers,**
7 **and any other persons licensed by or registered with the department,**
8 **except those licensed by the division of finance, credit unions or**
9 **professional registration, or any boards assigned to those divisions;**

10 (2) The division shall maintain records of each complaint received and the
11 disposition of that complaint, indexed by type of complaint, company, and such
12 other factors as the section deems appropriate;

13 (3) The division shall operate a statewide toll-free telephone service to
14 receive complaints and inquiries, and shall publicize the existence of this service
15 to the general public;

16 (4) The division shall investigate complaints received of unfair or unlawful
17 acts under the insurance laws of this state and shall close the file on each
18 investigation only when the director of the consumer services division is satisfied
19 that the person or persons complained against have taken a fair and reasonable
20 position or one which is legally correct;

21 (5) The division shall prepare such brochures and other documents as it
22 deems appropriate to help inform the general public on such topics as the state's
23 insurance laws, insurance practices, policy coverages and policy costs; and

24 (6) The division shall recommend changes to state statutes when it
25 considers such statutes to adversely or unfairly affect the interests of the general
26 public.

27 2. In performing the functions of this section, the consumer services
28 division may be assisted by a legal adviser. The legal adviser shall be an
29 attorney licensed to practice law in the state of Missouri and shall possess a
30 knowledge of the state's insurance laws and regulations.

 374.115. **Insurance** examiners appointed or employed by the director of
2 the department of insurance, **financial institutions and professional**

3 **registration** shall be compensated according to the applicable levels established
4 and published by the National Association of Insurance Commissioners.

374.180. 1. The director of the department of insurance, **financial**
2 **institutions and professional registration** shall prepare the following
3 information to be included in the biennial report [of the director of the
4 department of economic development] **to the general assembly**:

5 (1) A brief review of the department during the period covered by the
6 report, including a verified statement of the various sums received and disbursed
7 by him, and from and to whom, and for what purposes;

8 (2) Name, address, capital stock, in case of companies having a capital
9 stock, resources, insurance in force, and the amount and nature of collateral
10 deposited by each insurance company or association authorized or licensed to do
11 business in this state;

12 (3) A tabular statement, and synopsis of the annual statements, as
13 accepted by the director, of all insurance companies doing business in this state;

14 (4) Such other matters as in his opinion may be for the benefit of the
15 public and such recommendations as he shall deem proper in regard to the
16 insurance laws of this state.

17 2. No more than two thousand copies of such report shall be published by
18 order of the director, at the expense of the department.

19 3. The director shall make such additional reports as shall be required by
20 the governor.

374.202. 1. The purpose of sections 374.202 to 374.207 is to provide an
2 effective and efficient system for examining the activities, operations, financial
3 or market conduct, condition and affairs of all persons transacting the business
4 of insurance in this state and all persons otherwise subject to the jurisdiction of
5 the director. The provisions of sections 374.202 to 374.207 are intended to enable
6 the director to adopt a flexible system of examinations which directs resources as
7 the director may deem appropriate and necessary for the administration of the
8 insurance related laws of this state.

9 2. As used in sections 374.202 to 374.207, the following terms mean:

10 (1) "Company", any person engaging in or proposing or attempting to
11 engage in any transaction or kind of insurance or surety business and any person
12 or group of persons who may otherwise be subject to the administrative,
13 regulatory or taxing authority of the director, **not assigned to the functional**
14 **regulation of the divisions of finance, credit unions, or professional**

15 **registration, or boards assigned to or within those divisions;**

16 (2) "Department", the department of insurance, **financial institutions**
17 **and professional registration** of this state;

18 (3) "Director", the director of the department of insurance, **financial**
19 **institutions and professional registration** of this state;

20 (4) "Examiner", any individual or firm having been authorized by the
21 director to conduct an examination under sections 374.202 to 374.207;

22 (5) "Insurer" has the same meaning as insurer under sections 375.1150
23 to 375.1246, RSMo;

24 (6) "Person", any individual, aggregation of individuals, trust, association,
25 partnership or corporation, or any affiliate thereof.

374.217. 1. The director or any other employee of the department of
2 insurance, **financial institutions and professional registration** shall not
3 enter into any covenant not to sue or any agreement to defer, refrain or desist
4 from instituting or asserting against any officer or director of any insurer or any
5 other person or entity **in the business of insurance and** regulated by the
6 department [of insurance], any claim, demand, action or suit, either
7 administrative or judicial, for injuries, damages or penalties to the state or any
8 person or property.

9 2. Any covenant or agreement entered into in derogation of subsection 1
10 of this section, [either before or after August 28, 1991,] shall be deemed to be in
11 violation of the public policy of this state that the general assembly shall by law
12 provide adequate regulation of insurers in order to protect citizens of this state;
13 and that the department [of insurance] shall carry out and enforce such
14 regulation. The courts of this state shall not enforce or give effect to any such
15 covenant or agreement.

374.220. 1. The expenses of proceedings against insurance companies,
2 and examinations of the assets or liabilities and valuations of policies of
3 insurance companies doing business in this state, shall be assessed by the
4 director upon the company proceeded against or examined, or whose policies have
5 been valued.

6 2. If the company has been or shall be adjudged insolvent, or shall
7 neglect, fail or refuse to pay the expenses, the director may approve the payment
8 of the expenses, in whole or in part, which shall be paid in like manner as other
9 expenses of the [insurance] department; and the amount so paid, together with
10 cost, charges and fees for collecting the same, shall be a first lien upon all the

11 assets and property of such company, and may be recovered by the director of
12 revenue in any court of competent jurisdiction; or if said company be in
13 liquidation, or process of being wound up, the cost and expenses of settling its
14 affairs shall be allowed and taxed as cost against said company, and shall be a
15 first lien upon and payable out of its assets. The director of revenue shall deposit
16 such sums in the state treasury to reimburse the insurance fund.

17 3. Before any costs of any examination or valuation shall be paid,
18 vouchers for the same shall be submitted to and approved by the commissioner
19 of administration.

20 4. When any examination or valuation is made by the director in person
21 or by any salaried employee of the department [of insurance], the cost of making
22 the same shall be certified to the director of revenue for collection.

374.250. 1. The director shall take proper vouchers for all payments made
2 by [him] **the department** and shall take receipts from the director of revenue
3 for all moneys [he] **the department** pays to the director of revenue.

4 2. At the close of each state fiscal year, the state auditor shall audit,
5 adjust and settle [the accounts for] all receipts and disbursements [by the
6 director] **in the insurance dedicated fund and the insurance examiners'**
7 **fund, and taxes certified or collected under sections 148.310 to 148.461,**
8 **RSMo, or sections 384.011 to 384.071, RSMo.**

374.456. 1. The director of the department of insurance, **financial**
2 **institutions and professional registration** shall personally report to the
3 appropriate committees of the general assembly by March first of each year on
4 the status of all actions initiated, maintained by the director, or which have been
5 concluded, during the preceding year to enforce the provisions of this act. The
6 director shall answer all questions regarding such actions, or regarding other
7 matters that are related to the provisions of this act.

8 2. **The report to the appropriate committees of the general**
9 **assembly shall cover enforcement actions related to sections 354.500 to**
10 **354.636, RSMo, relating to health maintenance organizations, sections**
11 **374.500 to 374.515 relating to utilization review agents, and sections**
12 **376.1350 to 376.1399, RSMo, relating to all managed care health benefit**
13 **plans.**

375.001. 1. As used in this chapter, unless otherwise clearly
2 indicated by the context, the following words mean:

3 (1) "Department", the department of insurance, financial

4 **institutions and professional registration;**

5 **(2) "Director", the director of the department of insurance,**
6 **financial institutions and professional registration.**

7 **2.** As used in sections 375.001 to 375.008 the following words and terms
8 mean:

9 (1) "Insurer", all insurance companies, reciprocals, or interinsurance
10 exchanges transacting the business of insurance in this state;

11 (2) "Nonpayment of premium", failure of the named insured to discharge
12 when due any of his obligations in connection with the payment of premiums on
13 the policy, or any installment of the premium, whether the premium is payable
14 directly to the insurer or its agent or indirectly under any premium finance plan
15 or extension of credit;

16 (3) "Nonrenewal", the determination of an insurer not to issue or deliver
17 a policy replacing at the end of the policy period a policy previously issued and
18 delivered by the same insurer or a certificate or notice extending the term of a
19 policy beyond its policy period or term;

20 (4) "Policy", a contract of insurance providing fire and extended coverage
21 insurance, whether separately or in combination with other coverages, on
22 owner-occupied habitational property not exceeding two families. "Policy" does
23 not include any insurance contracts issued under a property insurance inspection
24 and placement program ("FAIR" plan) or an assigned risk plan, or any insurance
25 contracts insuring property not used predominantly for habitational purposes, or
26 an insurance contract insuring a mobile home;

27 (5) "Renewal" or "to renew", the issuance and delivery by an insurer of a
28 policy replacing at the end of the policy period a policy previously issued and
29 delivered by the same insurer, or the issuance and delivery of a certificate or
30 notice extending the term of the policy beyond its policy period or term. Any
31 policy with a policy period or term of less than six months shall for the purposes
32 of sections 375.001 to 375.008 be considered as if written for a policy period or
33 term of six months. Any policy written for a term longer than one year or any
34 policy with no fixed expiration date, shall for the purpose of sections 375.001 to
35 375.008, be considered as if written for successive policy periods or terms of one
36 year, and the policy may be terminated at the expiration of any annual period
37 upon giving thirty days' notice of cancellation prior to the anniversary date, and
38 the cancellation shall not be subject to any other provisions of sections 375.001
39 to 375.008.

375.261. 1. Service of process as provided herein shall be made by
2 delivery of two copies of the summons, with copies of the petition thereto
3 attached, to the director [of the insurance department of this state], or in his **or**
4 **her** absence to the deputy director of the [insurance] department, or in the
5 absence of both the director and deputy director, to the chief clerk of the
6 department [of insurance], at the office of the director of the [insurance division]
7 **department of insurance, financial institutions and professional**
8 **registration** of this state at Jefferson City, Missouri. The director [of the
9 insurance department] shall forthwith mail by certified mail, with return receipt
10 requested, one of the copies of the summons, with petition thereto attached, to the
11 defendant at its last known principal place of business, and shall keep a record
12 of all process so served upon the director, deputy director or chief clerk, and the
13 date of service, and the return receipt showing delivery thereof to the defendant
14 shall be filed therewith.

15 2. The director [of the insurance department], upon receiving the return
16 receipt, shall so certify the fact to the clerk of the court in which the action is
17 pending. The service of process shall be deemed sufficient provided notice of
18 service, and a copy of the summons, with a copy of plaintiff's petition thereto
19 attached, are sent certified mail, with return receipt requested, within ten days
20 after service of process upon the director [of the insurance department], or his **or**
21 **her** deputy or chief clerk, as aforesaid, by plaintiff or plaintiff's attorney to the
22 defendant at its last known principal place of business, and the return receipt
23 therefor issued by the post office and the affidavit of plaintiff or plaintiff's
24 attorney showing compliance with the aforesaid provisions are filed in the office
25 of the clerk of the court in which the action is pending on or before the date the
26 defendant is required to appear and defend the cause of action.

375.923. All forms on file with the director [of the division of insurance]
2 on or before January 1, 1980, shall be exempt from the provisions of sections
3 375.920 to 375.923.

376.005. As used in this chapter, unless otherwise clearly
2 **indicated by the context, the following words mean:**

3 (1) "Department", the department of insurance, financial
4 institutions and professional registration; and

5 (2) "Director", the director of the department of insurance,
6 financial institutions and professional registration.

377.005. As used in this chapter, unless otherwise clearly

2 indicated by the context, the following words mean:

3 (1) "Department", the department of insurance, financial
4 institutions and professional registration; and

5 (2) "Director", the director of the department of insurance,
6 financial institutions and professional registration.

379.005. As used in this chapter, unless otherwise clearly
2 indicated by the context, the following words mean:

3 (1) "Department", the department of insurance, financial
4 institutions and professional registration; and

5 (2) "Director", the director of the department of insurance,
6 financial institutions and professional registration.

380.005. As used in this chapter, unless otherwise clearly
2 indicated by the context, the following words mean:

3 (1) "Department", the department of insurance, financial
4 institutions and professional registration; and

5 (2) "Director", the director of the department of insurance,
6 financial institutions and professional registration.

381.410. As used in this section and section 381.412, the following terms
2 mean:

3 (1) "Cashier's check", a check, however labeled, drawn on the financial
4 institution, which is signed only by an officer or employee of such institution, is
5 a direct obligation of such institution, and is provided to a customer of such
6 institution or acquired from such institution for remittance purposes;

7 (2) "Certified funds", United States currency, funds conveyed by a
8 cashier's check, certified check, teller's check, as defined in Federal Reserve
9 Regulations CC, or wire transfers, including written advice from a financial
10 institution that collected funds have been credited to the settlement agent's
11 account;

12 (3) "Director", the director of the department of insurance, financial
13 **institutions** and professional [regulation] **registration**, unless the settlement
14 agent's primary regulator is [the division of finance] **another**
15 **department**. When the settlement agent is regulated by such [division]
16 **department**, that [division] **department** shall have jurisdiction over this
17 section and section 381.412;

18 (4) "Financial institution":

19 (a) A person or entity doing business under the laws of this state or the

20 United States relating to banks, trust companies, savings and loan associations,
 21 credit unions, commercial and consumer finance companies, industrial loan
 22 companies, insurance companies, small business investment corporations licensed
 23 under the Small Business Investment Act of 1958, 15 U.S.C. Section 661, et seq.,
 24 as amended, or real estate investment trusts as defined in 26 U.S.C. Section 856,
 25 as amended, or institutions constituting the Farm Credit System under the Farm
 26 Credit Act of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

27 (b) A mortgage loan company or mortgage banker doing business under
 28 the laws of this state or the United States which is subject to licensing,
 29 supervision, or auditing by the Federal National Mortgage Association, or the
 30 Federal Home Loan Mortgage Corporation, or the United States Veterans'
 31 Administration, or the Government National Mortgage Association, or the United
 32 States Department of Housing and Urban Development, or a successor of any of
 33 the foregoing agencies or entities, as an approved seller or servicer, if their
 34 principal place of business is in Missouri or a state which is contiguous to
 35 Missouri;

36 (5) "Settlement agent", a person, corporation, partnership, or other
 37 business organization which accepts funds and documents as fiduciary for the
 38 buyer, seller or lender for the purposes of closing a sale of an interest in real
 39 estate located within the state of Missouri, and is not a financial institution, or
 40 a member in good standing of the Missouri Bar, or a person licensed under
 41 chapter 339, RSMo.

**383.005. As used in this chapter, unless otherwise clearly
 2 indicated by the context, the following words mean:**

3 (1) "Department", the department of insurance, financial
 4 institutions and professional registration; and

5 (2) "Director", the director of the department of insurance,
 6 financial institutions and professional registration.

383.030. 1. The director [of the department of insurance] shall be
 2 authorized in accordance with sections [374.190 and 374.200] **374.202 to**
 3 **374.207**, RSMo, or in the event that either or both of such sections are repealed,
 4 then any successor sections relating to financial examination, to examine the
 5 financial condition, affairs and management of any association organized under
 6 the provisions of sections 383.010 to 383.040, and the association shall pay the
 7 expenses of any such examination in accordance with sections 374.160 and
 8 374.220, RSMo. Annually thereafter, within thirty days before the expiration of

9 its license, each association shall pay a renewal license fee of one hundred
10 dollars.

11 2. Any existing association shall also, at the time it files for renewal of its
12 license, file any amendments to its articles of association or bylaws which have
13 been adopted in the preceding year.

407.020. 1. The act, use or employment by any person of any deception,
2 fraud, false pretense, false promise, misrepresentation, unfair practice or the
3 concealment, suppression, or omission of any material fact in connection with the
4 sale or advertisement of any merchandise in trade or commerce or the solicitation
5 of any funds for any charitable purpose, as defined in section 407.453, in or from
6 the state of Missouri, is declared to be an unlawful practice. The use by any
7 person, in connection with the sale or advertisement of any merchandise in trade
8 or commerce or the solicitation of any funds for any charitable purpose, as defined
9 in section 407.453, in or from the state of Missouri of the fact that the attorney
10 general has approved any filing required by this chapter as the approval, sanction
11 or endorsement of any activity, project or action of such person, is declared to be
12 an unlawful practice. Any act, use or employment declared unlawful by this
13 subsection violates this subsection whether committed before, during or after the
14 sale, advertisement or solicitation.

15 2. Nothing contained in this section shall apply to:

16 (1) The owner or publisher of any newspaper, magazine, publication or
17 printed matter wherein such advertisement appears, or the owner or operator of
18 a radio or television station which disseminates such advertisement when the
19 owner, publisher or operator has no knowledge of the intent, design or purpose
20 of the advertiser; or

21 (2) Any institution [or company that is under the direction and
22 supervision of], **company, or entity that is subject to chartering,**
23 **licensing, or regulation** by the director of the department of insurance,
24 **financial institutions and professional registration under chapter 354,**
25 **RSMo, or chapters 374 to 385, RSMo, the director of the division of credit**
26 **unions under chapter 370, RSMo, or director of the division of finance under**
27 **chapters 361 to 369, RSMo, or chapter 371, RSMo, unless [the directors of**
28 **such divisions] such directors specifically authorize the attorney general to**
29 **implement the powers of this chapter or such powers are provided to either the**
30 **attorney general or a private citizen by statute.**

31 3. Any person who willfully and knowingly engages in any act, use,

32 employment or practice declared to be unlawful by this section with the intent to
33 defraud shall be guilty of a class D felony.

34 4. It shall be the duty of each prosecuting attorney and circuit attorney
35 in their respective jurisdictions to commence any criminal actions under this
36 section, and the attorney general shall have concurrent original jurisdiction to
37 commence such criminal actions throughout the state where such violations have
38 occurred.

39 5. It shall be an unlawful practice for any long-term care facility, as
40 defined in section 660.600, RSMo, except a facility which is a residential care
41 facility or an assisted living facility, as defined in section 198.006, RSMo, which
42 makes, either orally or in writing, representation to residents, prospective
43 residents, their families or representatives regarding the quality of care provided,
44 or systems or methods utilized for assurance or maintenance of standards of care
45 to refuse to provide copies of documents which reflect the facility's evaluation of
46 the quality of care, except that the facility may remove information that would
47 allow identification of any resident. If the facility is requested to provide any
48 copies, a reasonable amount, as established by departmental rule, may be
49 charged.

50 6. Any long-term care facility, as defined in section 660.600, RSMo, which
51 commits an unlawful practice under this section shall be liable for damages in a
52 civil action of up to one thousand dollars for each violation, and attorney's fees
53 and costs incurred by a prevailing plaintiff, as allowed by the circuit court.

407.1085. 1. The following acts or practices are exempt from the
2 provisions of sections 407.1070 to 407.1082:

3 (1) Telephone calls in which the sale of merchandise is not completed, and
4 payment or authorization of payment is not required, until after a face-to-face
5 sales presentation by the telemarketer or seller; or

6 (2) Telephone calls in which the sale of merchandise is completed and a
7 written contract is forwarded to the consumer so long as the consumer may
8 return the merchandise within fourteen days of receipt of the merchandise and
9 receive a refund of any moneys paid except for any coverage, fees or services
10 earned; provided that the telemarketer shall inform the consumer at the time of
11 the call that:

12 (a) A written contract regarding the sale of the merchandise will be
13 forwarded to the consumer;

14 (b) The approximate date of the delivery of the merchandise; and

15 (c) The consumer will have a right to terminate the contract within
16 fourteen days of receipt of the merchandise, and upon returning the merchandise,
17 shall have a right to a refund as provided in this subdivision.

18 The term "merchandise" as used in this subdivision shall mean merchandise sold
19 by a person, institution or company that is under the direction and supervision
20 of the director of the department of insurance, [director of the division of credit
21 unions or director of the division of finance] **financial institutions and**
22 **professional registration** or federally chartered banks, savings and loans and
23 credit unions, **but shall not mean a person or company that is under the**
24 **direction and supervision of the director of the division of professional**
25 **registration or any board assigned thereto;**

26 (3) Telephone calls initiated by a consumer that:

27 (a) Are not the result of any advertisement by a seller or telemarketer;

28 (b) Are in response to an advertisement through any media, other than
29 direct mail or telemarketing, which discloses the name of the seller and the
30 identity of the merchandise; provided that, this exemption shall not apply to calls
31 initiated by the consumer in response to an advertisement that offers a prize or
32 investment opportunity, or is used to engage in telemarketing activities
33 prohibited by subdivision (6) or (7) of section 407.1076; or

34 (c) Are in response to direct mail solicitations that clearly and
35 conspicuously disclose and do not misrepresent the material information required
36 by subsection 2 of section 407.1073; provided that, this exemption does not apply
37 to calls initiated by the consumer in response to an advertisement that offers a
38 prize or investment opportunity, or is to engage in telemarketing activities
39 prohibited by subdivision (6) or (7) of section 407.1076; or

40 (d) Are in response to the mailing of a catalog which contains a written
41 description or illustration of the goods or services offered for sale; includes the
42 business address of the seller, includes multiple pages of written materials or
43 illustrations; and has been issued not less frequently than once a year, when the
44 seller or telemarketer does not contact consumers by telephone but only receives
45 calls initiated by consumers in response to the catalog, and stops further
46 solicitation of items not in a catalog when the consumer states that he or she is
47 not interested in any further solicitations; or

48 (4) Telephone calls or messages:

49 (a) To any consumer with such consumer's prior express invitation or
50 permission;

51 (b) To any consumer with whom the seller has an established business
52 relationship; or

53 (c) By or on behalf of any entity over which either a state or federal
54 agency has regulatory authority to the extent that:

55 a. Subject to such authority, the entity is required to maintain a license,
56 registration, certificate or permit to sell or provide the merchandise being offered
57 through telemarketing; and

58 b. As of August 28, 2000, the state or federal agency has, directly or
59 through a delegation of authority which is enforceable pursuant to state or
60 federal law, promulgated rules that regulate the telemarketing sales practices of
61 the entity for the merchandise that entity offers through telemarketing and are
62 reasonably consistent with the requirements of section 407.1070 through section
63 407.1079 and which allow consumer redress pursuant to that agency's rules or
64 applicable federal law;

65 (d) Between a telemarketer and any business except calls involving the
66 retail sale of nondurable office and cleaning supplies.

67 2. The office of the attorney general shall receive telemarketing
68 complaints by means of a toll-free telephone number, by a notice in writing or by
69 electronic means. Complaints against entities who are licensed, certificated or
70 permitted and whose telemarketing practices are regulated by the same state or
71 federal agency and which agency has rules regulating telemarketing practices
72 shall be forwarded for investigation by the office of the attorney general to such
73 agency. All other complaints shall be handled by the office of the attorney
74 general.

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

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

7 (2) Taxes;

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

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

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

- 13 (c) Fees for notarizing deeds and other documents;
14 (d) Appraisal fees; and
15 (e) Fees for credit reports;
16 (4) Charges for insurance as described in subsection 2 of this section;
17 (5) A nonrefundable origination fee not to exceed five percent of the
18 principal which may be used by the lender to reduce the rate on a second
19 mortgage loan;
20 (6) Any amounts paid to the lender by any person, corporation or entity,
21 other than the borrower, to reduce the rate on a second mortgage loan or to assist
22 the borrower in qualifying for the loan;
23 (7) For revolving loans, an annual fee not to exceed fifty dollars may be
24 assessed.

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

- 28 (1) For insurance against loss of or damage to property where no such
29 coverage already exists; and
30 (2) For insurance providing life, accident, health or involuntary
31 unemployment coverage.

32 3. The cost of any insurance shall not exceed the rates filed with the
33 **[division] department of insurance, financial institutions and professional**
34 **registration**, and the insurance shall be obtained from an insurance company
35 duly authorized to conduct business in this state. Any person or entity making
36 second mortgage loans, or any of its employees, may be licensed to sell insurance
37 permitted in this section.

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

49 5. The lender shall, in addition to the charge authorized by subsection 4
50 of this section, be allowed to assess the borrower or other maker of refused
51 instrument the actual charge made by any institution for processing the
52 negotiable instrument, plus a handling fee of not more than twenty-five dollars;
53 and, if the contract or promissory note, signed by the borrower, provides for
54 attorney fees, and if it is necessary to bring suit, such attorney fees may not
55 exceed fifteen percent of the amount due and payable under such contract or
56 promissory note, together with any court costs assessed. The attorney fees shall
57 only be applicable where the contract or promissory note is referred for collection
58 to an attorney, and are not handled by a salaried employee of the holder of the
59 contract or note.

 408.570. Unless otherwise clearly indicated by the context, the following
2 words and terms as used in sections 408.570 to 408.600 shall mean:

3 (1) "Department", the Missouri department of [economic development]

4 **insurance, financial institutions and professional registration;**

5 (2) "Director", the director of the department of [economic development]

6 **insurance, financial institutions and professional registration;**

7 (3) "Division director", the appropriate director of the division of finance
8 or the division of credit unions of the department of [economic development]

9 **insurance, financial institutions and professional registration;**

10 (4) "Financial institution", a bank, savings and loan association, credit
11 union, consumer credit lender, mortgage banker, or any other association or
12 institution which:

13 (a) Operates a place of business in Missouri; and

14 (b) As part of its business, makes residential real estate loans;

15 (5) "Residential real estate", any real estate used or intended to be used
16 as a residence by not more than four families;

17 (6) "Residential real estate loan", a loan made for the acquisition,
18 construction, repair, rehabilitation or remodeling of residential real estate or any
19 loan secured by residential real estate. The term shall include any loan made to
20 refinance or prepay in full or in part any such loan;

21 (7) "State financial institution", any financial institution other than a
22 national banking association, a federal savings and loan association, and a federal
23 credit union;

24 (8) "Type" of residential real estate loan, conventional loans, construction
25 loans, loans insured by the Federal Housing Administration, loans guaranteed by

26 the Veterans Administration, home improvement loans.

436.005. As used in sections 436.005 to 436.071, unless the context
2 otherwise requires, the following terms shall mean:

3 (1) "Beneficiary", the individual who is to be the subject of the disposition
4 and who will receive funeral services, facilities or merchandise described in a
5 preneed contract;

6 (2) "Division", the division of professional registration [of the department
7 of economic development];

8 (3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other
9 personal property incidental to a funeral or burial service, and such term shall
10 also include grave lots, grave space, grave markers, monuments, tombstones,
11 crypts, niches or mausoleums if, but only if, such items are sold:

12 (a) By a companion agreement which is sold in contemplation of trade or
13 barter for grave vaults or funeral or burial services and funeral merchandise; or

14 (b) At prices, in excess of prevailing market prices, intended to be offset
15 by reductions in the costs of funeral or burial services or facilities which are not
16 immediately required;

17 (4) "Person", any individual, partnership, corporation, cooperative,
18 association, or other entity;

19 (5) "Preneed contract", any contract or other arrangement which requires
20 the current payment of money or other property in consideration for the final
21 disposition of a dead human body, or for funeral or burial services or facilities,
22 or for funeral merchandise, where such disposition, services, facilities or
23 merchandise are not immediately required, including, but not limited to, an
24 agreement providing for a membership fee or any other fee having as its purpose
25 the furnishing of burial or funeral services or merchandise at a discount, except
26 for contracts of insurance, including payment of proceeds from contracts of
27 insurance, unless the preneed seller or provider is named as the owner or
28 beneficiary in the contract of insurance;

29 (6) "Preneed trust", a trust established by a seller, as grantor, to receive
30 deposits of, administer, and disburse payments received under preneed contracts
31 by such seller, together with income thereon;

32 (7) "Provider", the person obligated to provide the disposition and funeral
33 services, facilities, or merchandise described in a preneed contract;

34 (8) "Purchaser", the person who is obligated to make payments under a
35 preneed contract;

36 (9) "Seller", the person who sells a preneed contract to a purchaser and
37 who is obligated to collect and administer all payments made under such preneed
38 contract;

39 (10) "State board", the Missouri state board of embalmers and funeral
40 directors;

41 (11) "Trustee", the trustee of a preneed trust, including successor trustees.
443.803. 1. For the purposes of sections 443.800 to 443.893, the following
2 terms mean:

3 (1) "Advertisement", the attempt by publication, dissemination or
4 circulation to induce, directly or indirectly, any person to apply for a loan to be
5 secured by residential real estate;

6 (2) "Affiliate":

7 (a) Any entity that directly controls, or is controlled by, the licensee and
8 any other company that is directly affecting activities regulated by sections
9 443.800 to 443.893 that is controlled by the company that controls the licensee;

10 (b) Any entity:

11 a. That is controlled, directly or indirectly, by a trust or otherwise by, or
12 for the benefit of, shareholders who beneficially, or otherwise, control, directly or
13 indirectly, by trust or otherwise, the licensee or any company that controls the
14 licensee; or

15 b. A majority of the directors or trustees of which constitute a majority of
16 the persons holding any such office with the licensee or any company that
17 controls the licensee;

18 (c) Any company, including a real estate investment trust, that is
19 sponsored and advised on a contractual basis by the licensee or any subsidiary
20 or affiliate of the licensee;

21 (3) "Annual audit", a certified audit of the licensee's books and records
22 and systems of internal control performed by a certified public accountant in
23 accordance with generally accepted accounting principles and generally accepted
24 auditing standards;

25 (4) "Board", the residential mortgage board, created in section 443.816;

26 (5) "Borrower", the person or persons who use the services of a loan
27 broker, originator or lender;

28 (6) "Director", the director of the division of finance [within the
29 department of economic development];

30 (7) "Escrow agent", a third party, individual or entity, charged with the

31 fiduciary obligation for holding escrow funds on a residential mortgage loan
32 pending final payout of those funds in accordance with the terms of the
33 residential mortgage loan;

34 (8) "Exempt entity", the following entities:

35 (a) Any bank or trust company organized under the laws of this or any
36 other state or any national bank or any foreign banking corporation licensed by
37 the division of finance or the United States Comptroller of the Currency to
38 transact business in this state;

39 (b) Any state or federal savings and loan association, savings bank or
40 credit union or any consumer finance company licensed under sections 367.100
41 to 367.215, RSMo, which is actively engaged in consumer credit lending;

42 (c) Any insurance company authorized to transact business in this state;

43 (d) Any person engaged solely in commercial mortgage lending or any
44 person making or acquiring residential or commercial construction loans with the
45 person's own funds for the person's own investment;

46 (e) Any service corporation of a federally chartered or state-chartered
47 savings and loan association, savings bank or credit union;

48 (f) Any first-tier subsidiary of a national or state bank that has its
49 principal place of business in this state, provided that such first-tier subsidiary
50 is regularly examined by the division of finance or the Comptroller of the
51 Currency or a consumer compliance examination of it is regularly conducted by
52 the Federal Reserve;

53 (g) Any person engaged solely in the business of securing loans on the
54 secondary market provided such person does not make decisions about the
55 extension of credit to the borrower;

56 (h) Any mortgage banker as defined in subdivision (19) of this subsection;
57 or

58 (i) Any wholesale mortgage lender who purchases mortgage loans
59 originated by a licensee provided such wholesale lender does not make decisions
60 about the extension of credit to the borrower;

61 (j) Any person making or acquiring residential mortgage loans with the
62 person's own funds for the person's own investment;

63 (k) Any person employed or contracted by a licensee to assist in the
64 performance of the activities regulated by sections 443.800 to 443.893 who is
65 compensated in any manner by only one licensee;

66 (l) Any person licensed pursuant to the real estate agents and brokers

67 licensing law, chapter 339, RSMo, who engages in servicing or the taking of
68 applications and credit and appraisal information to forward to a licensee or an
69 exempt entity for transactions in which the licensee is acting as a real estate
70 broker and who is compensated by either a licensee or an exempt entity;

71 (m) Any person who originates, services or brokers residential mortgagee
72 loans and who receives no compensation for those activities, subject to the
73 director's regulations regarding the nature and amount of compensation;

74 (9) "Financial institution", a savings and loan association, savings bank,
75 credit union, mortgage banker or bank organized under the laws of Missouri or
76 the laws of the United States with its principal place of business in Missouri;

77 (10) "First-tier subsidiary", as defined by administrative rule promulgated
78 by the director;

79 (11) "Full-service office", office and staff in Missouri reasonably adequate
80 to handle efficiently communications, questions and other matters relating to any
81 application for a new, or existing, home mortgage loan which the licensee is
82 brokering, funding, originating, purchasing or servicing. The management and
83 operation of each full-service office must include observance of good business
84 practices such as adequate, organized and accurate books and records, ample
85 phone lines, hours of business, staff training and supervision and provision for
86 a mechanism to resolve consumer inquiries, complaints and problems. The
87 director shall promulgate regulations with regard to the requirements of this
88 subdivision and shall include an evaluation of compliance with this subdivision
89 in the periodic examination of the licensee;

90 (12) "Government-insured mortgage loan", any mortgage loan made on the
91 security of residential real estate insured by the Department of Housing and
92 Urban Development or Farmers Home Loan Administration, or guaranteed by the
93 Veterans Administration;

94 (13) "Lender", any person who either lends money for or invests money in
95 residential mortgage loans;

96 (14) "Licensee" or "residential mortgage licensee", a person who is licensed
97 to engage in the activities regulated by sections 443.800 to 443.893;

98 (15) "Loan broker" or "broker", a person exempted from licensing pursuant
99 to subdivision (8) of this subsection, who performs the activities described in
100 subdivisions (17) and (32) of this subsection;

101 (16) "Loan brokerage agreement", a written agreement in which a broker
102 agrees to do either of the following:

103 (a) Obtain a residential mortgage loan for the borrower or assist the
104 borrower in obtaining a residential mortgage loan; or

105 (b) Consider making a residential mortgage loan to the borrower;

106 (17) "Loan brokering", "mortgage brokering", or "mortgage brokerage
107 service", the act of helping to obtain for an investor or from an investor for a
108 borrower, a loan secured by residential real estate situated in Missouri or
109 assisting an investor or a borrower in obtaining a loan secured by residential real
110 estate in return for consideration;

111 (18) "Making a residential mortgage loan" or "funding a residential
112 mortgage loan", for compensation or gain, either, directly or indirectly, advancing
113 funds or making a commitment to an applicant for a residential mortgage loan;

114 (19) "Mortgage banker", a mortgage loan company which is subject to
115 licensing, supervision, or annual audit requirements by the Federal National
116 Mortgage Association (FNMA), or the Federal Home Loan Mortgage Corporation
117 (FHLMC), or the United States Veterans Administration (VA), or the United
118 States Department of Housing and Urban Development (HUD), or a successor of
119 any of the foregoing agencies or entities, as an approved lender, loan
120 correspondent, seller, or servicer;

121 (20) "Mortgage loan" or "residential mortgage loan", a loan to, or for the
122 benefit of, any natural person made primarily for personal, family or household
123 use, including a reverse mortgage loan, primarily secured by either a mortgage
124 or reverse mortgage on residential real property or certificates of stock or other
125 evidence of ownership interests in, and proprietary leases from, corporations or
126 partnerships formed for the purpose of cooperative ownership of residential real
127 property;

128 (21) "Net worth", as provided in section 443.859;

129 (22) "Originating", the advertising, soliciting, taking applications,
130 processing, closing, or issuing of commitments for, and funding of, residential
131 mortgage loans;

132 (23) "Party to a residential mortgage financing transaction", a borrower,
133 lender or loan broker in a residential mortgage financing transaction;

134 (24) "Payments", payment of all, or any part of, the following: principal,
135 interest and escrow reserves for taxes, insurance and other related reserves and
136 reimbursement for lender advances;

137 (25) "Person", any individual, firm, partnership, corporation, company or
138 association and the legal successors thereof;

139 (26) "Personal residence address", a street address, but shall not include
140 a post office box number;

141 (27) "Purchasing", the purchase of conventional or government-insured
142 mortgage loans secured by residential real estate from either the lender or from
143 the secondary market;

144 (28) "Residential mortgage board", the residential mortgage board created
145 in section 443.816;

146 (29) "Residential mortgage financing transaction", the negotiation,
147 acquisition, sale or arrangement for, or the offer to negotiate, acquire, sell or
148 arrange for, a residential mortgage loan or residential mortgage loan
149 commitment;

150 (30) "Residential mortgage loan commitment", a written conditional
151 agreement to finance a residential mortgage loan;

152 (31) "Residential real property" or "residential real estate", real property
153 located in this state improved by a one-family to four-family dwelling;

154 (32) "Servicing", the collection or remittance for, or the right or obligation
155 to collect or remit for, any lender, noteowner, noteholder or for a licensee's own
156 account, of payments, interests, principal and trust items such as hazard
157 insurance and taxes on a residential mortgage loan and includes loan payment
158 follow-up, delinquency loan follow-up, loan analysis and any notifications to the
159 borrower that are necessary to enable the borrower to keep the loan current and
160 in good standing;

161 (33) "Soliciting, processing, placing or negotiating a residential mortgage
162 loan", for compensation or gain, either, directly or indirectly, accepting or offering
163 to accept an application for a residential mortgage loan, assisting or offering to
164 assist in the processing of an application for a residential mortgage loan on behalf
165 of a borrower, or negotiating or offering to negotiate the terms or conditions of a
166 residential mortgage loan with a lender on behalf of a borrower including, but not
167 limited to, the submission of credit packages for the approval of lenders, the
168 preparation of residential mortgage loan closing documents, and including a
169 closing in the name of a broker;

170 (34) "Ultimate equitable owner", a person who, directly or indirectly, owns
171 or controls an ownership interest in a corporation, foreign corporation, alien
172 business organization, trust or any other form of business organization regardless
173 of whether the person owns or controls the ownership interest through one or
174 more persons or one or more proxies, powers of attorney, nominees, corporations,

175 associations, partnerships, trusts, joint stock companies or other entities or
176 devices, or any combination thereof.

177 2. The director may define by rule any terms used in sections 443.800 to
178 443.893 for efficient and clear administration.

620.010. 1. There is hereby created a "Department of Economic
2 Development" to be headed by a director appointed by the governor, by and with
3 the advice and consent of the senate. All of the general provisions, definitions
4 and powers enumerated in section 1 of the Omnibus State Reorganization Act of
5 1974 shall continue to apply to this department and its divisions, agencies and
6 personnel.

7 2. The office of director of the department of business and administration,
8 chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and
9 property of that office, not previously reassigned by executive reorganization plan
10 no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are
11 transferred by type I transfer to the director of the department of economic
12 development. The department of business and administration is hereby
13 abolished.

14 3. The duties and responsibilities relating to subsection 2 of section
15 35.010, RSMo, are transferred by type I transfer to the personnel division, office
16 of administration.

17 4. The powers, duties and functions vested in the public service
18 commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others,
19 and the administrative hearing commission, sections 621.015 to 621.198, RSMo,
20 and others, are transferred by type III transfers[, and the state banking board,
21 chapter 361, RSMo, and others, and the savings and loan commission, chapter
22 369, RSMo, and others, are transferred by type II transfers] to the department
23 of economic development. The director of the department is directed to provide
24 and coordinate staff and equipment services to these agencies in the interest of
25 facilitating the work of the bodies and achieving optimum efficiency in staff
26 services common to all the bodies. Nothing in the Reorganization Act of 1974
27 shall prevent the chairman of the public service commission from presenting
28 additional budget requests or from explaining or clarifying its budget requests to
29 the governor or general assembly.

30 5. The powers, duties and functions vested in the office of the public
31 counsel are transferred by type III transfer to the department of economic
32 development. Funding for the general counsel's office shall be by general

33 revenue.

34 6. The public service commission is authorized to employ such staff as it
35 deems necessary for the functions performed by the general counsel other than
36 those powers, duties and functions relating to representation of the public before
37 the public service commission.

38 7. [There is hereby created a "Division of Credit Unions" in the
39 department of economic development, to be headed by a director, nominated by
40 the department director and appointed by the governor with the advice and
41 consent of the senate. All the powers, duties and functions vested in the state
42 supervisor of credit unions in chapter 370, RSMo, and the powers and duties
43 relating to credit unions vested in the commissioner of finance in chapter 370,
44 RSMo, are transferred to the division of credit unions of the department of
45 economic development, by a type II transfer, and the office of the state supervisor
46 of credit unions is abolished. The salary of the director of the division of credit
47 unions shall be set by the director of the department within the limits of the
48 appropriations therefor. The director of the division shall assume all the duties
49 and functions of the state supervisor of credit unions and the commissioner of
50 finance only where the director has duties and responsibilities relating to credit
51 unions as set out in chapter 370, RSMo.

52 8. The powers, duties and functions vested in the division of finance,
53 chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by
54 type II transfer to the department of economic development. There shall be a
55 director of the division who shall be nominated by the department director and
56 appointed by the governor with the advice and consent of the senate.

57 9. All the powers, duties and functions vested in the director of the
58 division of savings and loan supervision in chapter 369, RSMo, sections 443.700
59 to 443.712, RSMo, or by any other provision of law are transferred to the division
60 of finance of the department of economic development by a type I transfer. The
61 position of the director of the division of savings and loan supervision is hereby
62 abolished. The director of the division of finance shall assume all the duties and
63 functions of the director of the division of savings and loan supervision as
64 provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any
65 other provision of law. The division of savings and loan is hereby abolished. The
66 powers of the savings and loan commission are hereby limited to hearing appeals
67 from decisions of the director of the division of finance approving or denying
68 applications to incorporate savings and loan associations or to establish branches

69 of savings and loan associations and approving regulations pertaining to savings
70 and loan associations. Any appeals shall be held in accordance with section
71 369.319, RSMo.

72 10. On and after August 28, 1990, the status of the division is modified
73 under a specific type transfer pursuant to section 1 of the Omnibus
74 Reorganization Act of 1974. The status of the division is modified from that of
75 a division transferred to the department of economic development pursuant to a
76 type II transfer, as provided for in this section, to that of an agency possessing
77 the characteristics of a division transferred pursuant to a type III transfer;
78 provided, however, that the division will remain within the department of
79 economic development. The division of insurance shall be assigned to the
80 department of economic development as a type III division, and the director of the
81 department of economic development shall have no supervision, authority or
82 control over the actions or decisions of the director of the division. All authority,
83 records, property, personnel, powers, duties, functions, matter pending and all
84 other pertinent vestiges pertaining thereto shall be retained by the division
85 except as modified by this section. If the division of insurance becomes a
86 department by operation of a constitutional amendment, the department of
87 economic development shall continue until December 31, 1991, to provide at least
88 the same assistance as was provided in previous fiscal years for personnel, data
89 processing support and other benefits from appropriations.

90 11.] All the powers, duties and functions of the commerce and industrial
91 development division and the industrial development commission, chapters 184
92 and 255, RSMo, and others, not otherwise transferred, are transferred by type I
93 transfer to the department of economic development, and the industrial
94 development commission is abolished. All powers, duties and functions of the
95 division of commerce and industrial development and the division of community
96 development are transferred by a type I transfer to the department of economic
97 development, and the division of commerce and industrial development and the
98 division of community development are abolished.

99 [12.] 8. All the powers, duties and functions vested in the tourism
100 commission, chapter 258, RSMo, and others, are transferred to the "Division of
101 Tourism", which is hereby created, by type III transfer.

102 [13.] 9. All the powers, duties and functions of the department of
103 community affairs, chapter 251, RSMo, and others, not otherwise assigned, are
104 transferred by type I transfer to the department of economic development, and

105 the department of community affairs is abolished. The director of the department
106 of economic development may assume all the duties of the director of community
107 affairs or may establish within the department such subunits and advisory
108 committees as may be required to administer the programs so transferred. The
109 director of the department shall appoint all members of such committees and
110 heads of subunits.

111 [14. (1) There is hereby established a "Division of Professional
112 Registration" assigned to the department of economic development as a type III
113 division, headed by a director appointed by the governor with the advice and
114 consent of the senate.

115 (2) The director of the division of professional registration shall
116 promulgate rules and regulations which designate for each board or commission
117 assigned to the division the renewal date for licenses or certificates. After the
118 initial establishment of renewal dates, no director of the division shall
119 promulgate a rule or regulation which would change the renewal date for licenses
120 or certificates if such change in renewal date would occur prior to the date on
121 which the renewal date in effect at the time such new renewal date is specified
122 next occurs. Each board or commission shall by rule or regulation establish
123 licensing periods of one, two, or three years. Registration fees set by a board or
124 commission shall be effective for the entire licensing period involved, and shall
125 not be increased during any current licensing period. Persons who are required
126 to pay their first registration fees shall be allowed to pay the pro rata share of
127 such fees for the remainder of the period remaining at the time the fees are
128 paid. Each board or commission shall provide the necessary forms for initial
129 registration, and thereafter the director may prescribe standard forms for renewal
130 of licenses and certificates. Each board or commission shall by rule and
131 regulation require each applicant to provide the information which is required to
132 keep the board's records current. Each board or commission shall issue the
133 original license or certificate.

134 (3) The division shall provide clerical and other staff services relating to
135 the issuance and renewal of licenses for all the professional licensing and
136 regulating boards and commissions assigned to the division. The division shall
137 perform the financial management and clerical functions as they each relate to
138 issuance and renewal of licenses and certificates. "Issuance and renewal of
139 licenses and certificates" means the ministerial function of preparing and
140 delivering licenses or certificates, and obtaining material and information for the

141 board or commission in connection with the renewal thereof. It does not include
142 any discretionary authority with regard to the original review of an applicant's
143 qualifications for licensure or certification, or the subsequent review of licensee's
144 or certificate holder's qualifications, or any disciplinary action contemplated
145 against the licensee or certificate holder. The division may develop and
146 implement microfilming systems and automated or manual management
147 information systems.

148 (4) The director of the division shall establish a system of accounting and
149 budgeting, in cooperation with the director of the department, the office of
150 administration, and the state auditor's office, to ensure proper charges are made
151 to the various boards for services rendered to them. The general assembly shall
152 appropriate to the division and other state agencies from each board's funds,
153 moneys sufficient to reimburse the division and other state agencies for all
154 services rendered and all facilities and supplies furnished to that board.

155 (5) For accounting purposes, the appropriation to the division and to the
156 office of administration for the payment of rent for quarters provided for the
157 division shall be made from the "Professional Registration Fees Fund", which is
158 hereby created, and is to be used solely for the purpose defined in subdivision (4)
159 of this subsection. The fund shall consist of moneys deposited into it from each
160 board's fund. Each board shall contribute a prorated amount necessary to fund
161 the division for services rendered and rent based upon the system of accounting
162 and budgeting established by the director of the division as provided in
163 subdivision (4) of this subsection. Transfers of funds to the professional
164 registration fees fund shall be made by each board on July first of each year;
165 provided, however, that the director of the division may establish an alternative
166 date or dates of transfers at the request of any board. Such transfers shall be
167 made until they equal the prorated amount for services rendered and rent by the
168 division. The provisions of section 33.080, RSMo, to the contrary
169 notwithstanding, money in this fund shall not be transferred and placed to the
170 credit of general revenue until the amount in the fund at the end of the biennium
171 exceeds three times the appropriation from the professional registration fees fund
172 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
173 is that amount in the fund which exceeds the appropriate multiple of the
174 appropriations from the professional registration fees fund for the preceding fiscal
175 year.

176 (6) The director of the division shall be responsible for collecting and

177 accounting for all moneys received by the division or its component agencies. Any
178 money received by a board or commission shall be promptly given, identified by
179 type and source, to the director. The director shall keep a record by board and
180 state accounting system classification of the amount of revenue the director
181 receives. The director shall promptly transmit all receipts to the department of
182 revenue for deposit in the state treasury to the credit of the appropriate
183 fund. The director shall provide each board with all relevant financial
184 information in a timely fashion. Each board shall cooperate with the director by
185 providing necessary information.

186 (7) All educational transcripts, test scores, complaints, investigatory
187 reports, and information pertaining to any person who is an applicant or licensee
188 of any agency assigned to the division of professional registration by statute or
189 by the department of economic development are confidential and may not be
190 disclosed to the public or any member of the public, except with the written
191 consent of the person whose records are involved. The agency which possesses
192 the records or information shall disclose the records or information if the person
193 whose records or information is involved has consented to the disclosure. Each
194 agency is entitled to the attorney-client privilege and work-product privilege to
195 the same extent as any other person. Provided, however, that any board may
196 disclose confidential information without the consent of the person involved in the
197 course of voluntary interstate exchange of information, or in the course of any
198 litigation concerning that person, or pursuant to a lawful request, or to other
199 administrative or law enforcement agencies acting within the scope of their
200 statutory authority. Information regarding identity, including names and
201 addresses, registration, and currency of the license of the persons possessing
202 licenses to engage in a professional occupation and the names and addresses of
203 applicants for such licenses is not confidential information.

204 (8) Any deliberations conducted and votes taken in rendering a final
205 decision after a hearing before an agency assigned to the division shall be closed
206 to the parties and the public. Once a final decision is rendered, that decision
207 shall be made available to the parties and the public.

208 15. (1) The division of registration and examination, department of
209 education, within chapter 161, RSMo, and others, is abolished and the following
210 boards and commissions are transferred by specific type transfers to the division
211 of professional registration, department of economic development: state board
212 of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328,

213 RSMo; state board of registration for architects, professional engineers and land
214 surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331,
215 RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts,
216 chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of
217 embalmers and funeral directors, chapter 333, RSMo; state board of optometry,
218 chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of
219 pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo;
220 Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary
221 medical board chapter 340, RSMo. The governor shall appoint members of these
222 boards by and with the advice and consent of the senate from nominees submitted
223 by the director of the department.

224 (2) The boards and commissions assigned to the division shall exercise all
225 their respective statutory duties and powers, except those clerical and other staff
226 services involving collecting and accounting for moneys and financial
227 management relating to the issuance and renewal of licenses, which services shall
228 be provided by the division, within the appropriation therefor. All clerical and
229 other staff services relating to the issuance and renewal of licenses of the
230 individual boards and commissions are abolished. All clerical and other staff
231 services pertaining to collecting and accounting for moneys and to financial
232 management relative to the issuance and renewal of licenses of the individual
233 boards and commissions are abolished. Nothing herein shall prohibit employment
234 of professional examining or testing services from professional associations or
235 others as required by the boards or commissions on contract. Nothing herein
236 shall be construed to affect the power of a board or commission to expend its
237 funds as appropriated. However, the division shall review the expense vouchers
238 of each board. The results of such review shall be submitted to the board
239 reviewed and to the house and senate appropriations committees annually.

240 (3) Notwithstanding any other provisions of law, the director of the
241 division shall exercise only those management functions of the boards and
242 commissions specifically provided in the Reorganization Act of 1974, and those
243 relating to the allocation and assignment of space, personnel other than board
244 personnel, and equipment.

245 (4) "Board personnel", as used in this section or chapters 326, 327, 328,
246 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean
247 personnel whose functions and responsibilities are in areas not related to the
248 clerical duties involving the issuance and renewal of licenses, to the collecting

249 and accounting for moneys, or to financial management relating to issuance and
250 renewal of licenses; specifically included are executive secretaries (or comparable
251 positions), consultants, inspectors, investigators, counsel, and secretarial support
252 staff for these positions; and such other positions as are established and
253 authorized by statute for a particular board or commission. Boards and
254 commissions may employ legal counsel, if authorized by law, and temporary
255 personnel if the board is unable to meet its responsibilities with the employees
256 authorized above. Any board or commission which hires temporary employees
257 shall annually provide the division director and the appropriation committees of
258 the general assembly with a complete list of all persons employed in the previous
259 year, the length of their employment, the amount of their remuneration and a
260 description of their responsibilities.

261 (5) Board personnel for each board or commission shall be employed by
262 and serve at the pleasure of the board or commission, shall be supervised as the
263 board or commission designates, and shall have their duties and compensation
264 prescribed by the board or commission, within appropriations for that purpose,
265 except that compensation for board personnel shall not exceed that established
266 for comparable positions as determined by the board or commission pursuant to
267 the job and pay plan of the department of economic development. Nothing herein
268 shall be construed to permit salaries for any board personnel to be lowered except
269 by board action.

270 (6) Each board or commission shall receive complaints concerning its
271 licensees' business or professional practices. Each board or commission shall
272 establish by rule a procedure for the handling of such complaints prior to the
273 filing of formal complaints before the administrative hearing commission. The
274 rule shall provide, at a minimum, for the logging of each complaint received, the
275 recording of the licensee's name, the name of the complaining party, the date of
276 the complaint, and a brief statement of the complaint and its ultimate
277 disposition. The rule shall provide for informing the complaining party of the
278 progress of the investigation, the dismissal of the charges or the filing of a
279 complaint before the administrative hearing commission.

280 16. All the powers, duties and functions of the division of athletics,
281 chapter 317, RSMo, and others, are transferred by type I transfer to the division
282 of professional registration. The athletic commission is abolished.

283 17.] 10. The state council on the arts, chapter 185, RSMo, and others, is
284 transferred by type II transfer to the department of economic development, and

285 the members of the council shall be appointed by the director of the department.

286 [18.] 11. The Missouri housing development commission, chapter 215,
287 RSMo, is assigned to the department of economic development, but shall remain
288 a governmental instrumentality of the state of Missouri and shall constitute a
289 body corporate and politic.

290 [19.] 12. All the authority, powers, duties, functions, records, personnel,
291 property, matters pending and other pertinent vestiges of the division of
292 manpower planning of the department of social services are transferred by a type
293 I transfer to the "Division of Job Development and Training", which is hereby
294 created, within the department of economic development. The division of
295 manpower planning within the department of social services is abolished. The
296 provisions of section 1 of the Omnibus State Reorganization Act of 1974,
297 Appendix B, relating to the manner and procedures for transfers of state agencies
298 shall apply to the transfers provided in this section.

299 [20. Any rule or portion of a rule, as that term is defined in section
300 536.010, RSMo, that is created under the authority delegated in this chapter shall
301 become effective only if it complies with and is subject to all of the provisions of
302 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking
303 authority delegated prior to August 28, 1999, is of no force and effect and
304 repealed. Nothing in this section shall be interpreted to repeal or affect the
305 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
306 with all applicable provisions of law. This section and chapter 536, RSMo, are
307 nonseverable and if any of the powers vested with the general assembly pursuant
308 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
309 annul a rule are subsequently held unconstitutional, then the grant of
310 rulemaking authority and any rule proposed or adopted after August 28, 1999,
311 shall be invalid and void.] 13. **Any rule or portion of a rule, as that term
312 is defined in section 536.010, RSMo, that is created under the authority
313 delegated in this section shall become effective only if it complies with
314 and is subject to all of the provisions of chapter 536, RSMo, and, if
315 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
316 are nonseverable and if any of the powers vested with the general
317 assembly pursuant to chapter 536, RSMo, to review, to delay the
318 effective date, or to disapprove and annul a rule are subsequently held
319 unconstitutional, then the grant of rulemaking authority and any rule
320 proposed or adopted after August 28, 2008, shall be invalid and void.**

620.1063. 1. A participating financial institution which withdraws from
2 the program may not recover any set-aside contributions which have been made
3 to a loss reserve account. If a program loan loss reserve account continuously
4 exceeds the outstanding balance of the institution's enrolled loans for twenty-four
5 consecutive months, the department may withdraw such excess to reduce the
6 program loss reserve account to an amount equal to one hundred percent of such
7 outstanding balance. Any funds withdrawn pursuant to this subsection shall be
8 placed in the Missouri capital access program fund.

9 2. The division of finance of the department of [economic development]
10 **insurance, financial institutions and professional registration** is
11 authorized to examine all program loss reserve accounts maintained by financial
12 institutions. No financial institution may participate in the program unless such
13 financial institution agrees to allow the division of finance to conduct such
14 examinations.

[620.105. The provisions of this act relating to disciplinary
2 proceedings against any person licensed or regulated under the
3 provisions of chapter 326, 327, 328, 329, 330, 331, 332, 333, 334,
4 335, 336, 337, 338, 339, 340, 345 or 346, RSMo, do not apply for
5 any circumstance occurring prior to September 28, 1981, or to the
6 construction and application of any defense in a disciplinary
7 proceeding for such circumstances. All disciplinary proceedings for
8 circumstances occurring prior to September 28, 1981, shall be
9 conducted and determined according to the provisions of law
10 existing at the time of the occurrence of the circumstances involved
11 in the proceeding in the same manner as if this act had not been
12 enacted, any other provision of law to the contrary
13 notwithstanding.]

[620.106. Effective August 28, 1999, no new licensing
2 activity or other statutory requirements assigned to the division of
3 professional registration shall become effective until expenditures
4 or personnel are specifically appropriated for the purpose of
5 conducting the business as required and the initial rules filed, if
6 appropriate, have become effective. The director of the division of
7 professional registration shall have the authority to borrow funds
8 from any agency within the division to commence operations upon
9 appropriation for such purpose. This authority shall cease at such

10 time that a sufficient fund has been established by the agency to
11 fund its operations and repay the amount borrowed.]

2 [620.111. 1. Contrary provisions of the law
3 notwithstanding, no complaint, investigatory report or information
4 received from any source must be disclosed prior to its review by
5 the appropriate division.

6 2. At its discretion an agency may disclose complaints,
7 completed investigatory reports and information obtained from
8 state administrative and law enforcement agencies to a licensee or
9 license applicant in order to further an investigation or to facilitate
10 settlement negotiations.

11 3. Information obtained from a federal administrative or
12 law enforcement agency shall be disclosed only after the agency has
13 obtained written consent to the disclosure from the federal
14 administrative or law enforcement agency.

15 4. At its discretion an agency may disclose complaints and
16 investigatory reports in the course of a voluntary interstate
17 exchange of information, or in the course of any litigation
18 concerning a licensee or license applicant, or pursuant to a lawful
19 request, or to other state or federal administrative or law
20 enforcement agencies.

21 5. Except as disclosure is specifically provided above and in
22 section 610.021, RSMo, deliberations, votes or minutes of closed
23 proceedings of agencies shall not be subject to disclosure or
discovery.]

2 [620.120. When making appointments to the boards
3 governed by chapters 326, 327, 328, 329, 330, 331, 332, 333, 334,
4 335, 336, 337, 338, 339, 340 and 346, RSMo, the governor shall
5 take affirmative action to appoint women and members of minority
6 groups. In addition, the governor shall not discriminate against or
7 in favor of any person on the basis of race, sex, religion, national
origin, ethnic background, or language.]

2 [620.125. No rule or portion of a rule promulgated under
3 the authority of chapters 326, 327, 328, 329, 330, 331, 332, 333,
4 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, shall
become effective unless it has been promulgated pursuant to the

5 provisions of section 536.024, RSMo.]

6 [620.127. Notwithstanding any provision of law to the
7 contrary, every application for a license, certificate, registration, or
8 permit, or renewal of a license, certificate, registration, or permit
9 issued in this state shall contain the Social Security number of the
10 applicant. This provision shall not apply to an original application
11 for a license, certificate, registration, or permit submitted by a
12 citizen of a foreign country who has never been issued a Social
13 Security number and who previously has not been licensed by any
14 other state, United States territory, or federal agency. A citizen of
15 a foreign country applying for licensure with the division of
professional registration shall be required to submit his or her visa
or passport identification number in lieu of the Social Security
number.]

[620.130. An orientation program for appointees to all
boards or commissions in the division of professional registration
shall be prepared under the direction of the director of the
department of economic development, which shall acquaint new
appointees with their duties and provide available information on
subject matters of concern to the board or commission to which
each public member has been appointed.]

[620.132. 1. Any public member authorized under the
provisions of sections 326.160, RSMo, 327.031, RSMo, 328.030,
RSMo, 329.190, RSMo, 330.110, RSMo, 331.090, RSMo, 332.021,
RSMo, 333.151, RSMo, 334.120, RSMo, 335.021, RSMo, 336.130,
RSMo, 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.120,
RSMo, and 346.120, RSMo, who misses three consecutive regularly
scheduled meetings of the board or council on which he serves shall
forfeit his membership on that board or council. A new public
member shall be appointed to the respective board or council by the
governor with the advice and consent of the senate.

2. Each public member authorized under the provisions of
law cited in subsection 1 of this section shall, at the conclusion of
each meeting of his respective board or council, make a report on
that meeting to at least one major newspaper and one major radio
station which serves the city or town in which the meeting

16 occurred.]

2 [620.135. Except as otherwise specifically provided by law,
3 no license for any occupation or profession shall be denied solely on
4 the grounds that an applicant has been previously convicted of a
5 felony.]

6 [620.140. 1. All fees charged by each board assigned to the
7 division of professional registration shall be collected by that
8 division and promptly transmitted to the department of revenue for
9 deposit in the state treasury, credited to the proper account as
10 provided by law.

11 2. The division and its component agencies shall permit any
12 licensee to submit payment for fees established by rule in the form
13 of personal check, money order, or cashier's check. All checks or
14 money orders shall be made payable to the appropriate board. Any
15 check or financial instrument which is returned to the division or
16 one of its agencies due to insufficient funds, a closed account, or for
17 other circumstances in which the check or financial instrument is
18 not honored may subject an individual to additional costs,
19 substantial penalties, or other actions by the division or one of its
20 agencies. In such cases involving renewal of licenses, the renewal
21 license may be withheld, and if issued, is not valid until the
22 appropriate fee and any additional costs are collected. The division
23 may require the payment of collection costs or other expenses. The
24 affected board may establish penalty fees by rule and may suspend
25 or revoke a license if such behavior is repetitive or the licensee
26 fails to pay required penalty fees.

27 3. License renewal fees are generally
28 nonrefundable. Overpayments or other incorrect fees may be
29 refundable. The division shall establish a refund reserve through the
30 appropriation to the professional registration fees fund.

31 4. Notwithstanding any other provision of law to the
contrary, no board, commission or any other registration, licensing
or certifying agency of the division of professional registration shall
be required to collect or distribute any fee which is required for
administering any test to qualify for a license, registration or
certificate, if any portion of the fee is to be remitted to a private

32 testing service.]

[620.145. The division of professional registration shall
2 maintain, for each board in the division, a registry of each person
3 holding a current license, permit or certificate issued by that
4 board. The registry shall contain the name, Social Security number
5 and address of each person licensed or registered together with
6 other relevant information as determined by the board. The
7 registry for each board shall at all times be available to the board
8 and copies shall be supplied to the board on request. Copies of the
9 registry, except for the registrant's Social Security number, shall
10 be available from the division or the board to any individual who
11 pays the reasonable copying cost. Any individual may copy the
12 registry during regular business hours. The information in the
13 registry shall be furnished upon request to the division of child
14 support enforcement. Questions concerning the currency of license
15 of any individual shall be answered, without charge, by the
16 appropriate board. Each year each board may publish, or cause to
17 be published, a directory containing the name and address of each
18 person licensed or registered for the current year together with any
19 other information the board deems necessary. Any expense
20 incurred by the state relating to such publication shall be charged
21 to the board. An official copy of any such publication shall be filed
22 with the director of the department of economic development.]

[620.146. 1. Notwithstanding other provisions of law, the
2 director of the division of professional registration may destroy
3 records and documents of the division or the boards in the division
4 at any time if such records and documents have been
5 photographed, microphotographed, electronically generated,
6 electronically recorded, photostatted, reproduced on film or other
7 process capable of producing a clear, accurate and permanent copy
8 of the original. Such film or reproducing material shall be of
9 durable material and the device used to reproduce the records,
10 reports, returns and other related documents on film or material
11 shall be such as to accurately reproduce and perpetuate the
12 original records and documents in all details.

13 2. The reproductions so made may be used as permanent

14 records of the original. When microfilm or a similar reproduction
15 is used as a permanent record by the director of revenue, one copy
16 shall be stored in a fireproof vault and other copies may be made
17 for use by any person entitled thereto. All reproductions shall
18 retain the same confidentiality as is provided in the law regarding
19 the original record.

20 3. Such photostatic copy, photograph, microphotograph,
21 electronically generated, electronically recorded or other process
22 copy shall be deemed to be an original record for all purposes, and
23 shall be admissible in evidence in all courts or administrative
24 agencies. A transcript, exemplification or certified copy of any
25 records or documents made from such photostatic copy, photograph,
26 microphotograph, electronically generated, electronically recorded
27 or other process copy shall, for all purposes be deemed to be a
28 transcript, exemplification or certified copy of the original and shall
29 be admissible in evidence in all courts or administrative
30 agencies. No document shall be admissible pursuant to this section
31 unless the offeror shall comply with section 490.692, RSMo, when
32 applicable.

33 4. "Records and documents" include, but are not limited to,
34 papers, documents, facsimile information, microphotographic
35 process, electronically generated or electronically recorded
36 information, deposited or filed with the division of professional
37 registration or any of the boards in the division.]

2 [620.148. Notwithstanding any other law to the contrary,
3 the director of the division of professional registration is authorized
4 to contract with third parties to collect, account for and deposit fees
5 on behalf of the division and licensing agencies within the
6 division.]

2 [620.149. 1. Whenever a board within the division of
3 professional registration, including the division itself when so
4 empowered, may refuse to issue a license for reasons which also
5 serve as a basis for filing a complaint with the administrative
6 hearing commission seeking disciplinary action against a holder of
7 a license, the board, as an alternative to refusing to issue a license,
8 may, at its discretion, issue to an applicant a license subject to

8 probation.

9 2. The board shall notify the applicant in writing of the
10 terms of the probation imposed, the basis therefor, and the date
11 such action shall become effective. The notice shall also advise the
12 applicant of the right to a hearing before the administrative
13 hearing commission, if the applicant files a complaint with the
14 administrative hearing commission within thirty days of the date
15 of delivery or mailing by certified mail of written notice of the
16 probation. If the board issues a probated license, the applicant
17 may file, within thirty days of the date of delivery or mailing by
18 certified mail of written notice of the probation, a written
19 complaint with the administrative hearing commission seeking
20 review of the board's determination. Such complaint shall set forth
21 that the applicant or licensee is qualified for nonprobated licensure
22 pursuant to the laws and administrative regulations relating to his
23 or her profession. Upon receipt of such complaint the
24 administrative hearing commission shall cause a copy of such
25 complaint to be served upon the board by certified mail or by
26 delivery of such copy to the office of the board, together with a
27 notice of the place of and the date upon which the hearing on such
28 complaint will be held. Hearings shall be held pursuant to chapter
29 621, RSMo. The burden shall be on the board to demonstrate the
30 existence of the basis for imposing probation on the licensee. If no
31 written request for a hearing is received by the administrative
32 hearing commission within the thirty-day period, the right to seek
33 review of the board's decision shall be considered waived.

34 3. If the probation imposed includes restrictions or
35 limitations on the scope of practice, the license issued shall plainly
36 state such restriction or limitation. When such restriction or
37 limitation is removed, a new license shall be issued.]

 [620.150. There shall be established in each board within
2 the division of professional registration, including the division
3 itself when empowered with licensing authority, which was on
4 August 28, 1998, required or authorized to revoke a license for
5 failure to submit an application for renewal, failure to provide
6 information required for renewal or nonpayment of the required

7 renewal fee, a classification for a licensee who, desires to remove
8 himself or herself from participating in the licensing system of the
9 board or division. This classification shall be distinguished from
10 revocation of a license and from surrender of a license pursuant to
11 an agreement between the board or division and the licensee filed
12 with and approved by the administrative hearing commission. This
13 classification shall not be available to a licensee during the time
14 there is an investigation of the licensee or the licensee's practices
15 or during the pendency of a disciplinary complaint filed with the
16 administrative hearing commission. Each board within the
17 division or the division when empowered with licensing authority
18 shall establish by rule qualifications for such classification and
19 procedures for a licensee to request an inactive license as provided
20 in this section. Notwithstanding any other law to the contrary, no
21 board within the division or the division shall be required to revoke
22 a license when the licensee qualifies for the classification
23 authorized by this section, as provided by rule. An inactive license
24 authorized by this section shall be subject to the same
25 requirements for reinstatement or restoration as a lapsed, expired
26 or revoked license due to failure to renew the license. This section
27 shall not affect those boards which are otherwise authorized to
28 classify a license as inactive.]

2 [620.151. For the purpose of determining whether cause for
3 discipline or denial exists under the statutes of any board,
4 commission or committee within the division of professional
5 registration, any licensee, registrant, permittee or applicant that
6 test positive for a controlled substance, as defined in chapter 195,
7 RSMo, is presumed to have unlawfully possessed the controlled
8 substance in violation of the drug laws or rules and regulations of
9 this state, any other state or the federal government unless he or
10 she has a valid prescription for the controlled substance. The
11 burden of proof that the controlled substance was not unlawfully
12 possessed in violation of the drug laws or rules and regulations of
13 this state, any other state or the federal government is upon the
licensee, registrant, permittee or applicant.]

[620.153. Any board, commission or committee within the

2 division of professional registration may impose additional
3 discipline when it finds after hearing that a licensee, registrant or
4 permittee has violated any disciplinary terms previously imposed
5 or agreed to pursuant to settlement. The board, commission or
6 committee may impose as additional discipline, any discipline it
7 would be authorized to impose in an initial disciplinary hearing.]

2 [620.154. 1. Except as provided in this section, no
3 disciplinary proceeding against any person or entity licensed,
4 registered or certified to practice a profession within the
5 department of economic development, division of professional
6 registration shall be initiated unless such action is commenced
7 within three years of the date upon which the licensing, registering
8 or certifying agency received notice of an alleged violation of an
9 applicable statute or regulation.

9 2. For the purpose of this section, notice shall be limited to:

10 (1) A written complaint;

11 (2) Notice of final disposition of a malpractice claim,
12 including exhaustion of all extraordinary remedies and appeals;

13 (3) Notice of exhaustion of all extraordinary remedies and
14 appeals of a conviction based upon a criminal statute of this state,
15 any other state or the federal government;

16 (4) Notice of exhaustion of all extraordinary remedies and
17 appeals in a disciplinary action by a hospital, state licensing,
18 registering or certifying agency, or an agency of the federal
19 government.

20 3. For the purposes of this section, an action is commenced
21 when a complaint is filed by the agency with the administrative
22 hearing commission, any other appropriate agency or in a court; or
23 when a complaint is filed by the agency's legal counsel with the
24 agency in respect to an automatic revocation or a probation
25 violation.

26 4. Disciplinary proceedings based upon repeated negligence
27 shall be exempt from all limitations set forth in this section.

28 5. Disciplinary proceedings based upon a complaint
29 involving sexual misconduct shall be exempt from all limitations
30 set forth in this section.

31 6. Any time limitation provided in this section shall be
32 tolled:

33 (1) During any time the accused licensee, registrant or
34 certificant is practicing exclusively outside the state of Missouri or
35 residing outside the state of Missouri and not practicing in
36 Missouri;

37 (2) As to an individual complainant, during the time when
38 such complainant is less than eighteen years of age;

39 (3) During any time the accused licensee, registrant or
40 certificant maintains legal action against the agency; or

41 (4) When a settlement agreement is offered to the accused
42 licensee, registrant or certificant, in an attempt to settle such
43 disciplinary matter without formal proceeding pursuant to section
44 621.045, RSMo, until the accused licensee, registrant or certificant
45 rejects or accepts the settlement agreement.

46 7. The licensing agency may, in its discretion, toll any time
47 limitation when the accused licensee, registrant or certificant
48 enters into and participates in a treatment program for chemical
49 dependency or mental impairment.

50 8. This section shall become effective January 1, 1998. The
51 above statute of limitations shall not apply to any notice received
52 by the agency prior to January 1, 1998.]

✓

Copy