

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 788

94TH GENERAL ASSEMBLY

2008

3494S.04T

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## AN ACT

To repeal sections 43.543, 105.711, 135.520, 144.011, 148.330, 194.119, 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, 326.256, 326.265, 326.283, 326.289, 326.292, 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.011, 333.221, 334.123, 334.240, 334.400, 334.500, 334.506, 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650, 334.655, 334.660, 334.665, 334.670, 334.675, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.010, 339.120, 339.150, 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, 620.1063, 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525, and 700.650, RSMo, and to enact in lieu thereof one hundred sixty-four 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.

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

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

Section A. Sections 43.543, 105.711, 135.520, 144.011, 148.330, 194.119,  
2 209.285, 214.270, 256.453, 285.230, 320.082, 324.050, 324.128, 324.159, 324.200,  
3 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.256,  
4 326.265, 326.283, 326.289, 326.292, 327.051, 328.050, 329.025, 329.028, 329.210,  
5 330.190, 331.100, 332.041, 332.327, 333.011, 333.221, 334.123, 334.240, 334.400,  
6 334.500, 334.506, 334.530, 334.540, 334.550, 334.560, 334.570, 334.610, 334.650,  
7 334.655, 334.660, 334.665, 334.670, 334.675, 334.702, 334.735, 334.746, 334.800,  
8 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.010,  
9 339.120, 339.150, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092,  
10 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.006, 370.366, 374.045, 374.070,  
11 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456,  
12 375.001, 375.261, 375.923, 381.410, 383.030, 407.020, 407.1085, 408.233, 408.570,  
13 436.005, 443.803, 620.010, 620.105, 620.106, 620.111, 620.120, 620.125, 620.127,  
14 620.130, 620.132, 620.135, 620.140, 620.145, 620.146, 620.148, 620.149, 620.150,  
15 620.151, 620.153, 620.154, 620.1063, 700.010, 700.045, 700.056, 700.065, 700.070,  
16 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, 700.525,  
17 and 700.650, RSMo, are repealed and one hundred sixty-four new sections  
18 enacted in lieu thereof, to be known as sections 21.840, 43.543, 105.711, 135.520,  
19 144.011, 148.330, 194.119, 209.285, 214.270, 256.453, 285.230, 320.082, 324.001,  
20 324.002, 324.016, 324.017, 324.021, 324.022, 324.024, 324.026, 324.028, 324.029,  
21 324.031, 324.032, 324.034, 324.036, 324.038, 324.039, 324.041, 324.042, 324.043,  
22 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406,  
23 324.475, 324.526, 325.010, 326.256, 326.265, 326.283, 326.289, 326.292, 327.051,  
24 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.011,  
25 333.221, 334.123, 334.240, 334.400, 334.500, 334.506, 334.525, 334.530, 334.540,  
26 334.550, 334.560, 334.570, 334.601, 334.602, 334.610, 334.611, 334.612, 334.613,  
27 334.614, 334.615, 334.616, 334.617, 334.618, 334.650, 334.655, 334.660, 334.665,  
28 334.670, 334.675, 334.686, 334.687, 334.702, 334.735, 334.746, 334.800, 335.036,  
29 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.010, 339.120,  
30 339.150, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140,  
31 361.160, 362.109, 362.332, 362.910, 367.500, 370.006, 370.366, 374.005, 374.007,  
32 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220,  
33 374.250, 374.456, 375.001, 375.261, 375.923, 376.005, 377.005, 379.005, 380.005,  
34 381.410, 383.005, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803,  
35 620.010, 620.1063, 700.010, 700.041, 700.045, 700.056, 700.065, 700.090, 700.095,  
36 700.096, 700.097, 700.098, 700.100, 700.115, 700.525, and 700.650, to read as

37 follows:

21.840. 1. There is established a joint committee of the general  
2 assembly to be known as the "Joint Committee on Preneed Funeral  
3 Contracts" to be composed of seven members of the senate and seven  
4 members of the house of representatives. The senate members of the  
5 joint committee shall be appointed by the president pro tem and  
6 minority floor leader of the senate and the house members shall be  
7 appointed by the speaker and minority floor leader of the house of  
8 representatives. The appointment of each member shall continue  
9 during the member's term of office as a member of the general assembly  
10 or until a successor has been appointed to fill the member's place when  
11 his or her term of office as a member of the general assembly has  
12 expired. No party shall be represented by more than four members  
13 from the house of representatives nor more than four members from  
14 the senate. A majority of the committee shall constitute a quorum, but  
15 the concurrence of a majority of the members shall be required for the  
16 determination of any matter within the committee's duties.

17 2. The joint committee shall:

18 (1) Make a comprehensive study and analysis of the consumer  
19 and economic impact on the preneed funeral contract industry in the  
20 state of Missouri;

21 (2) Determine from its study and analysis the need for changes  
22 in statutory law; and

23 (4) Make any other recommendation to the general assembly  
24 relating to its findings.

25 3. The joint committee shall meet within thirty days after its  
26 creation and organize by selecting a chairperson and a vice  
27 chairperson, one of whom shall be a member of the senate and the  
28 other a member of the house of representatives.

29 4. The committee may meet at locations other than Jefferson City  
30 when the committee deems it necessary.

31 5. The committee shall be staffed by legislative personnel as is  
32 deemed necessary to assist the committee in the performance of its  
33 duties.

34 6. The members of the committee shall serve without  
35 compensation but shall be entitled to reimbursement for actual and  
36 necessary expenses incurred in the performance of their official duties.

37           **7. It shall be the duty of the committee to compile a full report**  
38 **of its activities for submission to the general assembly. The report**  
39 **shall be submitted not later than January 31, 2009, and shall include**  
40 **any recommendations which the committee may have for legislative**  
41 **action as well as any recommendations for administrative or**  
42 **procedural changes in the internal management or organization of state**  
43 **or local government agencies and departments. Copies of the report**  
44 **containing such recommendations shall be sent to the appropriate**  
45 **directors of state or local government agencies or departments**  
46 **included in the report.**

47           **8. The provisions of this section shall expire on January 31, 2009.**

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.

144.011. 1. For purposes of sections 144.010 to 144.525 and 144.600 to  
2 144.748, and the taxes imposed thereby, the definition of "retail sale" or "sale at  
3 retail" shall not be construed to include any of the following:

4 (1) The transfer by one corporation of substantially all of its tangible  
5 personal property to another corporation pursuant to a merger or consolidation  
6 effected under the laws of the state of Missouri or any other jurisdiction;

7 (2) The transfer of tangible personal property incident to the liquidation  
8 or cessation of a taxpayer's trade or business, conducted in proprietorship,  
9 partnership or corporate form, except to the extent any transfer is made in the  
10 ordinary course of the taxpayer's trade or business;

11 (3) The transfer of tangible personal property to a corporation solely in  
12 exchange for its stock or securities;

13 (4) The transfer of tangible personal property to a corporation by a  
14 shareholder as a contribution to the capital of the transferee corporation;

15 (5) The transfer of tangible personal property to a partnership solely in  
16 exchange for a partnership interest therein;

17 (6) The transfer of tangible personal property by a partner as a

18 contribution to the capital of the transferee partnership;

19 (7) The transfer of tangible personal property by a corporation to one or  
20 more of its shareholders as a dividend, return of capital, distribution in the  
21 partial or complete liquidation of the corporation or distribution in redemption  
22 of the shareholder's interest therein;

23 (8) The transfer of tangible personal property by a partnership to one or  
24 more of its partners as a current distribution, return of capital or distribution in  
25 the partial or complete liquidation of the partnership or of the partner's interest  
26 therein;

27 (9) The transfer of reusable containers used in connection with the sale  
28 of tangible personal property contained therein for which a deposit is required  
29 and refunded on return;

30 (10) The purchase by persons operating eating or food service  
31 establishments, of items of a nonreusable nature which are furnished to the  
32 customers of such establishments with or in conjunction with the retail sales of  
33 their food or beverage. Such items shall include, but not be limited to, wrapping  
34 or packaging materials and nonreusable paper, wood, plastic and aluminum  
35 articles such as containers, trays, napkins, dishes, silverware, cups, bags, boxes,  
36 straws, sticks and toothpicks;

37 (11) The purchase by persons operating hotels, motels or other transient  
38 accommodation establishments, of items of a nonreusable nature which are  
39 furnished to the guests in the guests' rooms of such establishments and such  
40 items are included in the charge made for such accommodations. Such items  
41 shall include, but not be limited to, soap, shampoo, tissue and other toiletries and  
42 food or confectionery items offered to the guests without charge;

43 (12) The transfer of a manufactured home other than:

44 (a) A transfer which involves the delivery of the document known as the  
45 "Manufacturer's Statement of Origin" to a person other than a manufactured  
46 home dealer, as defined in section [700.450] **700.010**, RSMo, for purposes of  
47 allowing such person to obtain a title to the manufactured home from the  
48 department of revenue of this state or the appropriate agency or officer of any  
49 other state;

50 (b) A transfer which involves the delivery of a "Repossessed Title" to a  
51 resident of this state if the tax imposed by sections 144.010 to 144.525 was not  
52 paid on the transfer of the manufactured home described in paragraph (a) of this  
53 subdivision;

54 (c) The first transfer which occurs after December 31, 1985, if the tax  
55 imposed by sections 144.010 to 144.525 was not paid on any transfer of the same  
56 manufactured home which occurred before December 31, 1985; or

57 (13) Charges for initiation fees or dues to:

58 (a) Fraternal beneficiaries societies, or domestic fraternal societies, orders  
59 or associations operating under the lodge system a substantial part of the  
60 activities of which are devoted to religious, charitable, scientific, literary,  
61 educational or fraternal purposes; or

62 (b) Posts or organizations of past or present members of the armed forces  
63 of the United States or an auxiliary unit or society of, or a trust or foundation for,  
64 any such post or organization substantially all of the members of which are past  
65 or present members of the armed forces of the United States or who are cadets,  
66 spouses, widows, or widowers of past or present members of the armed forces of  
67 the United States, no part of the net earnings of which inures to the benefit of  
68 any private shareholder or individual.

69 2. The assumption of liabilities of the transferor by the transferee incident  
70 to any of the transactions enumerated in the above subdivisions (1) to (8) of  
71 subsection 1 of this section shall not disqualify the transfer from the exclusion  
72 described in this section, where such liability assumption is related to the  
73 property transferred and where the assumption does not have as its principal  
74 purpose the avoidance of Missouri sales or use tax.

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.

194.119. 1. As used in this section, the term "right of sepulcher" means  
2 the right to choose and control the burial, cremation, or other final disposition of  
3 a dead human body.

4           2. For purposes of this chapter and chapters 193, 333, and 436, RSMo,  
5 and in all cases relating to the custody, control, and disposition of deceased  
6 human remains, including the common law right of sepulcher, where not  
7 otherwise defined, the term "next-of-kin" means the following persons in the  
8 priority listed if such person is eighteen years of age or older, is mentally  
9 competent, and is willing to assume responsibility for the costs of disposition:

10           (1) **An attorney in fact designated in a durable power of attorney**  
11 **wherein the deceased specifically granted the right of sepulcher over**  
12 **his or her body to such attorney in fact;**

13           (2) The surviving spouse;

14           [(2)] (3) Any surviving child of the deceased. If a surviving child is less  
15 than eighteen years of age and has a legal or natural guardian, such child shall  
16 not be disqualified on the basis of the child's age and such child's legal or natural  
17 guardian, if any, shall be entitled to serve in the place of the child unless such  
18 child's legal or natural guardian was subject to an action in dissolution from the  
19 deceased. In such event the person or persons who may serve as next-of-kin shall

20 serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

21 [(3)] (4) (a) Any surviving parent of the deceased; or

22 (b) If the deceased is a minor, a surviving parent who has custody of the  
23 minor; or

24 (c) If the deceased is a minor and the deceased's parents have joint  
25 custody, the parent whose residence is the minor child's residence for purposes  
26 of mailing and education;

27 [(4)] (5) Any surviving sibling of the deceased;

28 [(5) Any person designated by the deceased to act as next-of-kin pursuant  
29 to a valid designation of right of sepulcher as provided in subsection 8 of this  
30 section;]

31 (6) The next nearest surviving relative of the deceased by consanguinity  
32 or affinity;

33 (7) Any person or friend who assumes financial responsibility for the  
34 disposition of the deceased's remains if no next-of-kin assumes such  
35 responsibility;

36 (8) The county coroner or medical examiner; provided however that such  
37 assumption of responsibility shall not make the coroner, medical examiner, the  
38 county, or the state financially responsible for the cost of disposition.

39 3. The next-of-kin of the deceased shall be entitled to control the final  
40 disposition of the remains of any dead human being consistent with all applicable  
41 laws, including all applicable health codes.

42 4. A funeral director or establishment is entitled to rely on and act  
43 according to the lawful instructions of any person claiming to be the next-of-kin  
44 of the deceased; provided however, in any civil cause of action against a funeral  
45 director or establishment licensed pursuant to this chapter for actions taken  
46 regarding the funeral arrangements for a deceased person in the director's or  
47 establishment's care, the relative fault, if any, of such funeral director or  
48 establishment may be reduced if such actions are taken in reliance upon a  
49 person's claim to be the deceased person's next-of-kin.

50 5. Any person who desires to exercise the right of sepulcher and who has  
51 knowledge of an individual or individuals with a superior right to control  
52 disposition shall notify such individual or individuals prior to making final  
53 arrangements.

54 6. If an individual with a superior claim is personally served with written  
55 notice from a person with an inferior claim that such person desires to exercise

56 the right of sepulcher and the individual so served does not object within  
57 forty-eight hours of receipt, such individual shall be deemed to have waived such  
58 right. An individual with a superior right may also waive such right at any time  
59 if such waiver is in writing and dated.

60 7. If there is more than one person in a class who are equal in priority  
61 and the funeral director has no knowledge of any objection by other members of  
62 such class, the funeral director or establishment shall be entitled to rely on and  
63 act according to the instructions of the first such person in the class to make  
64 arrangements; provided that such person assumes responsibility for the costs of  
65 disposition and no other person in such class provides written notice of his or her  
66 objection.

67 [8. Any person may designate an individual to be his or her closest  
68 next-of-kin, regardless of blood or marital relationship, by means of a written  
69 instrument that is signed, dated, and verified. Such designation of right of  
70 sepulcher shall be witnessed by two persons, and shall contain the names and  
71 last known address of each person entitled to be next-of-kin but for the execution  
72 of the designation of right of sepulcher and who are higher in priority than the  
73 person so designated.]

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.

2 **324.001. 1. For the purposes of this section, the following terms**  
3 **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.

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.

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

- 2 (1) "AICPA", the American Institute of Certified Public Accountants;
- 3 (2) "Attest" or "attest services", providing the following financial  
4 statement services:
- 5 (a) Any audit or other engagement to be performed in accordance with the  
6 Statements on Auditing Standards (SAS);
- 7 (b) Any examination of prospective financial information to be performed  
8 in accordance with the Statements on Standards for Attestation Engagements  
9 (SSAE); or
- 10 (c) **Any engagement to be performed in accordance with the**  
11 **auditing standards and rules of the Public Company Accounting**  
12 **Oversight Board (PCAOB);**
- 13 (3) "Board", the Missouri state board of accountancy established [pursuant  
14 to] **under** section 326.259 or its predecessor pursuant to prior law;
- 15 (4) "Certificate", a certificate issued [pursuant to] **under** section 326.060  
16 prior to August 28, 2001;
- 17 (5) "Certified public accountant" or "CPA", the holder of a certificate or  
18 license as defined in this section;
- 19 (6) "Certified public accountant firm", "CPA firm" or "firm", a sole  
20 proprietorship, a corporation, a partnership or any other form of organization  
21 issued a permit [pursuant to] **under** section 326.289;
- 22 (7) "Client", a person or entity that agrees with a licensee or licensee's  
23 employer to receive any professional service;
- 24 (8) "Compilation", providing a service to be performed in accordance with  
25 Statements on Standards for Accounting and Review Services (SSARS) that is  
26 presented in the form of financial statements information that is the  
27 representation of management (owners) without undertaking to express any  
28 assurance on the statements;
- 29 (9) **"Home office", the location specified by the client as the**  
30 **address to which attest, compilation, or review services are directed;**
- 31 (10) "License", a license issued [pursuant to] **under** section 326.280, or  
32 [a provisional license issued pursuant to] **privilege to practice under** section  
33 326.283; or, in each case, an individual license or permit issued pursuant to  
34 corresponding provisions of prior law;
- 35 [(10)] (11) "Licensee", the holder of a license as defined in this section;
- 36 [(11)] (12) "Manager", a manager of a limited liability company;
- 37 [(12)] (13) "Member", a member of a limited liability company;



38            [(13)] (14) "NASBA", the National Association of State Boards of  
39 Accountancy;

40            [(14)] (15) "Peer review", a study, appraisal or review of one or more  
41 aspects of the professional work of a licensee or certified public accountant firm  
42 that performs attest, review or compilation services, by licensees who are not  
43 affiliated either personally or through their certified public accountant firm being  
44 reviewed pursuant to the Standards for Performing and Reporting on Peer  
45 Reviews promulgated by the AICPA or such other standard adopted by regulation  
46 of the board which meets or exceeds the AICPA standards;

47            [(15)] (16) "Permit", a permit to practice as a certified public accountant  
48 firm issued [pursuant to] **under** section 326.289 or corresponding provisions of  
49 prior law or pursuant to corresponding provisions of the laws of other states;

50            [(16)] (17) "Professional", arising out of or related to the specialized  
51 knowledge or skills associated with certified public accountants;

52            [(17)] (18) "Public accounting":

53            (a) Performing or offering to perform for an enterprise, client or potential  
54 client one or more services involving the use of accounting or auditing skills, or  
55 one or more management advisory or consulting services, or the preparation of  
56 tax returns or the furnishing of advice on tax matters by a person, firm, limited  
57 liability company or professional corporation using the title "C.P.A." or "P.A." in  
58 signs, advertising, directory listing, business cards, letterheads or other public  
59 representations;

60            (b) Signing or affixing a name, with any wording indicating the person or  
61 entity has expert knowledge in accounting or auditing to any opinion or certificate  
62 attesting to the reliability of any representation or estimate in regard to any  
63 person or organization embracing financial information or facts respecting  
64 compliance with conditions established by law or contract, including but not  
65 limited to statutes, ordinances, rules, grants, loans and appropriations; or

66            (c) Offering to the public or to prospective clients to perform, or actually  
67 performing on behalf of clients, professional services that involve or require an  
68 audit or examination of financial records leading to the expression of a written  
69 attestation or opinion concerning these records;

70            [(18)] (19) "Report", when used with reference to financial statements,  
71 means an opinion, report or other form of language that states or implies  
72 assurance as to the reliability of any financial statements, and that also includes  
73 or is accompanied by any statement or implication that the person or firm issuing

74 it has special knowledge or competence in accounting or auditing. Such a  
75 statement or implication of special knowledge or competence may arise from use  
76 by the issuer of the report of names or titles indicating that the person or firm is  
77 an accountant or auditor, or from the language of the report itself. The term  
78 report includes any form of language which disclaims an opinion when such form  
79 of language is conventionally understood to imply any positive assurance as to the  
80 reliability of the financial statements referred to or special competence on the  
81 part of the person or firm issuing such language, or both, and includes any other  
82 form of language that is conventionally understood to imply such assurance or  
83 such special knowledge or competence, or both;

84 [(19)] (20) "Review", providing a service to be performed in accordance  
85 with Statements on Standards for Accounting and Review Services (SSARS) that  
86 is performing inquiry and analytical procedures that provide the accountant with  
87 a reasonable basis for expressing limited assurance that there are no material  
88 modifications that should be made to the statements for them to be in conformity  
89 with generally accepted accounting principles or, if applicable, with another  
90 comprehensive basis of accounting;

91 [(20)] (21) "State", any state of the United States, the District of  
92 Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state"  
93 means the state of Missouri;

94 [(21)] (22) "Substantial equivalency" or "**substantially equivalent**", a  
95 determination by the board of accountancy or its designee that the education,  
96 examination and experience requirements contained in the statutes and  
97 administrative rules of another jurisdiction are comparable to or exceed the  
98 education, examination and experience requirements contained in this chapter or  
99 that an individual certified public accountant's education, examination and  
100 experience qualifications are comparable to or exceed the education, examination  
101 and experience requirements contained in this chapter;

102 [(22)] (23) "Transmittal", any transmission of information in any form,  
103 including but not limited to any and all documents, records, minutes, computer  
104 files, disks or information.

105 2. The statements on standards specified in this section shall be adopted  
106 by reference by the board pursuant to rulemaking and shall be those developed  
107 for general application by the AICPA or other recognized national accountancy  
108 organization as prescribed by board rule.

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.

326.283. 1. (1) An individual whose principal place of business,  
2 **domicile, or residency** is not in this state and [has] **who holds** a valid  
3 [designation] **and unrestricted license** to practice public accounting from any  
4 state which the board **or its designee** has determined by rule to be in  
5 substantial equivalence with the licensure requirements of [sections 326.250 to  
6 326.331] **this chapter**, or if the individual's qualifications are substantially  
7 equivalent to the licensure requirements of [sections 326.250 to 326.331] **this**  
8 **chapter**, shall be presumed to have qualifications substantially equivalent to  
9 this state's requirements and shall have all the privileges of licensees of this  
10 state[, provided the individual shall notify the board of his or her intent to  
11 engage in the practice of accounting with a client within this state whether in  
12 person, by electronic or technological means, or any other manner. The board by  
13 rule may require individuals to obtain a license] **without the need to obtain**  
14 **a license or to otherwise notify or register with the board or pay any**  
15 **fee. Provided, however, the board may by rule require individuals with**

16 **a valid but restricted license to obtain a license.**

17 (2) [Any] **An individual who qualifies for the privilege to practice**  
18 **under this section, may offer or render professional services in this**  
19 **state, whether in person, by mail, telephone, or electronic means, and**  
20 **no notice or other submission shall be required of any such individual.**

21 (3) **An individual licensee of another state exercising the privilege**  
22 **afforded [pursuant to] under this section [consents] and the firm which**  
23 **employs such licensee hereby simultaneously consent, as a condition of**  
24 **the grant of this privilege [to]:**

25 (a) **To the personal and subject matter jurisdiction and disciplinary**  
26 **authority of the board;**

27 (b) **To comply with this chapter and the board's rules; [and]**

28 (c) **That in the event the license from any state is no longer valid**  
29 **or unrestricted, the individual shall cease offering or rendering**  
30 **professional services in this state individually and on behalf of a firm;**  
31 **and**

32 (d) **To the appointment of the state board [which] that issued the**  
33 **individual's license as his or her agent upon whom process may be served in any**  
34 **action or proceeding by this board against the individual.**

35 (4) **An individual who has been granted the privilege to practice**  
36 **under this section who performs attest services for an entity with a**  
37 **home office in this state, shall only do so through a firm which has**  
38 **obtained a permit issued under section 326.289.**

39 [(3)] (5) **Nothing in this [section] chapter shall prohibit temporary**  
40 **practice in this state for professional business incidental to a CPA's regular**  
41 **practice outside this state. "Temporary practice" means that practice [which is**  
42 **a continuation or extension] related to the direct purpose of an engagement**  
43 **for a client located outside this state, which engagement began outside this state**  
44 **and extends into this state through common ownership, existence of a subsidiary,**  
45 **assets or other operations located within this state.**

46 2. **A licensee of this state offering or rendering services or using his or her**  
47 **certified public accountant title in another state shall be subject to disciplinary**  
48 **action in this state for an act committed in another state for which the licensee**  
49 **would be subject to discipline for an act committed in the other**  
50 **state. Notwithstanding the provisions of section 326.274 to the contrary, the**  
51 **board may investigate any complaint made by the board of accountancy of another**

52 state.

326.289. 1. The board may grant or renew permits to practice as a  
2 certified public accounting firm to [entities] **applicants** that [make application  
3 and] demonstrate their qualifications in accordance with this [section or to  
4 certified public accounting firms originally licensed in another state that  
5 establish an office in this state. A firm shall hold a permit issued pursuant to  
6 this section to provide attest, review or compilation services or to use the title  
7 certified public accountant or certified public accounting firm] **chapter.**

8 **(1) The following shall hold a permit issued under this chapter:**

9 **(a) Any firm with an office in this state, as defined by the board**  
10 **by rule, performing attest services;**

11 **(b) Any firm with an office in this state that uses the title "CPA"**  
12 **or "CPA firm"; and**

13 **(c) Any firm that does not have an office in this state performing**  
14 **attest services for a client having a home office in this state.**

15 **(2) A firm which does not have an office in this state may**  
16 **perform compilation and review services for a client having a home**  
17 **office in this state and may use the title "CPA" or "CPA firm" without a**  
18 **permit issued under this section only if it:**

19 **(a) Has the qualifications described in subsections 4 and 9 of this**  
20 **section; and**

21 **(b) Performs such services through an individual with the**  
22 **privilege to practice under subsection 1 of section 326.283.**

23 **(3) A firm which is not subject to the requirements of**  
24 **subdivisions (1) or (2) of this subsection may perform other professional**  
25 **services while using the title "CPA" or "CPA firm" in this state without**  
26 **a permit issued under this section only if it:**

27 **(a) Has qualifications described in subsection 4 of this section;**

28 **(b) Performs such services through an individual with the**  
29 **privilege to practice under section 326.283; and**

30 **(c) Can lawfully do so in the state where said individual with**  
31 **privilege to practice has his or her principal place of business.**

32 2. Permits shall be initially issued and renewed for periods of not more  
33 than three years or for a specific period as prescribed by board rule following  
34 issuance or renewal.

35 3. The board shall determine by rule the form for application and renewal  
36 of permits and shall annually determine the fees for permits and their renewals.

37 4. An applicant for initial issuance or renewal of a permit to practice  
38 [pursuant to] **under** this section shall be required to show that:

39 (1) [Notwithstanding any other provision of law to the contrary,] A simple  
40 majority of the ownership of the firm, in terms of financial interests and voting  
41 rights of all partners, officers, principals, shareholders, members or managers,  
42 belongs to licensees who are licensed in some state, and the partners, officers,  
43 principals, shareholders, members or managers, whose principal place of business  
44 is in this state and who perform professional services in this state are licensees  
45 [pursuant to] **under** section 326.280 or the corresponding provision of prior  
46 law. Although firms may include nonlicensee owners, the firm and its ownership  
47 shall comply with rules promulgated by the board;

48 (2) Any certified public accounting firm may include owners who are not  
49 licensees[,] provided that:

50 (a) The firm designates a licensee of this state, **or in the case of a firm**  
51 **which must have a permit under this section designates a licensee of**  
52 **another state who meets the requirements of section 326.283**, who is  
53 responsible for the proper registration of the firm and identifies that individual  
54 to the board;

55 (b) All nonlicensee owners are active individual participants in the  
56 certified public accounting firm or affiliated entities;

57 (c) **All owners are of good moral character; and**

58 (d) The firm complies with other requirements as the board may impose  
59 by rule;

60 (3) Any licensee, initially licensed on or after August 28, 2001, who is  
61 responsible for supervising attest services, or signs or authorizes someone to sign  
62 the licensee's report on the financial statements on behalf of the firm, shall meet  
63 competency requirements as determined by the board by rule which shall include  
64 one year of experience in addition to the experience required [pursuant to] **under**  
65 subdivision (6) of subsection 1 of section 326.280 and shall be verified by a  
66 licensee. The additional experience required by this subsection shall include  
67 experience in attest work supervised by a licensee;

68 (4) Any licensee who is responsible for supervising review services or  
69 signs or authorizes someone to sign review reports shall meet the competency  
70 requirements as determined by board by rule which shall include experience in  
71 review services.

72 5. An applicant for initial issuance or renewal of a permit to practice shall

73 register each office of the firm within this state with the board and show that all  
74 attest, review and compilation services rendered in this state are under the  
75 charge of a licensee.

76 6. No licensee or firm holding a permit [pursuant to] **under** this chapter  
77 shall use a professional or firm name or designation that is misleading as to:

78 (1) The legal form of the firm;

79 (2) The persons who are partners, officers, members, managers or  
80 shareholders of the firm; or

81 (3) Any other matter.

82 The names of one or more former partners, members or shareholders may be  
83 included in the name of a firm or its successor unless the firm becomes a sole  
84 proprietorship because of the death or withdrawal of all other partners, officers,  
85 members or shareholders. A firm may use a fictitious name if the fictitious name  
86 is registered with the board and is not otherwise misleading. The name of a firm  
87 shall not include the name or initials of an individual who is not a present or a  
88 past partner, member or shareholder of the firm or its predecessor. The name of  
89 the firm shall not include the name of an individual who is not a licensee.

90 7. Applicants for initial issuance or renewal of permits shall list in their  
91 application all states in which they have applied for or hold permits as certified  
92 public accounting firms and list any past denial, revocation, suspension or any  
93 discipline of a permit by any other state. Each holder of or applicant for a permit  
94 [pursuant to] **under** this section shall notify the board in writing within thirty  
95 days after its occurrence of any change in the identities of partners, principals,  
96 officers, shareholders, members or managers whose principal place of business is  
97 in this state; any change in the number or location of offices within this state; any  
98 change in the identity of the persons in charge of such offices; and any issuance,  
99 denial, revocation, suspension or any discipline of a permit by any other state.

100 8. Firms which fall out of compliance with the provisions of this section  
101 due to changes in firm ownership or personnel after receiving or renewing a  
102 permit shall take corrective action to bring the firm back into compliance as  
103 quickly as possible. The board may grant a reasonable period of time for a firm  
104 to take such corrective action. Failure to bring the firm back into compliance  
105 within a reasonable period as defined by the board may result in the suspension  
106 or revocation of the firm permit.

107 9. The board shall require by rule, as a condition to the renewal of  
108 permits, that firms undergo, no more frequently than once every three years, peer

109 reviews conducted in a manner as the board shall specify. The review shall  
110 include a verification that individuals in the firm who are responsible for  
111 supervising attest, review and compilation services or sign or authorize someone  
112 to sign the accountant's report on the financial statements on behalf of the firm  
113 meet the competency requirements set out in the professional standards for such  
114 services, provided that any such rule:

115 (1) Shall include reasonable provision for compliance by a firm showing  
116 that it has within the preceding three years undergone a peer review that is a  
117 satisfactory equivalent to peer review generally required [pursuant to] **under**  
118 this subsection;

119 (2) May require, with respect to peer reviews, that peer reviews be subject  
120 to oversight by an oversight body established or sanctioned by board rule, which  
121 shall periodically report to the board on the effectiveness of the review program  
122 under its charge and provide to the board a listing of firms that have participated  
123 in a peer review program that is satisfactory to the board; and

124 (3) Shall require, with respect to peer reviews, that the peer review  
125 processes be operated and documents maintained in a manner designed to  
126 preserve confidentiality, and that the board or any third party other than the  
127 oversight body shall not have access to documents furnished or generated in the  
128 course of the peer review of the firm except as provided in subdivision (2) of this  
129 subsection.

130 10. Prior to January 1, 2008, licensees who perform fewer than three  
131 attest services during each calendar year shall be exempt from the requirements  
132 of subsection 9 of this section.

133 11. The board may, by rule, charge a fee for oversight of peer reviews,  
134 provided that the fee charged shall be substantially equivalent to the cost of  
135 oversight.

136 12. In connection with proceedings before the board or upon receipt of a  
137 complaint involving the licensee performing peer reviews, the board shall not  
138 have access to any documents furnished or generated in the course of the  
139 performance of the peer reviews except for peer review reports, letters of comment  
140 and summary review memoranda. The documents shall be furnished to the board  
141 only in a redacted manner that does not specifically identify any firm or licensee  
142 being peer reviewed or any of their clients.

143 13. The peer review processes shall be operated and the documents  
144 generated thereby be maintained in a manner designed to preserve their



145 confidentiality. No third party, other than the oversight body, the board, subject  
146 to the provisions of subsection 12 of this section, or the organization performing  
147 peer review shall have access to documents furnished or generated in the course  
148 of the review. All documents shall be privileged and closed records for all  
149 purposes and all meetings at which the documents are discussed shall be  
150 considered closed meetings [pursuant to] **under** subdivision (1) of section  
151 610.021, RSMo. The proceedings, records and workpapers of the board and any  
152 peer review subjected to the board process shall be privileged and shall not be  
153 subject to discovery, subpoena or other means of legal process or introduction into  
154 evidence at any civil action, arbitration, administrative proceeding or board  
155 proceeding. No member of the board or person who is involved in the peer review  
156 process shall be permitted or required to testify in any civil action, arbitration,  
157 administrative proceeding or board proceeding as to any matters produced,  
158 presented, disclosed or discussed during or in connection with the peer review  
159 process or as to any findings, recommendations, evaluations, opinions or other  
160 actions of such committees or any of its members; provided, however, that  
161 information, documents or records that are publicly available shall not be subject  
162 to discovery or use in any civil action, arbitration, administrative proceeding or  
163 board proceeding merely because they were presented or considered in connection  
164 with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of  
2 any person, firm, organization or governmental unit or offer to render or render  
3 any attest service. Such restriction shall not prohibit any act of a public official  
4 or public employee in the performance of the person's duties as such; nor prohibit  
5 the performance by any nonlicensee of other services involving the use of  
6 accounting skills, including the preparation of tax returns, management advisory  
7 services and the preparation of nonattest financial statements. Nonlicensees may  
8 prepare financial statements and issue nonattest transmittals or information  
9 thereon which do not purport to be in compliance with the Statements on  
10 Standards for Accounting and Review Services (SSARS).

11 2. Only certified public accountants shall use or assume the title certified  
12 public accountant, or the abbreviation CPA or any other title, designation, words,  
13 letters, abbreviation, sign, card or device tending to indicate that such person is  
14 a certified public accountant. Nothing in this section shall prohibit:

15 (1) A certified public accountant whose certificate was in full force and  
16 effect, issued pursuant to the laws of this state prior to August 28, 2001, and who

17 does not engage in the practice of public accounting, auditing, bookkeeping or any  
18 similar occupation, from using the title certified public accountant or abbreviation  
19 CPA;

20 (2) A person who holds a certificate, then in force and effect, issued  
21 pursuant to the laws of this state prior to August 28, 2001, and who is regularly  
22 employed by or is a director or officer of a corporation, partnership, association  
23 or business trust, in his or her capacity as such, from signing, delivering or  
24 issuing any financial, accounting or related statement, or report thereon relating  
25 to such corporation, partnership, association or business trust provided the  
26 capacity is so designated, and provided in the signature line the title CPA or  
27 certified public accountant is not designated.

28 3. No firm shall provide attest services or assume or use the title certified  
29 public accountants or the abbreviation CPAs, or any other title, designation,  
30 words, letters, abbreviation, sign, card or device tending to indicate that such  
31 firm is a certified public accounting firm unless:

32 (1) The firm holds a valid permit issued [pursuant to] **under** section  
33 326.289 **or is a firm exempt from the permit requirement under**  
34 **subdivisions (2) and (3) of subsection 1 of section 326.289 and complies**  
35 **with all other applicable provisions of that section;** and

36 (2) Ownership of the firm is in accord with section 326.289 and rules  
37 promulgated by the board.

38 4. Only persons holding a valid license or permit issued [pursuant to]  
39 **under** section 326.280 or 326.289, **or persons qualifying for the privilege**  
40 **to practice under section 326.283, and firms exempt from the permit**  
41 **requirement under subsection 1 of section 326.289,** shall assume or use the  
42 title certified accountant, chartered accountant, enrolled accountant, licensed  
43 accountant, registered accountant, accredited accountant or any other title or  
44 designation likely to be confused with the titles certified public accountant or  
45 public accountant, or use any of the abbreviations CA, LA, RA, AA or similar  
46 abbreviation likely to be confused with the abbreviation CPA or PA. The title  
47 enrolled agent or EA shall only be used by individuals so designated by the  
48 Internal Revenue Service. Nothing in this section shall prohibit the use or  
49 issuance of a title for nonattest services provided that the organization and the  
50 title issued by the organization existed prior to August 28, 2001.

51 5. (1) Nonlicensees shall not use language in any statement relating to  
52 the financial affairs of a person or entity that is conventionally used by certified

53 public accountants in reports on financial statements. Nonlicensees may use the  
54 following safe harbor language:

55 (a) For compilations:

56 "I (We) have prepared the accompanying (financial statements) of (name of entity)  
57 as of (time period) for the (period) then ended. This presentation is limited to  
58 preparing in the form of a financial statement information that is the  
59 representation of management (owners). I (We) have not audited or reviewed the  
60 accompanying financial statements and accordingly do not express an opinion or  
61 any other form of assurance on them.";

62 (b) For reviews:

63 "I (We) reviewed the accompanying (financial statements) of (name of entity) as  
64 of (time period) for the (period) then ended. These financial statements  
65 (information) are (is) the responsibility of the company's management. I (We)  
66 have not audited the accompanying financial statements and accordingly do not  
67 express an opinion or any other form of assurance on them.".

68 (2) Only persons or firms holding a valid license or permit issued  
69 [pursuant to] **under** section 326.280 or 326.289 shall assume or use any title or  
70 designation that includes the words accountant or accounting in connection with  
71 any other language, including the language of a report, that implies that the  
72 person or firm holds a license or permit or has special competence as an  
73 accountant or auditor; provided, however, that this subsection shall not prohibit  
74 any officer, partner, principal, member, manager or employee of any firm or  
75 organization from affixing such person's own signature to any statement in  
76 reference to the financial affairs of the firm or organization with any wording  
77 designating the position, title or office that the person holds therein nor prohibit  
78 any act of a public official or employee in the performance of the person's duties  
79 as such. Nothing in this subsection shall prohibit the singular use of  
80 "accountant" or "accounting" for nonattest purposes.

81 6. Licensees signing or authorizing someone to sign reports on financial  
82 statements when performing attest, review or compilation services shall provide  
83 those services in accordance with professional standards as determined by the  
84 board by rule.

85 7. No licensee [or holder of a provisional license] or firm holding a permit  
86 [pursuant to] **under** sections 326.280 to 326.289 shall use a professional or firm  
87 name or designation that is misleading about the legal form of the firm, or about  
88 the persons who are partners, principals, officers, members, managers or

89 shareholders of the firm, or about any other matter.

90           8. None of the foregoing provisions of this section shall apply to a person  
91 or firm holding a certification, designation, degree or license granted in a foreign  
92 country entitling the holder to engage in the practice of public accounting or its  
93 equivalent in the country whose activities in this state are limited to the  
94 provision of professional services to persons or firms who are residents of,  
95 governments of, or business entities of the country in which the person holds the  
96 entitlement, who performs no attest, review or compilation services and who  
97 issues no reports with respect to the financial statements of any other persons,  
98 firms or governmental units in this state, and who does not use in this state any  
99 title or designation other than the one under which the person practices in such  
100 country, followed by a translation of such title or designation into the English  
101 language, if it is in a different language, and by the name of such country.

102           9. No licensee whose license is issued [pursuant to] **under** section  
103 326.280 or issued pursuant to prior law shall perform attest services through any  
104 certified public accounting firm that does not hold a valid permit issued  
105 [pursuant to] **under** section 326.289.

106           10. Nothing herein shall prohibit a practicing attorney or firm of attorneys  
107 from preparing or presenting records or documents customarily prepared by an  
108 attorney or firm of attorneys in connection with the attorney's professional work  
109 in the practice of law.

110           11. Nothing herein shall prohibit any trustee, executor, administrator,  
111 referee or commissioner from signing and certifying financial reports incident to  
112 his or her duties in that capacity.

113           12. Nothing herein shall prohibit any director or officer of a corporation,  
114 partner or a partnership, sole proprietor of a business enterprise, member of a  
115 joint venture, member of a committee appointed by stockholders, creditors or  
116 courts, or an employee of any of the foregoing, in his or her capacity as such, from  
117 signing, delivering or issuing any financial, accounting or related statement, or  
118 report thereon, relating to the corporation, partnership, business enterprise, joint  
119 venture or committee, provided the capacity is designated on the statement or  
120 report.

121           13. (1) A licensee shall not for a commission recommend or refer to a  
122 client any product or service, or for a commission recommend or refer any product  
123 or service to be supplied by a client, or receive a commission, when the licensee  
124 also performs for that client:

- 125 (a) An audit or review of a financial statement; or  
126 (b) A compilation of a financial statement when the licensee expects, or  
127 reasonably may expect, that a third party will use the financial statement and  
128 the licensee's compilation report does not disclose a lack of independence; or  
129 (c) An examination of prospective financial information.

130 Such prohibition applies during the period in which the licensee is engaged to  
131 perform any of the services listed above and the period covered by any historical  
132 financial statements involved in such listed services.

133 (2) A licensee who is not prohibited by this section from performing  
134 services for or receiving a commission and who is paid or expects to be paid a  
135 commission shall disclose in writing that fact to any person or entity to whom the  
136 licensee recommends or refers a product or service to which the commission  
137 relates.

138 (3) Any licensee who accepts a referral fee for recommending or referring  
139 any service of a licensee to any person or entity or who pays a referral fee to  
140 obtain a client shall disclose in writing the acceptance or payment to the client.

141 14. (1) A licensee shall not:

142 (a) Perform for a contingent fee any professional services for, or receive  
143 a fee from, a client for whom the licensee or the licensee's firm performs:

- 144 a. An audit or review of a financial statement; or  
145 b. A compilation of a financial statement when the licensee expects, or  
146 reasonably might expect, that a third party will use the financial statement and  
147 the licensee's compilation report does not disclose a lack of independence; or  
148 c. An examination of prospective financial information;

149 (b) Prepare an original tax return or claim for a tax refund for a  
150 contingent fee for any client; or

151 (c) Prepare an amended tax return or claim for a tax refund for a  
152 contingent fee for any client, unless permitted by board rule.

153 (2) The prohibition in subdivision (1) of this subsection applies during the  
154 period in which the licensee is engaged to perform any of those services and the  
155 period covered by any historical financial statements involved in any services.

156 (3) A contingent fee is a fee established for the performance of any service  
157 pursuant to an arrangement in which no fee will be charged unless a specified  
158 finding or result is attained, or in which the amount of the fee is otherwise  
159 dependent upon the finding or result of the service. Solely for purposes of this  
160 section, fees are not regarded as being contingent if fixed by courts or other public

161 authorities, or, in tax matters, if determined based on the results of judicial  
162 proceedings or the findings of governmental agencies. A licensee's fees may vary  
163 depending, for example, on the complexity of services rendered.

164 15. Any person who violates any provision of subsections 1 to 5 of this  
165 section shall be guilty of a class A misdemeanor. Whenever the board has reason  
166 to believe that any person has violated this section it may certify the facts to the  
167 attorney general of this state or bring other appropriate proceedings.

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.

333.011. As used in this chapter, unless the context requires otherwise,  
2 the following terms have the meanings indicated:

3 (1) "Board", the state board of embalmers and funeral directors created  
4 by this chapter;

5 (2) "Embalmer", any individual licensed to engage in the practice of  
6 embalming;

7 (3) "Funeral director", any individual licensed to engage in the practice  
8 of funeral directing;

9 (4) "Funeral establishment", a building, place, crematory, or premises  
10 devoted to or used in the care and preparation for burial or transportation of the  
11 human dead and includes every building, place or premises maintained for that  
12 purpose or held out to the public by advertising or otherwise to be used for that  
13 purpose;

14 (5) "Person" includes a corporation, partnership or other type of business  
15 organization;

16 (6) "Practice of embalming", the work of preserving, disinfecting and  
17 preparing by arterial embalming, [or otherwise,] **including the chemical**  
18 **preparation of a dead human body for disposition. Practice of**  
19 **embalming includes all activities leading up to and including arterial**  
20 **and cavity embalming, including but not limited to raising of vessels**  
21 **and suturing of incisions** of dead human bodies for funeral services,  
22 transportation, burial or cremation, or the holding of oneself out as being engaged  
23 in such work;

24 (7) "Practice of funeral directing", engaging by an individual in the  
25 business of preparing, otherwise than by embalming, for the burial, disposal or  
26 transportation out of this state of, and the directing and supervising of the burial  
27 or disposal of, dead human bodies or engaging in the general control, supervision  
28 or management of the operations of a funeral establishment.

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.

334.500. As used in sections 334.500 to 334.685, the following terms  
2 mean:

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

5 (2) "Physical therapist assistant", a person who is licensed as a physical  
6 therapist assistant by the board or a person who was actively engaged in practice  
7 as a physical therapist assistant on August 28, 1993;

8 (3) "Physical therapist", a person who is licensed to practice physical

9 therapy;

10 (4) "**Practice of physical therapy**", the examination, treatment and  
11 instruction of human beings to assess, prevent, correct, alleviate and limit  
12 physical disability, movement dysfunction, bodily malfunction and pain from  
13 injury, disease and any other bodily condition, such term includes, but is not  
14 limited to, the administration, interpretation and evaluation of physical therapy  
15 tests and measurements of bodily functions and structures; the planning,  
16 administration, evaluation and modification of treatment and instruction,  
17 including the use of physical measures, activities and devices, for preventive and  
18 therapeutic purposes; and the provision of consultative, educational, research and  
19 other advisory services for the purpose of reducing the incidence and severity of  
20 physical disability, movement dysfunction, bodily malfunction and pain does not  
21 include the use of surgery or obstetrics or the administration of x-radiation,  
22 radioactive substance, diagnostic x-ray, diagnostic laboratory electrocautery,  
23 electrosurgery or invasive tests or the prescribing of any drug or medicine or the  
24 administration or dispensing of any drug or medicine other than a topical agent  
25 administered or dispensed upon the direction of a physician. Physical therapists  
26 may perform electromyography and nerve conduction tests but may not interpret  
27 the results of the electromyography or nerve conduction test. Physical therapists  
28 shall practice physical therapy within the scope of their education and training  
29 as provided in sections 334.500 to 334.620.

334.506. 1. [Nothing in this chapter shall prevent a physical therapist,  
2 whose license is in good standing, from providing educational resources and  
3 training, developing fitness or wellness programs for asymptomatic persons, or  
4 providing screening or consultative services within the scope of physical therapy  
5 practice without the prescription and direction of a person licensed and registered  
6 as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant  
7 to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist  
8 pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist,  
9 or podiatrist practicing in another jurisdiction, whose license is in good standing,  
10 except that no physical therapist shall initiate treatment for a new injury or  
11 illness without the prescription or direction of a person licensed and registered  
12 as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant  
13 to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist  
14 pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist,  
15 or podiatrist practicing in another jurisdiction, whose license is in good standing.



16           2. Nothing in this chapter shall prevent a physical therapist, whose  
17 license is in good standing, from examining and treating, without the prescription  
18 and direction of a person licensed and registered as a physician and surgeon  
19 pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a  
20 dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330,  
21 RSMo, or any licensed and registered physician, dentist, or podiatrist practicing  
22 in another jurisdiction, whose license is in good standing, any person with a  
23 recurring, self-limited injury within one year of diagnosis by a person licensed  
24 and registered as a physician and surgeon pursuant to this chapter, as a  
25 chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter  
26 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and  
27 registered physician, dentist, or podiatrist practicing in another jurisdiction,  
28 whose license is in good standing, or any person with a chronic illness that has  
29 been previously diagnosed by a person licensed and registered as a physician and  
30 surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331,  
31 RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to  
32 chapter 330, RSMo, or any licensed and registered physician, dentist, or  
33 podiatrist practicing in another jurisdiction, whose license is in good standing,  
34 except that a physical therapist shall contact the patient's current physician,  
35 chiropractor, dentist, or podiatrist, within seven days of initiating physical  
36 therapy services, pursuant to this subsection, shall not change an existing  
37 physical therapy referral available to the physical therapist without approval of  
38 the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer  
39 to a person licensed and registered as a physician and surgeon pursuant to this  
40 chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant  
41 to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any  
42 licensed and registered physician, dentist, or podiatrist practicing in another  
43 jurisdiction, whose license is in good standing, any patient whose medical  
44 condition should, at the time of examination or treatment, be determined to be  
45 beyond the scope of practice of physical therapy. A physical therapist shall refer  
46 to a person licensed and registered as a physician and surgeon pursuant to this  
47 chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant  
48 to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, or any  
49 licensed and registered physician, dentist, or podiatrist practicing in another  
50 jurisdiction, whose license is in good standing, any person whose condition, for  
51 which physical therapy services are rendered pursuant to this subsection, has not

52 been documented to be progressing toward documented treatment goals after six  
53 visits or fourteen days, whichever shall come first. If the person's condition for  
54 which physical therapy services are rendered under this subsection shall be  
55 documented to be progressing toward documented treatment goals, a physical  
56 therapist may continue treatment without referral from a physician, chiropractor,  
57 dentist or podiatrist, whose license is in good standing. If treatment rendered  
58 under this subsection is to continue beyond thirty days, a physical therapist shall  
59 notify the patient's current physician, chiropractor, dentist, or podiatrist before  
60 continuing treatment beyond the thirty-day limitation. A physical therapist shall  
61 also perform such notification before continuing treatment rendered under this  
62 subsection for each successive period of thirty days.] **As used in this section,**  
63 **"approved health care provider" means a person holding a current and**  
64 **active license as a physician and surgeon under this chapter, a**  
65 **chiropractor under chapter 331, RSMo, a dentist under chapter 332,**  
66 **RSMo, a podiatrist under chapter 330, RSMo, a physician assistant**  
67 **under this chapter, or any licensed and registered physician,**  
68 **chiropractor, dentist, or podiatrist practicing in another jurisdiction**  
69 **whose license is in good standing.**

70           **2. A physical therapist shall not initiate treatment for a new**  
71 **injury or illness without a prescription from an approved health care**  
72 **provider.**

73           **3. A physical therapist may provide educational resources and**  
74 **training, develop fitness or wellness programs for asymptomatic**  
75 **persons, or provide screening or consultative services within the scope**  
76 **of physical therapy practice without the prescription and direction of**  
77 **an approved health care provider.**

78           **4. A physical therapist may examine and treat without the**  
79 **prescription and direction of an approved health care provider any**  
80 **person with a recurring self-limited injury within one year of diagnosis**  
81 **by an approved health care provider or a chronic illness that has been**  
82 **previously diagnosed by an approved health care provider. The**  
83 **physical therapist shall:**

84           **(1) Contact the patient's current approved health care provider**  
85 **within seven days of initiating physical therapy services under this**  
86 **subsection;**

87           **(2) Not change an existing physical therapy referral available to**  
88 **the physical therapist without approval of the patient's current**

89 **approved health care provider;**

90 **(3) Refer to an approved health care provider any patient whose**  
91 **medical condition at the time of examination or treatment is**  
92 **determined to be beyond the scope of practice of physical therapy;**

93 **(4) Refer to an approved health care provider any patient whose**  
94 **condition for which physical therapy services are rendered under this**  
95 **subsection has not been documented to be progressing toward**  
96 **documented treatment goals after six visits or fourteen days, whichever**  
97 **first occurs;**

98 **(5) Notify the patient's current approved health care provider**  
99 **prior to the continuation of treatment if treatment rendered under this**  
100 **subsection is to continue beyond thirty days. The physical therapist**  
101 **shall provide such notification for each successive period of thirty**  
102 **days.**

103 [3.] 5. The provision of physical therapy services of evaluation and  
104 screening pursuant to this section shall be limited to a physical therapist, and  
105 any authority for evaluation and screening granted within this section may not  
106 be delegated. Upon each reinitiation of physical therapy services, a physical  
107 therapist shall provide a full physical therapy evaluation prior to the reinitiation  
108 of physical therapy treatment. Physical therapy treatment provided pursuant to  
109 the provisions of subsection [2] 4 of this section, may be delegated by physical  
110 therapists to physical therapist assistants only if the patient's current [physician,  
111 chiropractor, dentist, or podiatrist] **approved health care provider** has been  
112 so informed as part of the physical therapist's seven-day notification upon  
113 reinitiation of physical therapy services as required in subsection [2] 4 of this  
114 section. Nothing in this subsection shall be construed as to limit the ability of  
115 physical therapists or physical therapist assistants to provide physical therapy  
116 services in accordance with the provisions of this chapter, and upon the referral  
117 of [a physician and surgeon licensed pursuant to this chapter, a chiropractor  
118 pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a  
119 podiatrist pursuant to chapter 330, RSMo, or any licensed and registered  
120 physician, dentist, or podiatrist practicing in another jurisdiction, whose license  
121 is in good standing] **an approved health care provider**. Nothing in this  
122 subsection shall prohibit [a person licensed or registered as a physician or  
123 surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331,  
124 RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to

125 chapter 330, RSMo, or any licensed and registered physician, dentist, or  
126 podiatrist practicing in another jurisdiction, whose license is in good standing,]  
127 **an approved health care provider** from acting within the scope of their  
128 practice as defined by the applicable chapters of RSMo.

129 [4.] **6.** No person licensed to practice, or applicant for licensure, as a  
130 physical therapist or physical therapist assistant shall make a medical diagnosis.

131 **7. A physical therapist shall only delegate physical therapy**  
132 **treatment to a physical therapist assistant or to a person in an entry**  
133 **level of a professional education program approved by the Commission**  
134 **for Accreditation of Physical Therapists and Physical Therapist**  
135 **Assistant Education (CAPTE) who satisfy supervised clinical education**  
136 **requirements related to the person's physical therapist or physical**  
137 **therapist assistant education. The entry level person shall be under**  
138 **onsite supervision of a physical therapist.**

334.525. 1. Notwithstanding any other provision of law to the  
2 contrary, any person licensed as a physical therapist or physical  
3 therapist assistant under this chapter may apply to the state board of  
4 registration for the healing arts for an inactive license status on a form  
5 furnished by the board. Upon receipt of the completed inactive status  
6 application form and the board's determination that the licensee meets  
7 the requirements established by the board by rule, the board shall  
8 declare the licensee inactive and shall place the licensee on an inactive  
9 status list. A person whose license is inactive or who has discontinued  
10 his or her practice because of retirement shall not practice his or her  
11 profession within this state. Such person may continue to use the title  
12 of his or her profession or the initials of his or her profession after  
13 such person's name.

14 **2.** If a licensee is granted inactive status, the licensee may return  
15 to active status by notifying the board in advance of his or her  
16 intention, paying the appropriate fees, and meeting all established  
17 requirements of the board as a condition of reinstatement.

334.530. 1. A candidate for license to practice as a physical therapist  
2 shall be at least twenty-one years of age. A candidate shall furnish evidence of  
3 such person's good moral character and the person's educational qualifications by  
4 submitting satisfactory evidence of completion of a program of physical therapy  
5 education approved as reputable by the board. A candidate who presents  
6 satisfactory evidence of the person's graduation from a school of physical therapy

7 approved as reputable by the American Medical Association or, if graduated  
8 before 1936, by the American Physical Therapy Association, or if graduated after  
9 1988, the Commission on Accreditation for Physical Therapy Education or its  
10 successor, is deemed to have complied with the educational qualifications of this  
11 subsection.

12 2. Persons desiring to practice as physical therapists in this state shall  
13 appear before the board at such time and place as the board may direct and be  
14 examined as to their fitness to engage in such practice. Applications for  
15 examination shall be in writing, on a form furnished by the board and shall  
16 include evidence satisfactory to the board that the applicant possesses the  
17 qualifications set forth in subsection 1 of this section. Each application shall  
18 contain a statement that it is made under oath or affirmation and that its  
19 representations are true and correct to the best knowledge and belief of the  
20 [person signing the statement] **applicant**, subject to the penalties of making a  
21 false affidavit or declaration.

22 3. [The board shall not issue a permanent license to practice as a physical  
23 therapist or allow any person to sit for the Missouri state board examination for  
24 physical therapists who has failed three or more times any physical therapist  
25 licensing examination administered in one or more states or territories of the  
26 United States or the District of Columbia.

27 4. The board may waive the provisions of subsection 3 if the applicant has  
28 met one of the following provisions:

29 (1) The applicant is licensed and has maintained an active clinical  
30 practice for the previous three years in another state of the United States, the  
31 District of Columbia or Canada and the applicant has achieved a passing score  
32 on a licensing examination administered in a state or territory of the United  
33 States, the District of Columbia and no license issued to the applicant has been  
34 disciplined or limited in any state or territory of the United States, the District  
35 of Columbia or Canada;

36 (2) The applicant has failed the licensure examination three times or more  
37 and then obtains a professional degree in physical therapy at a level higher than  
38 previously completed, the applicant can sit for the licensure examination three  
39 additional times.

40 5.] The examination of qualified candidates for licenses to practice  
41 physical therapy shall [include a written examination and shall embrace the  
42 subjects taught in reputable programs of physical therapy education, sufficiently

43 strict to test the qualifications of the candidates as practitioners] **test entry-**  
44 **level competence as related to physical therapy theory, examination**  
45 **and evaluation, physical therapy diagnosis, prognosis, treatment,**  
46 **intervention, prevention, and consultation.**

47 [6.] 4. The examination shall embrace, in relation to the human being,  
48 the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology,  
49 psychology, physical therapy theory and procedures as related to medicine,  
50 surgery and psychiatry, and such other subjects, including medical ethics, as the  
51 board deems useful to test the fitness of the candidate to practice physical  
52 therapy.

53 **5. The applicant shall pass a test administered by the board on**  
54 **the laws and rules related to the practice of physical therapy in**  
55 **Missouri.**

334.540. 1. The board shall issue a license to any physical therapist who  
2 [is licensed] **possesses an active license** in another jurisdiction and who has  
3 had no violations, suspensions or revocations of a license to practice physical  
4 therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction  
5 whose requirements are substantially equal to, or greater than, the requirements  
6 for licensure of physical therapists in Missouri at the time the applicant applies  
7 for licensure.

8 2. Every applicant for a license pursuant to this section, upon making  
9 application and showing the necessary qualifications as provided in subsection  
10 1 of this section, shall be required to pay the same fee as the fee required to be  
11 paid by applicants who apply to take the examination before the board. Within  
12 the limits provided in this section, the board may negotiate reciprocal compacts  
13 with licensing boards of other states for the admission of licensed practitioners  
14 from Missouri in other states.

15 3. [Notwithstanding the provisions of subsections 1 and 2 of this section,  
16 the board shall not issue a license to any applicant who has failed three or more  
17 times any physical therapist licensing examination administered in one or more  
18 states or territories of the United States or the District of Columbia.

19 4. The board may waive the provisions of subsection 3 if the applicant has  
20 met one of the following provisions:

21 (1) The applicant is licensed and has maintained an active clinical  
22 practice for the previous three years in another state of the United States, the  
23 District of Columbia or Canada and the applicant has achieved a passing score

24 on a licensing examination administered in a state or territory of the United  
25 States, the District of Columbia and no license issued to the applicant has been  
26 disciplined or limited in any state or territory of the United States, the District  
27 of Columbia or Canada;

28 (2) The applicant has failed the licensure examination three times or more  
29 and then obtains a professional degree in physical therapy at a level higher than  
30 previously completed, the applicant can sit for the licensure examination three  
31 additional times] **The applicant shall pass a test administered by the**  
32 **board on the laws and rules related to practice of physical therapy in**  
33 **Missouri.**

334.550. 1. An applicant who has not been previously examined in **this**  
2 **state or** another jurisdiction and meets the qualifications of subsection 1 of  
3 section 334.530, **or an applicant applying for reinstatement of an inactive**  
4 **license under a supervised active practice**, may pay a temporary license fee  
5 and submit an agreement-to-supervise form, which is signed by the applicant's  
6 supervising physical therapist, to the board and obtain without examination a  
7 nonrenewable temporary license. Such temporary licensee may only engage in  
8 the practice of physical therapy under the supervision of a licensed physical  
9 therapist. **The supervising physical therapist shall hold an**  
10 **unencumbered license to practice physical therapy in this state and**  
11 **shall provide the board proof of active clinical practice in this state for**  
12 **a minimum of one year prior to supervising a temporary licensee. The**  
13 **supervising physical therapist shall not be an immediate family**  
14 **member of the applicant.** The board shall define **immediate family**  
15 **member and** the scope of such supervision by rules and regulations. **The**  
16 **supervising physical therapist for the first-time examinee applicant**  
17 **shall submit to the board a signed notarized form prescribed by the**  
18 **board attesting that the applicant for temporary license shall begin**  
19 **employment at a location in this state within seven days of issuance of**  
20 **the temporary license. The supervising physical therapist shall notify**  
21 **the board within three days if the temporary licensee's employment**  
22 **ceases. A licensed physical therapist shall not supervise more than one**  
23 **temporary licensee.**

24 2. The temporary license **for the first-time examinee applicant** shall  
25 expire on [either] the date the applicant receives the results of the applicant's  
26 initial examination, **the date the applicant withdraws from sitting for the**

27 **examination, the date the board is notified by the supervising physical**  
28 **therapist that the temporary licensee's employment has ceased, or within**  
29 **ninety days of its issuance, whichever occurs first.**

30 **3. The temporary license for the reinstatement applicant under**  
31 **the supervised active practice shall expire effective one year from the**  
32 **date of issuance.**

334.560. The board shall charge each person who applies for examination  
2 for a license to practice as a physical therapist an examination fee. Should the  
3 examination prove unsatisfactory and the board refuse to issue a license thereon,  
4 the applicant failing to pass the examination may reapply [and return to any  
5 meeting] and be examined upon payment of a reexamination fee[; but no  
6 temporary license may be issued to such persons].

334.570. 1. Every person licensed under sections 334.500 to 334.620 shall,  
2 on or before the registration renewal date, apply to the board for a certificate of  
3 registration for the ensuing licensing period. The application shall be made  
4 **under oath** on a form furnished to the applicant [and shall state] **by the**  
5 **board. The application shall include, but not be limited to, disclosure**  
6 **of the following:**

7 (1) The applicant's full name [and the address at which the person  
8 practices and the address at which the person resides and the date and number  
9 of such person's license];

10 (2) **The applicant's office address or addresses and telephone**  
11 **number or numbers;**

12 (3) **The applicant's home address and telephone number;**

13 (4) **The date and number of the applicant's license;**

14 (5) **All final disciplinary actions taken against the applicant by**  
15 **any professional association or society, licensed hospital or medical**  
16 **staff of a hospital, physical therapy facility, state, territory, federal**  
17 **agency or county; and**

18 (6) **Information concerning the applicant's current physical and**  
19 **mental fitness to practice his or her profession.**

20 **The applicant may be required to successfully complete a test**  
21 **administered by the board on the laws and rules related to the practice**  
22 **of physical therapy. The test process, dates, and passing scores shall**  
23 **be established by the board by rule.**

24 2. A [blank form] **notice** for application for registration shall be [mailed]



25 **made available** to each person licensed in this state [at the person's last known  
26 address of practice or residence]. The failure to [mail the form of application or  
27 the failure to receive it] **receive the notice** does not, however, relieve any  
28 person of the duty to register and pay the fee required by sections 334.500 to  
29 334.620 nor exempt such person from the penalties provided by sections 334.500  
30 to 334.620 for failure to register.

31 **3. If a physical therapist does not renew such license for two**  
32 **consecutive renewal periods, such license shall be deemed void.**

33 **4. Each applicant for registration shall accompany the**  
34 **application for registration with a registration fee to be paid to the**  
35 **director of revenue for the licensing period for which registration is**  
36 **sought.**

37 **5. If the application is filed and the fee paid after the**  
38 **registration renewal date, a delinquent fee shall be paid; except that,**  
39 **whenever in the opinion of the board the applicant's failure to register**  
40 **is caused by extenuating circumstances including illness of the**  
41 **applicant, as defined by rule, the delinquent fee may be waived by the**  
42 **board.**

43 **6. Upon application and submission by such person of evidence**  
44 **satisfactory to the board that such person is licensed to practice in this**  
45 **state and upon the payment of fees required to be paid by this chapter,**  
46 **the board shall issue to such person a certificate of registration. The**  
47 **certificate of registration shall contain the name of the person to whom**  
48 **it is issued and his or her office address, the expiration date, and the**  
49 **number of the license to practice.**

50 **7. Upon receiving such certificate, every person shall cause the**  
51 **certificate to be readily available or conspicuously displayed at all**  
52 **times in every practice location maintained by such person in the state.**  
53 **If the licensee maintains more than one practice location in this state,**  
54 **the board shall, without additional fee, issue to such licensee duplicate**  
55 **certificates of registration for each practice location so maintained. If**  
56 **any licensee changes practice locations during the period for which any**  
57 **certificate of registration has been issued, the licensee shall, within**  
58 **fifteen days thereafter, notify the board of such change and the board**  
59 **shall issue to the licensee, without additional fee, a new registration**  
60 **certificate showing the new location.**

61 **8. Whenever any new license is granted to any physical therapist**

62 or physical therapist assistant under the provisions of this chapter, the  
63 board shall, upon application therefore, issue to such physical therapist  
64 or physical therapist assistant a certificate of registration covering a  
65 period from the date of the issuance of the license to the next renewal  
66 date without the payment of any registration fee.

334.601. The board shall set the amount of the fees which this  
2 chapter authorizes and requires by rule. The fees shall be set at a level  
3 to produce revenue which shall not substantially exceed the cost and  
4 expense of administering this chapter.

334.602. 1. Physical therapists and physical therapist assistants  
2 shall provide documentation in order that an adequate and complete  
3 patient record can be maintained. All patient records shall be legible  
4 and available for review and shall include at a minimum documentation  
5 of the following information:

6 (1) Identification of the patient, including name, birthdate,  
7 address, and telephone number;

8 (2) The date or dates the patient was seen;

9 (3) The current status of the patient, including the reason for the  
10 visit;

11 (4) Observation of pertinent physical findings;

12 (5) Assessment and clinical impression of physical therapy  
13 diagnosis;

14 (6) Plan of care and treatment;

15 (7) Documentation of progress toward goals;

16 (8) Informed consent;

17 (9) Discharge summary.

18 2. Patient records remaining under the care, custody, and  
19 control of the licensee shall be maintained by the licensee of the board,  
20 or the licensee's designee, for a minimum of seven years from the date  
21 of when the last professional service was provided.

22 3. Any correction, addition, or change in any patient record shall  
23 be clearly marked and identified as such, and the date, time, and name  
24 of the person making the correction, addition, or change shall be  
25 included, as well as the reason for the correction, addition, or change.

26 4. The board shall not obtain a patient medical record without  
27 written authorization from the patient to obtain the medical record or  
28 the issuance of a subpoena for the patient medical record.

334.610. Any person who holds himself or herself out to be a physical  
2 therapist or a licensed physical therapist within this state or any person who  
3 advertises as a physical therapist or claims that the person can render physical  
4 therapy services and who, in fact, does not hold a valid physical therapist license  
5 is guilty of a class B misdemeanor and, upon conviction, shall be punished as  
6 provided by law. Any person who, in any manner, represents himself or herself  
7 as a physical therapist, or who uses in connection with such person's name the  
8 words or letters "physical therapist", "physiotherapist", "registered physical  
9 therapist", "**doctor of physical therapy**", "P.T.", "Ph.T.", "P.T.T.", "R.P.T.",  
10 "**D.P.T.**", "**M.P.T.**", or any other letters, words, abbreviations or insignia,  
11 indicating or implying that the person is a physical therapist without a valid  
12 existing license as a physical therapist issued to such person pursuant to the  
13 provisions of sections 334.500 to 334.620, is guilty of a class B  
14 misdemeanor. Nothing in sections 334.500 to 334.620 shall prohibit any person  
15 licensed in this state under chapter 331, RSMo, from carrying out the practice for  
16 which the person is duly licensed, or from advertising the use of physiologic and  
17 rehabilitative modalities; nor shall it prohibit any person licensed or registered  
18 in this state under section 334.735 or any other law from carrying out the  
19 practice for which the person is duly licensed or registered; nor shall it prevent  
20 professional and semiprofessional teams, schools, YMCA clubs, athletic clubs and  
21 similar organizations from furnishing treatment to their players and  
22 members. This section, also, shall not be construed so as to prohibit masseurs  
23 and masseuses from engaging in their practice not otherwise prohibited by law  
24 and provided they do not represent themselves as physical therapists. This  
25 section shall not apply to physicians and surgeons licensed under this chapter or  
26 to a person in an entry level of a professional education program approved by the  
27 commission for accreditation of physical therapists and physical therapist  
28 assistant education (CAPTE) who is satisfying supervised clinical education  
29 requirements related to the person's physical therapist or physical therapist  
30 assistant education while under on-site supervision of a physical therapist; or to  
31 a physical therapist who is practicing in the United States Armed Services,  
32 United States Public Health Service, or Veterans Administration under federal  
33 regulations for state licensure for health care providers.

**334.611. Notwithstanding any other provision of law to the  
2 contrary, any qualified physical therapist who is legally authorized to  
3 practice under the laws of another state may practice as a physical**

4 therapist in this state without examination by the board or payment of  
5 any fee if such practice consists solely of the provision of gratuitous  
6 services provided for a summer camp or teaching or participating in a  
7 continuing educational seminar for a period not to exceed fourteen  
8 days in any one calendar year. Nothing in sections 334.500 to 334.625  
9 shall be construed to prohibit isolated or occasional gratuitous service  
10 to and treatment of the afflicted or to prohibit physical therapists from  
11 other nations, states, or territories from performing their duties for  
12 their respective teams or organizations during the course of their  
13 teams' or organizations' stay in this state.

334.612. 1. If the board finds merit to a complaint by an  
2 individual incarcerated or under the care and control of the  
3 department of corrections and takes further investigative action, no  
4 documentation shall appear on file or disciplinary action shall be taken  
5 in regards to the licensee's license unless the provisions of subsection  
6 2 of section 334.613 have been violated. Any case file documentation  
7 that does not result in the board filing an action under subsection 2 of  
8 section 334.613 shall be destroyed within three months after the final  
9 case disposition by the board. No notification to any other licensing  
10 board in another state or any national registry regarding any  
11 investigative action shall be made unless the provisions of subsection  
12 2 of section 334.613 have been violated.

13 2. Upon written request of the physical therapist or physical  
14 therapist assistant subject to a complaint prior to August 28, 1999, by  
15 an individual incarcerated or under the care and control of the  
16 department of corrections that did not result in the board filing an  
17 action described in subsection 2 of section 334.613, the board and the  
18 division of professional registration shall in a timely fashion:

- 19 (1) Destroy all documentation regarding the complaint;
- 20 (2) If previously notified of the complaint, notify any other  
21 licensing board in another state or any national registry regarding the  
22 board's actions; and
- 23 (3) Send a letter to the licensee that clearly states that the board  
24 found the complaint to be unsubstantiated, that the board has taken the  
25 requested action, and notify the licensee of the provisions of subsection  
26 3 of this section.

27 3. Any person who has been the subject of an unsubstantiated

28 **complaint as provided in subsection 1 or 2 of this section shall not be**  
29 **required to disclose the existence of such complaint in subsequent**  
30 **applications or representations relating to their practice.**

334.613. 1. The board may refuse to issue or renew a license to  
2 **practice as a physical therapist or physical therapist assistant for one**  
3 **or any combination of causes stated in subsection 2 of this section. The**  
4 **board shall notify the applicant in writing of the reasons for the refusal**  
5 **and shall advise the applicant of the applicant's right to file a**  
6 **complaint with the administrative hearing commission as provided by**  
7 **chapter 621, RSMo. As an alternative to a refusal to issue or renew a**  
8 **license to practice as a physical therapist or physical therapist**  
9 **assistant, the board may, at its discretion, issue a license which is**  
10 **subject to probation, restriction, or limitation to an applicant for**  
11 **licensure for any one or any combination of causes stated in subsection**  
12 **2 of this section. The board's order of probation, limitation, or**  
13 **restriction shall contain a statement of the discipline imposed, the**  
14 **basis therefor, the date such action shall become effective, and a**  
15 **statement that the applicant has thirty days to request in writing a**  
16 **hearing before the administrative hearing commission. If the board**  
17 **issues a probationary, limited, or restricted license to an applicant for**  
18 **licensure, either party may file a written petition with the**  
19 **administrative hearing commission within thirty days of the effective**  
20 **date of the probationary, limited, or restricted license seeking review**  
21 **of the board's determination. If no written request for a hearing is**  
22 **received by the administrative hearing commission within the**  
23 **thirty-day period, the right to seek review of the board's decision shall**  
24 **be considered as waived.**

25 2. The board may cause a complaint to be filed with the  
26 administrative hearing commission as provided by chapter 621, RSMo,  
27 against any holder of a license to practice as a physical therapist or  
28 physical therapist assistant who has failed to renew or has surrendered  
29 his or her license for any one or any combination of the following  
30 causes:

31 (1) Use of any controlled substance, as defined in chapter 195,  
32 RSMo, or alcoholic beverage to an extent that such use impairs a  
33 person's ability to perform the work of a physical therapist or physical  
34 therapist assistant;

35           (2) The person has been finally adjudicated and found guilty, or  
36 entered a plea of guilty or nolo contendere, in a criminal prosecution  
37 under the laws of any state or of the United States, for any offense  
38 reasonably related to the qualifications, functions, or duties of a  
39 physical therapist or physical therapist assistant, for any offense an  
40 essential element of which is fraud, dishonesty, or an act of violence,  
41 or for any offense involving moral turpitude, whether or not sentence  
42 is imposed;

43           (3) Use of fraud, deception, misrepresentation, or bribery in  
44 securing any certificate of registration or authority, permit, or license  
45 issued under this chapter or in obtaining permission to take any  
46 examination given or required under this chapter;

47           (4) Misconduct, fraud, misrepresentation, dishonesty, unethical  
48 conduct, or unprofessional conduct in the performance of the functions  
49 or duties of a physical therapist or physical therapist assistant,  
50 including but not limited to the following:

51           (a) Obtaining or attempting to obtain any fee, charge, tuition, or  
52 other compensation by fraud, deception, or misrepresentation; willfully  
53 and continually overcharging or overtreating patients; or charging for  
54 sessions of physical therapy which did not occur unless the services  
55 were contracted for in advance, or for services which were not  
56 rendered or documented in the patient's records;

57           (b) Attempting, directly or indirectly, by way of intimidation,  
58 coercion, or deception, to obtain or retain a patient or discourage the  
59 use of a second opinion or consultation;

60           (c) Willfully and continually performing inappropriate or  
61 unnecessary treatment or services;

62           (d) Delegating professional responsibilities to a person who is  
63 not qualified by training, skill, competency, age, experience, or  
64 licensure to perform such responsibilities;

65           (e) Misrepresenting that any disease, ailment, or infirmity can  
66 be cured by a method, procedure, treatment, medicine, or device;

67           (f) Performing services which have been declared by board rule  
68 to be of no physical therapy value;

69           (g) Final disciplinary action by any professional association,  
70 professional society, licensed hospital or medical staff of the hospital,  
71 or physical therapy facility in this or any other state or territory,

72 whether agreed to voluntarily or not, and including but not limited to  
73 any removal, suspension, limitation, or restriction of the person's  
74 professional employment, malpractice, or any other violation of any  
75 provision of this chapter;

76 (h) Administering treatment without sufficient examination, or  
77 for other than medically accepted therapeutic or experimental or  
78 investigative purposes duly authorized by a state or federal agency, or  
79 not in the course of professional physical therapy practice;

80 (i) Engaging in or soliciting sexual relationships, whether  
81 consensual or nonconsensual, while a physical therapist or physical  
82 therapist assistant/patient relationship exists; making sexual advances,  
83 requesting sexual favors, or engaging in other verbal conduct or  
84 physical contact of a sexual nature with patients or clients;

85 (j) Terminating the care of a patient without adequate notice or  
86 without making other arrangements for the continued care of the  
87 patient;

88 (k) Failing to furnish details of a patient's physical therapy  
89 records to treating physicians, other physical therapists, or hospitals  
90 upon proper request; or failing to comply with any other law relating  
91 to physical therapy records;

92 (l) Failure of any applicant or licensee, other than the licensee  
93 subject to the investigation, to cooperate with the board during any  
94 investigation;

95 (m) Failure to comply with any subpoena or subpoena duces  
96 tecum from the board or an order of the board;

97 (n) Failure to timely pay license renewal fees specified in this  
98 chapter;

99 (o) Violating a probation agreement with this board or any other  
100 licensing agency;

101 (p) Failing to inform the board of the physical therapist's or  
102 physical therapist assistant's current telephone number, residence, and  
103 business address;

104 (q) Advertising by an applicant or licensee which is false or  
105 misleading, or which violates any rule of the board, or which claims  
106 without substantiation the positive cure of any disease, or professional  
107 superiority to or greater skill than that possessed by any other physical  
108 therapist or physical therapist assistant. An applicant or licensee shall

109 also be in violation of this provision if the applicant or licensee has a  
110 financial interest in any organization, corporation, or association  
111 which issues or conducts such advertising;

112 (5) Any conduct or practice which is or might be harmful or  
113 dangerous to the mental or physical health of a patient or the public;  
114 or incompetency, gross negligence, or repeated negligence in the  
115 performance of the functions or duties of a physical therapist or  
116 physical therapist assistant. For the purposes of this subdivision,  
117 "repeated negligence" means the failure, on more than one occasion, to  
118 use that degree of skill and learning ordinarily used under the same or  
119 similar circumstances by the member of the applicant's or licensee's  
120 profession;

121 (6) Violation of, or attempting to violate, directly or indirectly,  
122 or assisting or enabling any person to violate, any provision of this  
123 chapter, or of any lawful rule adopted under this chapter;

124 (7) Impersonation of any person licensed as a physical therapist  
125 or physical therapist assistant or allowing any person to use his or her  
126 license or diploma from any school;

127 (8) Revocation, suspension, restriction, modification, limitation,  
128 reprimand, warning, censure, probation, or other final disciplinary  
129 action against a physical therapist or physical therapist assistant for  
130 a license or other right to practice as a physical therapist or physical  
131 therapist assistant by another state, territory, federal agency or  
132 country, whether or not voluntarily agreed to by the licensee or  
133 applicant, including but not limited to the denial of licensure,  
134 surrender of the license, allowing the license to expire or lapse, or  
135 discontinuing or limiting the practice of physical therapy while subject  
136 to an investigation or while actually under investigation by any  
137 licensing authority, medical facility, branch of the armed forces of the  
138 United States of America, insurance company, court, agency of the state  
139 or federal government, or employer;

140 (9) A person is finally adjudged incapacitated or disabled by a  
141 court of competent jurisdiction;

142 (10) Assisting or enabling any person to practice or offer to  
143 practice who is not licensed and currently eligible to practice under  
144 this chapter; or knowingly performing any act which in any way aids,  
145 assists, procures, advises, or encourages any person to practice



146 **physical therapy who is not licensed and currently eligible to practice**  
147 **under this chapter;**

148 **(11) Issuance of a license to practice as a physical therapist or**  
149 **physical therapist assistant based upon a material mistake of fact;**

150 **(12) Failure to display a valid license pursuant to practice as a**  
151 **physical therapist or physical therapist assistant;**

152 **(13) Knowingly making, or causing to be made, or aiding, or**  
153 **abetting in the making of, a false statement in any document executed**  
154 **in connection with the practice of physical therapy;**

155 **(14) Soliciting patronage in person or by agents or**  
156 **representatives, or by any other means or manner, under the person's**  
157 **own name or under the name of another person or concern, actual or**  
158 **pretended, in such a manner as to confuse, deceive, or mislead the**  
159 **public as to the need or necessity for or appropriateness of physical**  
160 **therapy services for all patients, or the qualifications of an individual**  
161 **person or persons to render, or perform physical therapy services;**

162 **(15) Using, or permitting the use of, the person's name under the**  
163 **designation of "physical therapist", "physiotherapist", "registered**  
164 **physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.", "M.P.T." or "R.P.T.",**  
165 **"physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any**  
166 **similar designation with reference to the commercial exploitation of**  
167 **any goods, wares or merchandise;**

168 **(16) Knowingly making or causing to be made a false statement**  
169 **or misrepresentation of a material fact, with intent to defraud, for**  
170 **payment under chapter 208, RSMo, or chapter 630, RSMo, or for**  
171 **payment from Title XVIII or Title XIX of the federal Medicare program;**

172 **(17) Failure or refusal to properly guard against contagious,**  
173 **infectious, or communicable diseases or the spread thereof; maintaining**  
174 **an unsanitary facility or performing professional services under**  
175 **unsanitary conditions; or failure to report the existence of an**  
176 **unsanitary condition in any physical therapy facility to the board, in**  
177 **writing, within thirty days after the discovery thereof;**

178 **(18) Any candidate for licensure or person licensed to practice**  
179 **as a physical therapist or physical therapist assistant, paying or**  
180 **offering to pay a referral fee or, notwithstanding section 334.010 to the**  
181 **contrary, practicing or offering to practice professional physical**  
182 **therapy independent of the prescription and direction of a person**

183 licensed and registered as a physician and surgeon under this chapter,  
184 as a physician assistant under this chapter, as a chiropractor under  
185 chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a  
186 podiatrist under chapter 330, RSMo, or any licensed and registered  
187 physician, chiropractor, dentist, or podiatrist practicing in another  
188 jurisdiction, whose license is in good standing;

189 (19) Any candidate for licensure or person licensed to practice  
190 as a physical therapist or physical therapist assistant, treating or  
191 attempting to treat ailments or other health conditions of human beings  
192 other than by professional physical therapy and as authorized by  
193 sections 334.500 to 334.685;

194 (20) A pattern of personal use or consumption of any controlled  
195 substance unless it is prescribed, dispensed, or administered by a  
196 physician who is authorized by law to do so;

197 (21) Failing to maintain adequate patient records under 334.602;

198 (22) Attempting to engage in conduct that subverts or  
199 undermines the integrity of the licensing examination or the licensing  
200 examination process, including but not limited to utilizing in any  
201 manner recalled or memorized licensing examination questions from or  
202 with any person or entity, failing to comply with all test center security  
203 procedures, communicating or attempting to communicate with any  
204 other examinees during the test, or copying or sharing licensing  
205 examination questions or portions of questions;

206 (23) Any candidate for licensure or person licensed to practice  
207 as a physical therapist or physical therapist assistant who requests,  
208 receives, participates or engages directly or indirectly in the division,  
209 transferring, assigning, rebating or refunding of fees received for  
210 professional services or profits by means of a credit or other valuable  
211 consideration such as wages, an unearned commission, discount or  
212 gratuity with any person who referred a patient, or with any relative  
213 or business associate of the referring person;

214 (24) Being unable to practice as a physical therapist or physical  
215 therapist assistant with reasonable skill and safety to patients by  
216 reasons of incompetency, or because of illness, drunkenness, excessive  
217 use of drugs, narcotics, chemicals, or as a result of any mental or  
218 physical condition. The following shall apply to this subdivision:

219 (a) In enforcing this subdivision the board shall, after a hearing

220 by the board, upon a finding of probable cause, require a physical  
221 therapist or physical therapist assistant to submit to a reexamination  
222 for the purpose of establishing his or her competency to practice as a  
223 physical therapist or physical therapist assistant conducted in  
224 accordance with rules adopted for this purpose by the board, including  
225 rules to allow the examination of the pattern and practice of such  
226 physical therapist's or physical therapist assistant's professional  
227 conduct, or to submit to a mental or physical examination or  
228 combination thereof by a facility or professional approved by the  
229 board;

230 (b) For the purpose of this subdivision, every physical therapist  
231 and physical therapist assistant licensed under this chapter is deemed  
232 to have consented to submit to a mental or physical examination when  
233 directed in writing by the board;

234 (c) In addition to ordering a physical or mental examination to  
235 determine competency, the board may, notwithstanding any other law  
236 limiting access to medical or other health data, obtain medical data and  
237 health records relating to a physical therapist, physical therapist  
238 assistant or applicant without the physical therapist's, physical  
239 therapist assistant's or applicant's consent;

240 (d) Written notice of the reexamination or the physical or mental  
241 examination shall be sent to the physical therapist or physical therapist  
242 assistant, by registered mail, addressed to the physical therapist or  
243 physical therapist assistant at the physical therapist's or physical  
244 therapist assistant's last known address. Failure of a physical therapist  
245 or physical therapist assistant to submit to the examination when  
246 directed shall constitute an admission of the allegations against the  
247 physical therapist or physical therapist assistant, in which case the  
248 board may enter a final order without the presentation of evidence,  
249 unless the failure was due to circumstances beyond the physical  
250 therapist's or physical therapist assistant's control. A physical  
251 therapist or physical therapist assistant whose right to practice has  
252 been affected under this subdivision shall, at reasonable intervals, be  
253 afforded an opportunity to demonstrate that the physical therapist or  
254 physical therapist assistant can resume the competent practice as a  
255 physical therapist or physical therapist assistant with reasonable skill  
256 and safety to patients;

257 (e) In any proceeding under this subdivision neither the record  
258 of proceedings nor the orders entered by the board shall be used  
259 against a physical therapist or physical therapist assistant in any other  
260 proceeding. Proceedings under this subdivision shall be conducted by  
261 the board without the filing of a complaint with the administrative  
262 hearing commission;

263 (f) When the board finds any person unqualified because of any  
264 of the grounds set forth in this subdivision, it may enter an order  
265 imposing one or more of the disciplinary measures set forth in  
266 subsection 3 of this section.

267 3. After the filing of such complaint before the administrative  
268 hearing commission, the proceedings shall be conducted in accordance  
269 with the provisions of chapter 621, RSMo. Upon a finding by the  
270 administrative hearing commission that the grounds provided in  
271 subsection 2 of this section for disciplinary action are met, the board  
272 may, singly or in combination:

273 (1) Warn, censure or place the physical therapist or physical  
274 therapist assistant named in the complaint on probation on such terms  
275 and conditions as the board deems appropriate for a period not to  
276 exceed ten years;

277 (2) Suspend the physical therapist's or physical therapist  
278 assistant's license for a period not to exceed three years;

279 (3) Restrict or limit the physical therapist's or physical therapist  
280 assistant's license for an indefinite period of time;

281 (4) Revoke the physical therapist's or physical therapist  
282 assistant's license;

283 (5) Administer a public or private reprimand;

284 (6) Deny the physical therapist's or physical therapist assistant's  
285 application for a license;

286 (7) Permanently withhold issuance of a license;

287 (8) Require the physical therapist or physical therapist assistant  
288 to submit to the care, counseling or treatment of physicians designated  
289 by the board at the expense of the physical therapist or physical  
290 therapist assistant to be examined;

291 (9) Require the physical therapist or physical therapist assistant  
292 to attend such continuing educational courses and pass such  
293 examinations as the board may direct.

294           4. In any order of revocation, the board may provide that the  
295 physical therapist or physical therapist assistant shall not apply for  
296 reinstatement of the physical therapist's or physical therapist  
297 assistant's license for a period of time ranging from two to seven years  
298 following the date of the order of revocation. All stay orders shall toll  
299 this time period.

300           5. Before restoring to good standing a license issued under this  
301 chapter which has been in a revoked, suspended, or inactive state for  
302 any cause for more than two years, the board may require the applicant  
303 to attend such continuing medical education courses and pass such  
304 examinations as the board may direct.

305           6. In any investigation, hearing or other proceeding to determine  
306 a physical therapist's, physical therapist assistant's or applicant's  
307 fitness to practice, any record relating to any patient of the physical  
308 therapist, physical therapist assistant, or applicant shall be  
309 discoverable by the board and admissible into evidence, regardless of  
310 any statutory or common law privilege which such physical therapist,  
311 physical therapist assistant, applicant, record custodian, or patient  
312 might otherwise invoke. In addition, no such physical therapist,  
313 physical therapist assistant, applicant, or record custodian may  
314 withhold records or testimony bearing upon a physical therapist's,  
315 physical therapist assistant's, or applicant's fitness to practice on the  
316 ground of privilege between such physical therapist, physical therapist  
317 assistant, applicant, or record custodian and a patient.

          334.614. 1. Notwithstanding any other provisions of section  
2 620.010, RSMo, to the contrary, the board shall at least quarterly  
3 publish a list of the names and addresses of all physical therapists and  
4 physical therapist assistants who hold licenses under the provisions of  
5 this chapter, and shall publish a list of all physical therapists and  
6 physical therapist assistants whose licenses have been suspended,  
7 revoked, surrendered, restricted, denied, or withheld.

8           2. Notwithstanding any other provisions of section 620.010,  
9 RSMo, to the contrary, in addition, the board shall prepare and make  
10 available to the public a report upon the disciplinary matters submitted  
11 to them where the board recommends disciplinary action, except in  
12 those instances when physical therapists and physical therapist  
13 assistants possessing licenses voluntarily enter treatment and

14 monitoring programs for purposes of rehabilitation and, in such  
15 instances, only such specific action shall not be reported with any other  
16 actions taken prior to, as part of, or following voluntary entrance into  
17 such treatment programs. The report shall set forth findings of fact  
18 and any final disciplinary actions of the board. If the board does not  
19 recommend disciplinary action, a report stating that no action is  
20 recommended shall be prepared and forwarded to the complaining  
21 party.

334.615. 1. Upon receipt of information that the holder of any  
2 license as a physical therapist or physical therapist assistant issued  
3 under this chapter may present a clear and present danger to the  
4 public health and safety, the executive director shall direct that the  
5 information be brought to the board in the form of sworn testimony or  
6 affidavits during a meeting of the board.

7 2. The board may issue an order suspending or restricting the  
8 holder of a license as a physical therapist or physical therapist  
9 assistant if it believes:

10 (1) The licensee's acts, conduct, or condition may have violated  
11 subsection 2 of section 334.613; and

12 (2) A licensee is practicing, attempting, or intending to practice  
13 in Missouri; and

14 (3) (a) A licensee is unable by reason of any physical or mental  
15 condition to receive and evaluate information or to communicate  
16 decisions to the extent that the licensee's condition or actions  
17 significantly affect the licensee's ability to practice; or

18 (b) Another state, territory, federal agency, or country has issued  
19 an order suspending or restricting the physical therapist's or physical  
20 therapist assistant's right to practice his or her profession; or

21 (c) The licensee has engaged in repeated acts of life-threatening  
22 negligence as defined in subsection 2 of section 334.613; and

23 (4) The acts, conduct, or condition of the licensee constitute a  
24 clear and present danger to the public health and safety.

25 3. (1) The order of suspension or restriction:

26 (a) Shall be based on the sworn testimony or affidavits presented  
27 to the board;

28 (b) May be issued without notice and hearing to the licensee;

29 (c) Shall include the facts which lead the board to conclude that

30 the acts, conduct, or condition of the licensee constitute a clear and  
31 present danger to the public health and safety.

32 (2) The board or the administrative hearing commission shall  
33 serve the licensee, in person or by certified mail, with a copy of the  
34 order of suspension or restriction and all sworn testimony or affidavits  
35 presented to the board, a copy of the complaint and the request for  
36 expedited hearing, and a notice of the place of and the date upon which  
37 the preliminary hearing will be held.

38 (3) The order of restriction shall be effective upon service of the  
39 documents required in subdivision (2) of this subsection.

40 (4) The order of suspension shall become effective upon the entry  
41 of the preliminary order of the administrative hearing commission.

42 (5) The licensee may seek a stay order from the circuit court of  
43 Cole County from the preliminary order of suspension, pending the  
44 issuance of a final order by the administrative hearing commission.

45 4. The board shall file a complaint in the administrative hearing  
46 commission with a request for expedited preliminary hearing and shall  
47 certify the order of suspension or restriction and all sworn testimony  
48 or affidavits presented to the board. Immediately upon receipt of a  
49 complaint filed under this section, the administrative hearing  
50 commission shall set the place and date of the expedited preliminary  
51 hearing which shall be conducted as soon as possible, but not later than  
52 five days after the date of service upon the licensee. The  
53 administrative hearing commission shall grant a licensee's request for  
54 a continuance of the preliminary hearing; however, the board's order  
55 shall remain in full force and effect until the preliminary hearing,  
56 which shall be held not later than forty-five days after service of the  
57 documents required in subdivision (2) of subsection 3 of this section.

58 5. At the preliminary hearing, the administrative hearing  
59 commission shall receive into evidence all information certified by the  
60 board and shall only hear evidence on the issue of whether the board's  
61 order of suspension or restriction should be terminated or  
62 modified. Within one hour after the preliminary hearing, the  
63 administrative hearing commission shall issue its oral or written  
64 preliminary order, with or without findings of fact and conclusions of  
65 law, that adopts, terminates, or modifies the board's order. The  
66 administrative hearing commission shall reduce to writing any oral

67 preliminary order within five business days, but the effective date of  
68 the order shall be the date orally issued.

69 6. The preliminary order of the administrative hearing  
70 commission shall become a final order and shall remain in effect for  
71 three years unless either party files a request for a full hearing on the  
72 merits of the complaint filed by the board within thirty days from the  
73 date of the issuance of the preliminary order of the administrative  
74 hearing commission.

75 7. Upon receipt of a request for full hearing, the administrative  
76 hearing commission shall set a date for hearing and notify the parties  
77 in writing of the time and place of the hearing. If a request for full  
78 hearing is timely filed, the preliminary order of the administrative  
79 hearing commission shall remain in effect until the administrative  
80 hearing commission enters an order terminating, modifying, or  
81 dismissing its preliminary order or until the board issues an order of  
82 discipline following its consideration of the decision of the  
83 administrative hearing commission under section 621.110, RSMo, and  
84 subsection 3 of section 334.100.

85 8. In cases where the board initiates summary suspension or  
86 restriction proceedings against a physical therapist or physical  
87 therapist assistant licensed under this chapter, and such petition is  
88 subsequently denied by the administrative hearing commission, in  
89 addition to any award made under sections 536.085 and 536.087, RSMo,  
90 the board, but not individual members of the board, shall pay actual  
91 damages incurred during any period of suspension or restriction.

92 9. Notwithstanding the provisions of this chapter or chapter 610,  
93 RSMo, or chapter 621, RSMo, to the contrary, the proceedings under  
94 this section shall be closed and no order shall be made public until it  
95 is final, for purposes of appeal.

96 10. The burden of proving the elements listed in subsection 2 of  
97 this section shall be upon the state board of registration for the healing  
98 arts.

334.616. 1. A license issued under this chapter by the Missouri  
2 state board of registration for the healing arts shall be automatically  
3 revoked at such time as the final trial proceedings are concluded  
4 whereby a licensee has been adjudicated and found guilty, or has  
5 entered a plea of guilty or nolo contendere, in a felony criminal



6 prosecution under the laws of the state of Missouri, the laws of any  
7 other state, or the laws of the United States of America for any offense  
8 reasonably related to the qualifications, functions or duties of their  
9 profession, or for any felony offense, an essential element of which is  
10 fraud, dishonesty or an act of violence, or for any felony offense  
11 involving moral turpitude, whether or not sentence is imposed, or, upon  
12 the final and unconditional revocation of the license to practice their  
13 profession in another state or territory upon grounds for which  
14 revocation is authorized in this state following a review of the record  
15 of the proceedings and upon a formal motion of the state board of  
16 registration for the healing arts. The license of any such licensee shall  
17 be automatically reinstated if the conviction or the revocation is  
18 ultimately set aside upon final appeal in any court of competent  
19 jurisdiction.

20 2. Anyone who has been denied a license, permit, or certificate  
21 to practice in another state shall automatically be denied a license to  
22 practice in this state. However, the board of healing arts may set up  
23 other qualifications by which such person may ultimately be qualified  
24 and licensed to practice in Missouri.

334.617. 1. Upon application by the board and the necessary  
2 burden having been met, a court of general jurisdiction may grant an  
3 injunction, restraining order, or other order as may be appropriate to  
4 enjoin a person from:

5 (1) Offering to engage or engaging in the performance of any acts  
6 or practices for which a license is required by chapters 334.500 to  
7 334.687 upon a showing that such acts or practices were performed or  
8 offered to be performed without a license; or

9 (2) Engaging in any practice or business authorized by a license  
10 issued under chapters 334.500 to 334.687 upon a showing that the  
11 holder presents a substantial probability of serious danger to the  
12 health, safety, or welfare of any resident of the state or client or patient  
13 of the licensee.

14 2. Any such action shall be commenced in the county in which  
15 such conduct occurred or in the county in which the defendant resides  
16 or Cole County.

17 3. Any action brought under this section shall be in addition to  
18 and not in lieu of any penalty provided by chapters 334.500 to 334.687

19 **and may be brought concurrently with other actions to enforce**  
20 **chapters 334.500 to 334.687.**

334.618. Upon receiving information that any provision of  
2 sections 334.500 to 334.687 has been or is being violated, the executive  
3 director of the board or other person designated by the board shall  
4 investigate, and upon probable cause appearing, the executive director  
5 shall, under the direction of the board, file a complaint with the  
6 administrative hearing commission or appropriate official or court. All  
7 such complaints shall be handled as provided by rule promulgated  
8 under subdivision (6) of subsection 16 of section 620.010, RSMo.

334.650. 1. After January 1, 1997, no person shall hold himself or herself  
2 out as being a physical therapist assistant in this state unless the person is  
3 licensed as provided in sections 334.650 to 334.685.

4 2. A licensed physical therapist shall direct and supervise a physical  
5 therapist assistant [at all times. The licensed physical therapist shall have the  
6 responsibility of supervising the physical therapy treatment program]. **The**  
7 **physical therapist shall retain ultimate authority and responsibility for**  
8 **the physical therapy treatment. The licensed physical therapist shall**  
9 **have the responsibility of supervising the physical therapy treatment**  
10 **program.** No physical therapist may establish a treating office in which the  
11 physical therapist assistant is the primary care provider. No licensed physical  
12 therapist shall have under their direct supervision more than four **full-time**  
13 **equivalent** physical therapist assistants.

334.655. 1. A candidate for licensure to practice as a physical therapist  
2 assistant shall be at least nineteen years of age. A candidate shall furnish  
3 evidence of the person's good moral character and of the person's educational  
4 qualifications. The educational requirements for licensure as a physical therapist  
5 assistant are:

6 (1) A certificate of graduation from an accredited high school or its  
7 equivalent; and

8 (2) Satisfactory evidence of completion of an associate degree program of  
9 physical therapy education accredited by the commission on accreditation of  
10 physical therapy education.

11 2. Persons desiring to practice as a physical therapist assistant in this  
12 state shall appear before the board at such time and place as the board may  
13 direct and be examined as to the person's fitness to engage in such

14 practice. Applications for examination shall be [in writing,] on a form furnished  
15 by the board and shall include evidence satisfactory to the board that the  
16 applicant possesses the qualifications provided in subsection 1 of this  
17 section. Each application shall contain a statement that the statement is made  
18 under oath of affirmation and that its representations are true and correct to the  
19 best knowledge and belief of the person signing the statement, subject to the  
20 penalties of making a false affidavit or declaration.

21 3. The examination of qualified candidates for licensure to practice as  
22 physical therapist assistants shall embrace [a written] **an** examination [and]  
23 which shall cover the curriculum taught in accredited associate degree programs  
24 of physical therapy assistant education. Such examination shall be sufficient to  
25 test the qualification of the candidates as practitioners.

26 4. [The board shall not issue a license to practice as a physical therapist  
27 assistant or allow any person to sit for the Missouri state board examination for  
28 physical therapist assistants who has failed three or more times any physical  
29 therapist licensing examination administered in one or more states or territories  
30 of the United States or the District of Columbia.

31 5. The board may waive the provisions of subsection 4 if the applicant has  
32 met one of the following provisions: the applicant is licensed and has maintained  
33 an active clinical practice for the previous three years in another state of the  
34 United States, the District of Columbia or Canada and the applicant has achieved  
35 a passing score on a licensing examination administered in a state or territory of  
36 the United States, the District of Columbia and no license issued to the applicant  
37 has been disciplined or limited in any state or territory of the United States, the  
38 District of Columbia or Canada.

39 6.] The examination shall include, as related to the human body, the  
40 subjects of anatomy, kinesiology, pathology, physiology, psychology, physical  
41 therapy theory and procedures as related to medicine and such other subjects,  
42 including medical ethics, as the board deems useful to test the fitness of the  
43 candidate to practice as a physical therapist assistant.

44 **5. The applicant shall pass a test administered by the board on**  
45 **the laws and rules related to the practice as a physical therapist**  
46 **assistant in this state.**

47 [7.] **6.** The board shall license without examination any legally qualified  
48 person who is a resident of this state and who was actively engaged in practice  
49 as a physical therapist assistant on August 28, 1993. The board may license such

50 person pursuant to this subsection until ninety days after the effective date of  
51 this section.

52 [8.] 7. A candidate to practice as a physical therapist assistant who does  
53 not meet the educational qualifications may submit to the board an application  
54 for examination if such person can furnish written evidence to the board that the  
55 person has been employed in this state for at least three of the last five years  
56 under the supervision of a licensed physical therapist and such person possesses  
57 the knowledge and training equivalent to that obtained in an accredited  
58 school. The board may license such persons pursuant to this subsection until  
59 ninety days after rules developed by the state board of healing arts regarding  
60 physical therapist assistant licensing become effective.

334.660. 1. The board shall license without examination legally qualified  
2 persons who [hold] **possess active** certificates of licensure, registration or  
3 certification in any state or territory of the United States or the District of  
4 Columbia, who have had no violations, suspensions or revocations of such license,  
5 registration or certification, if such persons have passed [a written] **an**  
6 examination to practice as a physical therapist assistant that was substantially  
7 equal to the examination requirements of this state and in all other aspects,  
8 including education, the requirements for such certificates of licensure,  
9 registration or certification were, at the date of issuance, substantially equal to  
10 the requirements for licensure in this state.

11 2. [The board shall not issue a license to any applicant who has failed  
12 three or more times any physical therapist assistant licensing examination  
13 administered in one or more states or territories of the United States or the  
14 District of Columbia.

15 3. The board may waive the provisions of subsection 1 if the applicant has  
16 met one of the following provisions: the applicant is licensed and has maintained  
17 an active clinical practice for the previous three years in another state of the  
18 United States, the District of Columbia or Canada and the applicant has achieved  
19 a passing score on a licensing examination administered in a state or territory of  
20 the United States, the District of Columbia and no license issued to the applicant  
21 has been disciplined or limited in any state or territory of the United States, the  
22 District of Columbia or Canada.

23 4.] Every applicant for a license pursuant to this section, upon making  
24 application and providing documentation of the necessary qualifications as  
25 provided in this section, shall pay the same fee required of applicants to take the

26 examination before the board. Within the limits of this section, the board may  
27 negotiate reciprocal contracts with licensing boards of other states for the  
28 admission of licensed practitioners from Missouri in other states.

29 **3. The applicant shall successfully pass a test administered by**  
30 **the board on the laws and rules related to practice as a physical**  
31 **therapist assistant in this state.**

334.665. 1. An applicant who has not been previously examined in  
2 another jurisdiction and meets the qualifications of subsection 1 of section  
3 334.655 **or an applicant applying for reinstatement of an inactive license**  
4 **under a supervised active practice** may pay a temporary license fee and  
5 submit an agreement-to-supervise form which is signed by the applicant's  
6 supervising physical therapist to the board and obtain without examination a  
7 nonrenewable temporary license. Such temporary licensee may only practice  
8 under the supervision of a licensed physical therapist. **The supervising**  
9 **physical therapist shall hold an unencumbered license to practice**  
10 **physical therapy in the state of Missouri and shall provide the board**  
11 **proof of active clinical practice in the state of Missouri for a minimum**  
12 **of one year prior to supervising the temporary licensee. The**  
13 **supervising physical therapist shall not be an immediate family**  
14 **member of the applicant. The board shall define immediate family**  
15 **member and the scope of such supervision by rule. The supervising**  
16 **physical therapist for the first-time examinee applicant shall submit to**  
17 **the board a signed notarized form prescribed by the board attesting**  
18 **that the applicant for temporary license shall begin employment at a**  
19 **location in this state within seven days of issuance of the temporary**  
20 **license. The supervising physical therapist shall notify the board**  
21 **within three days if the temporary licensee's employment ceases. A**  
22 licensed physical therapist shall supervise no more than one temporary  
23 licensee. [The board shall define the scope of such supervision by rules and  
24 regulations.]

25 **2. The temporary license for the first-time examinee applicant shall**  
26 **expire on [either] the date the applicant receives the results of the applicant's**  
27 **initial examination, the date the applicant withdraws from sitting for the**  
28 **examination, the date the board is notified by the supervising physical**  
29 **therapist that the temporary licensee's employment has ceased, or within**  
30 **ninety days of its issuance, whichever occurs first.**

31           **3. The temporary license for the reinstatement applicant under**  
32 **the supervised active practice shall expire effective one year from the**  
33 **date of issuance.**

334.670. The board shall charge a person, who applies for examination for  
2 a license to practice as a physical therapist assistant, an examination fee. If the  
3 person does not score a passing grade on the examination, the board may refuse  
4 to issue a license. Any applicant who fails to pass the examination may reapply  
5 and be reexamined upon payment of a reexamination fee. [No temporary license  
6 may be issued to any person who has previously failed the examination in  
7 Missouri or any other state or jurisdiction.]

334.675. 1. Every person licensed pursuant to sections 334.650 to 334.685  
2 shall, on or before the licensing renewal date, apply to the board for a certificate  
3 of licensure for the next licensing period. The application for renewal shall be  
4 made **under oath** on a form furnished to the applicant [and shall state] **by the**  
5 **board. The application shall include, but not be limited to, disclosure**  
6 **of the following:**

7           **(1) The applicant's full name [and the address at which the applicant**  
8 **practices and the address at which the applicant resides and];**

9           **(2) The applicant's office address or addresses and telephone**  
10 **number or numbers;**

11           **(3) The applicant's home address and telephone number;**

12           **(4) The date and number of the applicant's license;**

13           **(5) All final disciplinary actions taken against the applicant by**  
14 **any professional association or society, licensed hospital or medical**  
15 **staff of the hospital, physical therapy facility, state, territory, federal**  
16 **agency or country; and**

17           **(6) Information concerning the applicant's current physical and**  
18 **mental fitness to practice the applicant's profession.**

19 **The applicant may be required to successfully complete a test**  
20 **administered by the board on the laws and rules related to the practice**  
21 **of physical therapy in this state. The test process, dates, and passing**  
22 **scores shall be established by the board by rule.**

23           2. A [blank application form] **notice** shall be [mailed] **made available**  
24 **to each person licensed in this state [pursuant to sections 334.650 to 334.685 at**  
25 **the person's last known address of practice or residence. The failure to mail the**  
26 **application for or the failure to receive the application form]. The failure to**

27 **receive the notice** does not relieve any person of the duty to renew the person's  
28 license and pay the renewal fee as required by sections 334.650 to 334.685 nor  
29 shall it exempt the person from the penalties provided by sections 334.650 to  
30 334.685 for failure to renew a license.

31 **3. If a physical therapist assistant does not renew such license**  
32 **for two consecutive renewal periods, such license shall be deemed**  
33 **voided.**

34 **4. Each applicant for registration shall accompany the**  
35 **application for registration with a registration fee to be paid to the**  
36 **director of revenue for the licensing period for which registration is**  
37 **sought.**

38 **5. If the application is filed and the fee paid after the**  
39 **registration renewal date, a delinquent fee shall be paid; except that,**  
40 **if in the opinion of the board the applicant's failure to register is**  
41 **caused by extenuating circumstances, including illness of the applicant**  
42 **as defined by rule, the delinquent fee may be waived by the board.**

43 **6. Upon due application therefore and upon submission by such**  
44 **person of evidence satisfactory to the board that he or she is licensed**  
45 **to practice in this state and upon the payment of fees required to be**  
46 **paid by this chapter, the board shall issue to such person a certificate**  
47 **of registration. The certificate of registration shall contain the name**  
48 **of the person to whom it is issued and his or her office address, the**  
49 **expiration date, and the number of the license to practice.**

50 **7. Upon receiving such certificate, every person shall cause it to**  
51 **be readily available or conspicuously displayed at all times in every**  
52 **practice location maintained by such licensee in the state. If the**  
53 **licensee maintains more than one practice location in this state, the**  
54 **board shall without additional fee issue to them duplicate certificates**  
55 **of registration for each practice location so maintained. If any licensee**  
56 **changes practice locations during the period for which any certificate**  
57 **of registration has been issued, such licensee shall, within fifteen days**  
58 **thereafter, notify the board of such change and the board shall issue to**  
59 **the licensee, without additional fee, a new registration certificate**  
60 **showing the new location.**

61 **8. Whenever any new license is granted to any physical therapist**  
62 **or physical therapist assistant under the provisions of this chapter, the**  
63 **board shall, upon application therefore, issue to such physical therapist**

64 or physical therapist assistant a certificate of registration covering a  
65 period from the date of the issuance of the license to the next renewal  
66 date without the payment of any registration fee.

334.686. Any person who holds himself or herself out to be a  
2 physical therapist assistant or a licensed physical therapist assistant  
3 within this state or any person who advertises as a physical therapist  
4 assistant and who, in fact, does not hold a valid physical therapist  
5 assistant license is guilty of a class B misdemeanor and, upon  
6 conviction, shall be punished as provided by law. Any person who, in  
7 any manner, represents himself or herself as a physical therapist  
8 assistant, or who uses in connection with such person's name the words  
9 or letters, "physical therapist assistant", the letters "P.T.A.", "L.P.T.A.",  
10 "C.P.T.A.", or any other letters, words, abbreviations or insignia,  
11 indicating or implying that the person is a physical therapist assistant  
12 without a valid existing license as a physical therapist assistant issued  
13 to such person under the provisions of sections 334.500 to 334.620, is  
14 guilty of a class B misdemeanor. This section shall not apply to  
15 physicians and surgeons licensed under this chapter or to a person in  
16 an entry level of a professional education program approved by the  
17 Commission for Accreditation of Physical Therapists and Physical  
18 Therapist Assistant Education (CAPTE) who is satisfying supervised  
19 clinical education requirements related to the person's physical  
20 therapist or physical therapist assistant education while under onsite  
21 supervision of a physical therapist; or to a physical therapist who is  
22 practicing in the United States Armed Forces, United States Public  
23 Health Service, or Veterans Administration under federal regulations  
24 for state licensure for health care providers.

334.687. 1. For purposes of this section, the licensing of physical  
2 therapists and physical therapist assistants shall take place within  
3 processes established by the state board of registration for the healing  
4 arts through rules. The board of healing arts is authorized to adopt  
5 rules establishing licensing and renewal procedures, supervision of  
6 physical therapist assistants, and former licensees who wish to return  
7 to the practice of physical therapy, fees, and addressing such other  
8 matters as are necessary to protect the public and discipline the  
9 profession.

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. **For the purposes of this section, the percentage of time a**  
37 **physician assistant provides patient care with the supervising**  
38 **physician on-site shall be measured each calendar quarter.** The  
39 supervising physician must be readily available in person or via  
40 telecommunication during the time the physician assistant is providing patient  
41 care. The board shall promulgate rules pursuant to chapter 536, RSMo, for  
42 documentation of joint review of the physician assistant activity by the  
43 supervising physician and the physician assistant. The physician assistant shall  
44 be limited to practice at locations where the supervising physician is no further  
45 than thirty miles by road using the most direct route available, or in any other  
46 fashion so distanced as to create an impediment to effective intervention and  
47 supervision of patient care or adequate review of services. Any other provisions  
48 of this chapter notwithstanding, for up to ninety days following the effective date  
49 of rules promulgated by the board to establish the waiver process under  
50 subsection 2 of this section, any physician assistant practicing in a health  
51 professional shortage area as of April 1, 2007, shall be allowed to practice under  
52 the on-site requirements stipulated by the supervising physician on the  
53 supervising physician form that was in effect on April 1, 2007.

54 2. The board shall promulgate rules under chapter 536, RSMo, to direct  
55 the advisory commission on physician assistants to establish a formal waiver  
56 mechanism by which an individual physician-physician assistant team may apply  
57 for alternate minimum amounts of on-site supervision and maximum distance

58 from the supervising physician. After review of an application for a waiver, the  
59 advisory commission on physician assistants shall present its recommendation to  
60 the board for its advice and consent on the approval or denial of the  
61 application. The rule shall establish a process by which the public is invited to  
62 comment on the application for a waiver, and shall specify that a waiver may only  
63 be granted if a supervising physician and physician assistant demonstrate to the  
64 board's satisfaction in accordance with its uniformly applied criteria that:

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

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

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

76 (4) The applicant will practice in an area designated at the time of  
77 application as a health professional shortage area;

78 **(5) Nothing in this section shall be construed to require a**  
79 **physician-physician assistant team to increase their on-site**  
80 **requirement allowed in their initial waiver in order to qualify for**  
81 **renewal of such waiver.**

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

84 (1) Taking patient histories;

85 (2) Performing physical examinations of a patient;

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

88 (4) Performing routine therapeutic procedures;

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

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

93 (7) Assisting the supervising physician in institutional settings, including

94 reviewing of treatment plans, ordering of tests and diagnostic laboratory and  
95 radiological services, and ordering of therapies, using procedures reviewed and  
96 approved by a licensed physician;

97 (8) Assisting in surgery;

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

101 (10) Physician assistants shall not perform abortions.

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

112 (1) A physician assistant shall not prescribe controlled substances;

113 (2) The types of drugs, medications, devices or therapies prescribed or  
114 dispensed by a physician assistant shall be consistent with the scopes of practice  
115 of the physician assistant and the supervising physician;

116 (3) All prescriptions shall conform with state and federal laws and  
117 regulations and shall include the name, address and telephone number of the  
118 physician assistant and the supervising physician;

119 (4) A physician assistant or advanced practice nurse as defined in section  
120 335.016, RSMo, may request, receive and sign for noncontrolled professional  
121 samples and may distribute professional samples to patients;

122 (5) A physician assistant shall not prescribe any drugs, medicines, devices  
123 or therapies the supervising physician is not qualified or authorized to prescribe;  
124 and

125 (6) A physician assistant may only dispense starter doses of medication  
126 to cover a period of time for seventy-two hours or less.

127 5. A physician assistant shall clearly identify himself or herself as a  
128 physician assistant and shall not use or permit to be used in the physician  
129 assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out

130 in any way to be a physician or surgeon. No physician assistant shall practice or  
131 attempt to practice without physician supervision or in any location where the  
132 supervising physician is not immediately available for consultation, assistance  
133 and intervention, except as otherwise provided in this section, and in an  
134 emergency situation, nor shall any physician assistant bill a patient  
135 independently or directly for any services or procedure by the physician assistant.

136         6. For purposes of this section, the licensing of physician assistants shall  
137 take place within processes established by the state board of registration for the  
138 healing arts through rule and regulation. The board of healing arts is authorized  
139 to establish rules pursuant to chapter 536, RSMo, establishing licensing and  
140 renewal procedures, supervision, supervision agreements, fees, and addressing  
141 such other matters as are necessary to protect the public and discipline the  
142 profession. An application for licensing may be denied or the license of a  
143 physician assistant may be suspended or revoked by the board in the same  
144 manner and for violation of the standards as set forth by section 334.100, or such  
145 other standards of conduct set by the board by rule or regulation. Persons  
146 licensed pursuant to the provisions of chapter 335, RSMo, shall not be required  
147 to be licensed as physician assistants. All applicants for physician assistant  
148 licensure who complete a physician assistant training program after January 1,  
149 2008, shall have a master's degree from a physician assistant program.

150         7. "Physician assistant supervision agreement" means a written  
151 agreement, jointly agreed-upon protocols or standing order between a supervising  
152 physician and a physician assistant, which provides for the delegation of health  
153 care services from a supervising physician to a physician assistant and the review  
154 of such services.

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

162         9. At all times the physician is responsible for the oversight of the  
163 activities of, and accepts responsibility for, health care services rendered by the  
164 physician assistant.

165         10. It is the responsibility of the supervising physician to determine and

166 document the completion of at least a one-month period of time during which the  
167 licensed physician assistant shall practice with a supervising physician  
168 continuously present before practicing in a setting where a supervising physician  
169 is not continuously present.

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

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

181           13. No physician shall be designated to serve as supervising physician for  
182 more than three full-time equivalent licensed physician assistants. This  
183 limitation shall not apply to physician assistant agreements of hospital employees  
184 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 regimes, 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.

339.010. 1. A "real estate broker" is any person, partnership, association,  
2 or corporation, foreign or domestic who, for another, and for a compensation or  
3 valuable consideration, does, or attempts to do, any or all of the following:

- 4 (1) Sells, exchanges, purchases, rents, or leases real estate;
- 5 (2) Offers to sell, exchange, purchase, rent or lease real estate;
- 6 (3) Negotiates or offers or agrees to negotiate the sale, exchange,  
7 purchase, rental or leasing of real estate;
- 8 (4) Lists or offers or agrees to list real estate for sale, lease, rental or  
9 exchange;
- 10 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real  
11 estate or improvements thereon;
- 12 (6) Advertises or holds himself or herself out as a licensed real estate  
13 broker while engaged in the business of buying, selling, exchanging, renting, or  
14 leasing real estate;
- 15 (7) Assists or directs in the procuring of prospects, calculated to result in  
16 the sale, exchange, leasing or rental of real estate;
- 17 (8) Assists or directs in the negotiation of any transaction calculated or

18 intended to result in the sale, exchange, leasing or rental of real estate;

19 (9) Engages in the business of charging to an unlicensed person an  
20 advance fee in connection with any contract whereby the real estate broker  
21 undertakes to promote the sale of that person's real estate through its listing in  
22 a publication issued for such purpose intended to be circulated to the general  
23 public;

24 (10) Performs any of the foregoing acts [as an employee of, or] on behalf  
25 of[,] the owner of real estate, or interest therein, or improvements affixed  
26 thereon, for compensation.

27 2. A "real estate salesperson" is any person who for a compensation or  
28 valuable consideration becomes associated, either as an independent contractor  
29 or employee, either directly or indirectly, with a real estate broker to do any of  
30 the things above mentioned. The provisions of sections 339.010 to 339.180 and  
31 sections 339.710 to 339.860 shall not be construed to deny a real estate  
32 salesperson who is compensated solely by commission the right to be associated  
33 with a broker as an independent contractor.

34 3. The term "commission" as used in sections 339.010 to 339.180 and  
35 sections 339.710 to 339.860 means the Missouri real estate commission.

36 4. "Real estate" for the purposes of sections 339.010 to 339.180 and  
37 sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any  
38 other interest or estate in land, whether corporeal, incorporeal, freehold or  
39 nonfreehold, and the real estate is situated in this state.

40 5. "Advertising" shall mean any communication, whether oral or written,  
41 between a licensee or other entity acting on behalf of one or more licensees and  
42 the public[; it], **and** shall include, but not be limited to, business cards, signs,  
43 insignias, letterheads, radio, television, newspaper and magazine ads, Internet  
44 advertising, web sites, display or group ads in telephone directories, and  
45 billboards.

46 6. The provisions of sections 339.010 to 339.180 and sections 339.710 to  
47 339.860 shall not apply to:

48 (1) Any person, partnership, association, or corporation who as owner,  
49 lessor, or lessee shall perform any of the acts described in subsection 1 of this  
50 section with reference to property owned or leased by them, or to the regular  
51 employees thereof[, provided such owner, lessor, or lessee is not engaged in the  
52 real estate business];

53 (2) Any licensed attorney-at-law;

- 54 (3) An auctioneer employed by the owner of the property;
- 55 (4) Any person acting as receiver, trustee in bankruptcy, administrator,  
56 executor, or guardian or while acting under a court order or under the authority  
57 of a will, trust instrument or deed of trust or as a witness in any judicial  
58 proceeding or other proceeding conducted by the state or any governmental  
59 subdivision or agency;
- 60 (5) Any person employed or retained to manage real property by, for, or  
61 on behalf of the agent or the owner of any real estate shall be exempt from  
62 holding a license, if the person is limited to one or more of the following activities:
- 63 (a) Delivery of a lease application, a lease, or any amendment thereof, to  
64 any person;
- 65 (b) Receiving a lease application, lease, or amendment thereof, a security  
66 deposit, rental payment, or any related payment, for delivery to, and made  
67 payable to, a broker or owner;
- 68 (c) Showing a rental unit to any person, as long as the employee is acting  
69 under the direct instructions of the broker or owner, including the execution of  
70 leases or rental agreements;
- 71 (d) Conveying information prepared by a broker or owner about a rental  
72 unit, a lease, an application for lease, or the status of a security deposit, or the  
73 payment of rent, by any person;
- 74 (e) Assisting in the performance of brokers' or owners' functions,  
75 administrative, clerical or maintenance tasks;
- 76 (f) If the person described in this section is employed or retained by, for,  
77 or on behalf of a real estate broker, the real estate broker shall be subject to  
78 discipline under this chapter for any conduct of the person that violates this  
79 chapter or the regulations promulgated thereunder;
- 80 (6) Any officer or employee of a federal agency or the state government or  
81 any political subdivision thereof performing official duties;
- 82 (7) Railroads and other public utilities regulated by the state of Missouri,  
83 or their subsidiaries or affiliated corporations, or to the officers or regular  
84 employees thereof, unless performance of any of the acts described in subsection  
85 1 of this section is in connection with the sale, purchase, lease or other  
86 disposition of real estate or investment therein unrelated to the principal  
87 business activity of such railroad or other public utility or affiliated or subsidiary  
88 corporation thereof;
- 89 (8) Any bank, trust company, savings and loan association, credit union,

90 insurance company, mortgage banker, or farm loan association organized under  
91 the laws of this state or of the United States when engaged in the transaction of  
92 business on its own behalf and not for others;

93 (9) Any newspaper, magazine, periodical, Internet site, Internet  
94 communications, or any form of communications regulated or licensed by the  
95 Federal Communications Commission or any successor agency or commission  
96 whereby the advertising of real estate is incidental to its operation;

97 (10) Any developer selling Missouri land owned by the developer;

98 (11) Any employee acting on behalf of a nonprofit community, or regional  
99 economic development association, agency or corporation which has as its  
100 principal purpose the general promotion and economic advancement of the  
101 community at large, provided that such entity:

102 (a) Does not offer such property for sale, lease, rental or exchange on  
103 behalf of another person or entity;

104 (b) Does not list or offer or agree to list such property for sale, lease,  
105 rental or exchange; or

106 (c) Receives no fee, commission or compensation, either monetary or in  
107 kind, that is directly related to sale or disposal of such properties. An economic  
108 developer's normal annual compensation shall be excluded from consideration as  
109 commission or compensation related to sale or disposal of such properties; or

110 (12) Any neighborhood association, as that term is defined in section  
111 441.500, RSMo, that without compensation, either monetary or in kind, provides  
112 to prospective purchasers or lessors of property the asking price, location, and  
113 contact information regarding properties in and near the association's  
114 neighborhood, including any publication of such information in a newsletter,  
115 Internet site, or other medium.

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.

339.150. 1. No real estate broker shall knowingly employ or engage any  
2 person to perform any service to the broker for which licensure as a real estate  
3 broker or a real estate salesperson is required pursuant to sections 339.010 to  
4 339.180 and sections 339.710 to 339.860, unless such a person is:

5         **(1) A licensed real estate salesperson or a licensed real estate broker as**  
6 **required by section 339.020[.]; or**

7         **(2) For a transaction involving commercial real estate as defined**  
8 **in section 339.710, a person regularly engaged in the real estate**  
9 **brokerage business outside the state of Missouri who has, in such forms**  
10 **as the commission may adopt by rule:**

11         **(a) Executed a brokerage agreement with the Missouri real**  
12 **estate broker;**

13         **(b) Consented to the jurisdiction of Missouri and the commission;**

14         **(c) Consented to disciplinary procedures under section 339.100;**  
15 **and**

16         **(d) Appointed the commission as his or her agent for service of**  
17 **process regarding any administrative or legal actions relating to the**  
18 **conduct in Missouri; or**

19         **(3) For any other transaction,** a person regularly engaged in the real  
20 estate brokerage business outside of the state of Missouri.

21 Any such action shall be unlawful as provided by section 339.100 and shall be

22 grounds for investigation, complaint, proceedings and discipline as provided by  
23 section 339.100.

24         2. No real estate licensee shall pay any part of a fee, commission or other  
25 compensation received by the licensee to any person for any service rendered by  
26 such person to the licensee in buying, selling, exchanging, leasing, renting or  
27 negotiating a loan upon any real estate, unless such a person is a licensed real  
28 estate salesperson regularly associated with such a broker, or a licensed real  
29 estate broker, or a person regularly engaged in the real estate brokerage business  
30 outside of the state of Missouri.

31         3. Notwithstanding the provisions of subsections 1 and 2 of this section,  
32 any real estate broker who shall refuse to pay any person for services rendered  
33 by such person to the broker, with the consent, knowledge and acquiescence of the  
34 broker that such person was not licensed as required by section 339.020, in  
35 buying, selling, exchanging, leasing, renting or negotiating a loan upon any real  
36 estate for which services a license is required, and who is employed or engaged  
37 by such broker to perform such services, shall be liable to such person for the  
38 reasonable value of the same or similar services rendered to the broker,  
39 regardless of whether or not the person possesses or holds any particular license,  
40 permit or certification at the time the service was performed. Any such person  
41 may bring a civil action for the reasonable value of his services rendered to a  
42 broker notwithstanding the provisions of section 339.160.

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

2. Nothing contained in this section shall apply to:

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

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

3. Any person who willfully and knowingly engages in any act, use, employment or practice declared to be unlawful by this section with the intent to defraud shall be guilty of a class D felony.

4. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this 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 used 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 mortgage

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 Bill 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.

700.010. As used in sections 700.010 to 700.500, for the purpose of  
2 sections 700.010 to 700.500, the following terms mean:

3 (1) "Authorized representative", any person, firm or corporation, or  
4 employee thereof, approved or hired by the commission to perform inspection  
5 services;

6 (2) "Code", the standards relating to manufactured homes, or modular  
7 units as adopted by the commission. The commission, in its discretion, may  
8 incorporate, in whole or in part, the standards codes promulgated by the  
9 American National Standards Institute, the United States Department of Housing  
10 and Urban Development or other recognized agencies or organizations;

11 (3) "Commission", the public service commission;

12 (4) "Dealer", any person, other than a manufacturer, who sells or offers  
13 for sale four or more **used homes or one or more new** manufactured homes,  
14 or **one or more new** modular units in any consecutive twelve-month period;

15 (5) **"Installer", an individual who is licensed by the commission**  
16 **to install manufactured homes under sections 700.650 to 700.692;**

17 (6) "Manufactured home", a factory-built structure or structures which,  
18 in the traveling mode, is eight body feet or more in width or forty body feet or  
19 more in length, or, when erected on site, contains three hundred twenty or more  
20 square feet, equipped with the necessary service connections and made so as to  
21 be readily movable as a unit or units on its or their own running gear and  
22 designed to be used as a dwelling unit or units with or without a permanent  
23 foundation. The phrase "without a permanent foundation" indicates that the  
24 support system is constructed with the intent that the manufactured home placed  
25 thereon may be moved from time to time at the convenience of the owner;

26 [(6)] (7) "Manufacturer", any person who manufactures manufactured  
27 homes, or modular units, including persons who engage in importing



28 manufactured homes, or modular units for resale;

29 [(7)] (8) "Modular unit", a transportable building unit designed to be  
30 used by itself or to be incorporated with similar units at a point-of-use into a  
31 modular structure to be used for residential, commercial, educational or  
32 industrial purposes. This definition shall not apply to structures under six  
33 hundred fifty square feet used temporarily and exclusively for construction site  
34 office purposes;

35 [(8)] (9) "New", being sold or offered for sale to the first purchaser for  
36 purposes other than resale;

37 [(9)] (10) "Person", an individual, partnership, corporation or other legal  
38 entity;

39 [(10)] (11) "Premises", a lot, plot, or parcel of land including the  
40 buildings, structures, and manufactured homes thereon;

41 [(11)] (12) "Recreational park trailer", a recreational park trailer as  
42 defined in the American National Standards Institute (ANSI) A119.5 Standard  
43 on Recreational Park Trailers. A recreational park trailer is not a recreational  
44 vehicle;

45 [(12)] (13) "Recreational vehicle", a recreational vehicle as defined in the  
46 American National Standards Institute (ANSI) A119.2 Standard on Recreational  
47 Vehicles;

48 [(13)] (14) "Seal", a device, label or insignia issued by the public service  
49 commission, U.S. Department of Housing and Urban Development, or its agent,  
50 to be displayed on the exterior of the manufactured home, or modular unit to  
51 evidence compliance with the code;

52 [(14)] (15) "Setup", the operations performed at the occupancy site which  
53 renders a manufactured home or modular unit fit for habitation, which operations  
54 include, but are not limited to, moving, blocking, leveling, supporting, and  
55 assembling multiple or expandable units.

**700.041. 1. There is hereby established a fund in the state  
2 treasury to be known as the "Manufactured Housing Consumer  
3 Recovery Fund" for the purpose of paying consumer claims under  
4 procedures the commission may promulgate by rule. The public service  
5 commission shall administer the manufactured housing consumer  
6 recovery fund and all moneys in the fund shall be used solely as  
7 prescribed in this section. Any interest earned from the investment of  
8 moneys in the fund shall be credited to the fund.**

9           **2. Claims approved by the commission under law may be paid**  
10 **from the fund subject to appropriation. No claims shall be considered**  
11 **by the commission until all other legal remedies have been**  
12 **exhausted. The commission shall establish an advisory committee to**  
13 **assist with the evaluation of all claims filed by consumers. The**  
14 **committee members shall be volunteers and serve without**  
15 **compensation.**

16           **3. Notwithstanding the provisions of section 33.080, RSMo, to the**  
17 **contrary, moneys in the manufactured housing consumer recovery fund**  
18 **shall not be transferred to the credit of the general revenue fund at the**  
19 **end of the biennium; however, the total amount in the manufactured**  
20 **housing consumer recovery fund shall not exceed thirty-two percent of**  
21 **the amount of the annual appropriation of the manufactured housing**  
22 **fund from the preceding fiscal year. Moneys in the manufactured**  
23 **housing consumer recovery fund may be transferred back to the**  
24 **manufactured housing fund by appropriation.**

700.045. It shall be a misdemeanor:

2           (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer  
3 to sell any manufactured home or modular unit after January 1, 1977, unless  
4 there is in effect a registration with the commission;

5           (2) To rent, lease, sell or offer to sell any new manufactured home or new  
6 modular unit or used modular unit used for educational purposes manufactured  
7 after January 1, 1974, which does not bear a seal as required by sections 700.010  
8 to 700.115;

9           (3) To affix a seal or cause a seal to be affixed to any manufactured home  
10 or modular unit which does not comply with the code;

11           (4) To alter a manufactured home or modular unit in a manner prohibited  
12 by the provisions of sections 700.010 to 700.115;

13           (5) To fail to correct within a reasonable time not to exceed ninety days  
14 after being ordered to do so in writing by an authorized representative of the  
15 commission a code violation in a new manufactured home or new modular unit  
16 or used modular unit used for educational purposes owned, manufactured or sold  
17 if the same is manufactured after January 1, 1974. **Reasonable and necessary**  
18 **extensions may be granted by the commission;** or

19           (6) To interfere with, obstruct, or hinder any authorized representative  
20 of the commission in the performance of his or her duties.

700.056. Every dealer of a **new** manufactured home offered for sale in this  
2 state shall at the time of sale provide the purchaser with a bill of sale **or the**  
3 **purchase agreement** containing at least the following: The total price of the  
4 unit, **serial number if available, if not, the manufacturer name and**  
5 **model number of the unit**, and its contents, **any waivers**, a list of all  
6 furniture and appliances in the manufactured home, any other costs which will  
7 be assessed to the purchaser **by the dealer** such as transportation, handling, or  
8 such other costs, and the sales tax payable for such manufactured home.

700.065. All **new** manufactured homes located in this state shall be  
2 anchored and tied down in accordance with the standards promulgated by the  
3 commission pursuant to the provisions of sections 700.010 to 700.115 **and**  
4 **700.650 to 700.692**.

700.090. 1. Every manufacturer or dealer [of manufactured homes] who  
2 sells or offers for sale, on consignment or otherwise, a manufactured home or  
3 modular unit from or in the state of Missouri shall register [each location] with  
4 the commission **each place of business at which the manufacturer or**  
5 **dealer sells or offers for sale a manufactured home or modular unit**.

2. The commission shall issue a certificate of registration to a  
7 manufacturer who:

8 (1) Completes and files with the commission an application for  
9 registration which contains the following information:

10 (a) The name of the manufacturer;

11 (b) The address of the manufacturer and addresses of each factory owned  
12 or operated by the manufacturer, if different from the address of the  
13 manufacturer;

14 (c) If a corporation, the state of original incorporation, a list of the names  
15 and addresses of all officers and directors of the corporation, and proof of the  
16 filing of all franchise and sales tax forms required by Missouri law;

17 (d) If not a corporation, the name and address of the managing person or  
18 persons responsible for overall operation of the manufacturer;

19 (2) Files with the commission an initial registration fee of seven hundred  
20 fifty dollars in the form of a cashier's check or money order made payable to the  
21 state of Missouri.

22 3. The commission shall issue a certificate of registration to a dealer who:

23 (1) Completes and files with the commission an application for  
24 registration which contains the following information:

- 25 (a) The name of the dealer;
- 26 (b) The business address of the dealer and addresses of each separate  
27 facility owned and operated by the dealer from which manufactured homes or  
28 modular units are offered for sale if different from the business address of the  
29 dealer;
- 30 (c) If a corporation, the state of original incorporation, a list of the names  
31 and addresses of all officers and directors of the corporation, proof of the filing of  
32 all franchise and sales tax forms required by Missouri law;
- 33 (d) If not a corporation, the name and address of the managing person or  
34 persons responsible for the overall operations of the manufacturer;
- 35 (2) Files with the commission an initial registration fee of two hundred  
36 dollars in the form of a cashier's check or money order made payable to the state  
37 of Missouri;
- 38 (3) Files with the commission proof of compliance with the provisions of  
39 section 301.280, RSMo.
- 40 4. The registration of any manufacturer or dealer shall be effective for a  
41 period of one year and shall be renewed by the commission upon receipt by it  
42 from the registered dealer of a renewal fee of seven hundred fifty dollars for  
43 manufacturers and two hundred dollars for dealers and a form provided by the  
44 commission upon which shall be placed any changes from the information  
45 requested on the initial registration form.
- 46 5. The commission may stagger the renewal of certificates of registration  
47 to provide for more equal distribution over the twelve months of the number of  
48 registration renewals.

**700.095. 1. Every dealer shall, on or before January fifteenth of  
2 each year, make application for registration or renewal and shall be  
3 required to maintain a bona fide established place of business and  
4 maintain a permanent enclosed building or structure, either owned in  
5 fee or leased and actually occupied as a place of business by the  
6 applicant for the selling, bartering, trading, or exchanging of  
7 manufactured homes or modular units where the public may contact  
8 the owner or operator at any reasonable time and where the books,  
9 records, files, and other matter required and necessary to conduct the  
10 business shall be kept and maintained.**

11 **2. The application shall contain the business address, not a post-**  
12 **office box address, and telephone number of the place where the books,**

13 records, files, and other matters required and necessary to conduct the  
14 business are located and where the same may be inspected during  
15 normal daytime business hours.

16 3. Each application shall contain such additional information as  
17 may be required by the commission to enable it to determine whether  
18 the applicant is a bona fide dealer in fact and is of good moral  
19 character.

20 4. Upon the payment of a registration of renewal fee of two  
21 hundred dollars, there shall be assigned to each dealer a certificate of  
22 registration in such form as the commission shall prescribe.

700.096. 1. Each person registered as a dealer under the  
2 provisions of sections 700.010 to 700.115 shall file monthly reports with  
3 the commission, and such reports shall be in the form and manner and  
4 contain the information required by the commission by rules  
5 promulgated under chapter 536, RSMo, and shall permit an employee  
6 of the commission or any law enforcement official to inspect during  
7 normal business hours any of the following documents which are in his  
8 or her possession or under his or her control:

9 (1) Any manufacturer's invoice, certificate of origin, statement  
10 of origin, or title to any manufactured home or modular unit;

11 (2) Any application for title to any manufactured home;

12 (3) Any affidavit provided under chapter 301, RSMo, or chapter  
13 407, RSMo;

14 (4) Any assignment of title to any manufactured home;

15 (5) Any disclosure statement or other document required by the  
16 laws of the United States or any other state.

17 2. For purposes of this section, the term "law enforcement  
18 official" means any of the following:

19 (1) The attorney general, or any person designated by him or her  
20 to make such an inspection;

21 (2) Any prosecuting attorney or any person designated by a  
22 prosecuting attorney to make such an inspection;

23 (3) Any member of the highway patrol;

24 (4) Any sheriff or deputy sheriff;

25 (5) Any peace officer certified under chapter 590, RSMO, acting  
26 in his or her official capacity.

700.097. No insurance company, finance company, bank, or trust

2 **company shall be required to register with the commission in order to**  
3 **sell any manufactured home or modular unit repossessed or purchased**  
4 **by the company on the basis of total destruction or theft thereof when**  
5 **the sale of the manufactured home or modular unit is in conformance**  
6 **with applicable title and registration laws of this state.**

700.098. 1. **The commission may refuse to register an applicant**  
2 **as a dealer, or may suspend the registration of an existing dealer from**  
3 **one day to thirty days, or revoke the registration of a dealer after a**  
4 **written notice and a hearing when the commission is satisfied that the**  
5 **applicant or dealer has failed to comply with the provisions set out in**  
6 **sections 700.010 to 700.115. Notification of unfavorable action by the**  
7 **commission on any application for registration or renewal of**  
8 **registration shall be accompanied by a notice informing the recipient**  
9 **that the decision of the director may be appealed as provided in**  
10 **chapter 386, RSMo.**

11 **2. It shall be unlawful for any person to hold forth or act as a**  
12 **dealer who is not currently registered as a dealer by the commission as**  
13 **required by sections 700.010 to 700.115.**

700.100. 1. **The commission may refuse to register or refuse to renew the**  
2 **registration of any person who fails to comply with the provisions of [section**  
3 **700.090 or this section] sections 700.010 to 700.115. Notification of**  
4 **unfavorable action by the commission on any application for registration or**  
5 **renewal of registration must be delivered to the applicant within thirty days from**  
6 **date it is received by the commission. Notification of unfavorable action by the**  
7 **commission on any application for registration or renewal of registration must be**  
8 **accompanied by a notice informing the recipient that the decision of the**  
9 **commission may be appealed as provided in chapter 386, RSMo.**

10 **2. The commission may consider a complaint filed with it charging a**  
11 **registered manufacturer or dealer with a violation of the provisions of this**  
12 **section, which charges, if proven, shall constitute grounds for revocation or**  
13 **suspension of his registration, or the placing of the registered manufacturer or**  
14 **dealer on probation.**

15 **3. The following specifications shall constitute grounds for the suspension,**  
16 **revocation or placing on probation of a manufacturer's or dealer's registration:**

17 **(1) If required, failure to comply with the provisions of section 301.280,**  
18 **RSMo;**

- 19 (2) Failing to be in compliance with the provisions of section 700.090;
- 20 (3) If a corporation, failing to file all franchise or sales tax forms required  
21 by Missouri law;
- 22 (4) Engaging in any conduct which constitutes a violation of the provisions  
23 of section 407.020, RSMo;
- 24 (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15  
25 of the United States Code (Magnuson-Moss Warranty Act);
- 26 (6) As a dealer, failing to arrange for the proper initial setup of any new  
27 manufactured home or modular unit sold from or in the state of Missouri,  
28 **[unless] except as allowed under subsection 5 of section 700.656;** the  
29 dealer **[receives] shall receive** a written waiver of that service from the  
30 purchaser or his or her authorized agent;
- 31 (7) Requiring any person to purchase any type of insurance from that  
32 manufacturer or dealer as a condition to his being sold any manufactured home  
33 or modular unit;
- 34 (8) Requiring any person to arrange financing or utilize the services of  
35 any particular financing service as a condition to his being sold any manufactured  
36 home or modular unit; provided, however, the registered manufacturer or dealer  
37 may reserve the right to establish reasonable conditions for the approval of any  
38 financing source;
- 39 (9) Engaging in conduct in violation of section 700.045;
- 40 (10) Failing to comply with the provisions of section 301.210, RSMo;
- 41 (11) Failing to pay all necessary fees and assessments authorized  
42 pursuant to sections 700.010 to 700.115.

43 **4. The commission may order that any suspension, revocation, or**  
44 **probation ordered under subsection 3 of this section shall apply to all**  
45 **manufacturer's or dealer's registrations that are held by the same**  
46 **manufacturer or dealer or that are owned or controlled by the same**  
47 **person or persons if a continued and consistent pattern of the**  
48 **violations have been identified by the commission to be present with**  
49 **each licensee under the same control or ownership.**

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this  
2 section, a violation of the provisions of sections 700.010 to 700.115 shall  
3 constitute a violation of the provisions of section 407.020, RSMo. In addition to  
4 the authority vested in the attorney general to enforce the provisions of that  
5 section, he may petition the court and the court may enter an order revoking the

6 registration certificate of the defendant or defendants issued pursuant to the  
7 provisions of section 700.090.

8           2. Notwithstanding any provisions of subsection 1 of this section to the  
9 contrary, whoever violates any provision of this chapter shall be liable to the  
10 state of Missouri for a civil penalty in an amount which shall not exceed one  
11 thousand dollars for each such violation. **If, after a hearing, the commission**  
12 **finds that the person has violated any provision of this chapter, it may**  
13 **direct its general counsel to enforce the provisions of this section by**  
14 **filing a petition in circuit court for such civil penalties.** Each violation  
15 of this chapter shall constitute a separate violation with respect to each  
16 manufactured home or **modular unit** or with respect to each failure or refusal  
17 to allow or perform an act required by this chapter; except that, the maximum  
18 civil penalty may not exceed one million dollars for any related series of  
19 violations occurring within one year from the date of the first violation.

20           3. Any individual or director, officer, or agent of a corporation who  
21 knowingly and willfully violates any provision of sections 700.010 to 700.115, in  
22 a manner which threatens the health or safety of any purchaser, shall, upon  
23 conviction therefor, be fined not more than one thousand dollars or imprisoned  
24 for not more than one year, or both.

          700.525. As used in sections 700.525 to 700.541, the following terms  
2 mean:

3           (1) "Abandoned", a physical absence from the property, and either:

4           (a) Failure by a renter of real property to pay any required rent for fifteen  
5 consecutive days, along with the discontinuation of utility service to the rented  
6 property for such period; or

7           (b) Indication of or notice of abandonment of real property rented from a  
8 landlord;

9           (2) "Manufactured home", a factory-built structure as defined in  
10 subdivision [(5)] **(6)** or [(7)] **(8)** of section 700.010.

          700.650. 1. Sections 700.650 to 700.692 shall be known and may be cited  
2 as the "Manufactured Home Installation Act".

3           2. For the purposes of sections 700.650 to 700.692, the following terms  
4 shall mean:

5           (1) "Applicant", a person who applies to the commission for a license or  
6 limited-use license to install manufactured homes;

7           (2) "Commission", the Missouri public service commission;



8 (3) "Dealer", any person, other than a manufacturer, who sells or offers  
9 for sale four or more **used homes or one or more new** manufactured homes,  
10 **or one or more new modular units** in any consecutive twelve-month period;

11 (4) "Installation", work undertaken at the place of occupancy to ensure the  
12 proper initial setup of a manufactured home which shall include the joining of all  
13 sections of the home, installation of stabilization, support, and leveling systems,  
14 assembly of multiple or expanded units, and installation of applicable utility  
15 hookups and anchoring systems that render the home fit for habitation;

16 (5) "Installation standards", reasonable specifications for the installation  
17 of a manufactured home;

18 (6) "Installer", an individual who is licensed by the commission to install  
19 manufactured homes, pursuant to sections 700.650 to [700.680] **700.692**;

20 (7) "Manufactured home", a manufactured home as that term is defined  
21 in subdivision [(5)] **(6)** of section 700.010;

22 (8) "Manufacturer", any person who manufactures manufactured homes,  
23 including persons who engage in importing manufactured homes for resale; and

24 (9) "Person", an individual, partnership, corporation, or other legal entity.

[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.]

[620.125. No rule or portion of a rule promulgated under

2 the authority of chapters 326, 327, 328, 329, 330, 331, 332, 333,  
3 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, shall  
4 become effective unless it has been promulgated pursuant to the  
5 provisions of section 536.024, RSMo.]

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

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

[620.132. 1. Any public member authorized under the  
2 provisions of sections 326.160, RSMo, 327.031, RSMo, 328.030,  
3 RSMo, 329.190, RSMo, 330.110, RSMo, 331.090, RSMo, 332.021,  
4 RSMo, 333.151, RSMo, 334.120, RSMo, 335.021, RSMo, 336.130,  
5 RSMo, 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.120,  
6 RSMo, and 346.120, RSMo, who misses three consecutive regularly  
7 scheduled meetings of the board or council on which he serves shall  
8 forfeit his membership on that board or council. A new public  
9 member shall be appointed to the respective board or council by the  
10 governor with the advice and consent of the senate.

11 2. Each public member authorized under the provisions of  
12 law cited in subsection 1 of this section shall, at the conclusion of

13 each meeting of his respective board or council, make a report on  
14 that meeting to at least one major newspaper and one major radio  
15 station which serves the city or town in which the meeting  
16 occurred.]

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

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

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

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

26 4. Notwithstanding any other provision of law to the  
27 contrary, no board, commission or any other registration, licensing  
28 or certifying agency of the division of professional registration shall

29 be required to collect or distribute any fee which is required for  
30 administering any test to qualify for a license, registration or  
31 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.]

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

[620.149. 1. Whenever a board within the division of  
2 professional registration, including the division itself when so  
3 empowered, may refuse to issue a license for reasons which also  
4 serve as a basis for filing a complaint with the administrative

5 hearing commission seeking disciplinary action against a holder of  
6 a license, the board, as an alternative to refusing to issue a license,  
7 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  
possessed in violation of the drug laws or rules and regulations of



12 this state, any other state or the federal government is upon the  
13 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.]

[620.154. 1. Except as provided in this section, no  
2 disciplinary proceeding against any person or entity licensed,  
3 registered or certified to practice a profession within the  
4 department of economic development, division of professional  
5 registration shall be initiated unless such action is commenced  
6 within three years of the date upon which the licensing, registering  
7 or certifying agency received notice of an alleged violation of an  
8 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.]

                  [700.070. Effective November 27, 1973, all purchasers of  
2 manufactured homes shall, within thirty days from the date of  
3 occupancy, anchor and secure the manufactured home in  
4 accordance with the standards promulgated by the commission  
5 pursuant to the provisions of sections 700.010 to 700.115.]

                  [700.450. As used in sections 700.450 to 700.470, the  
2 following terms shall mean:

3                   (1) "Commission", the public service commission;

4                   (2) "Dealer", any person, including, but not limited to, real  
5 estate brokers and salespersons, other than a manufacturer, who  
6 sells or offers for sale four or more manufactured homes in any

7 consecutive twelve-month period;

8 (3) "Manufactured home", a factory-built structure or  
9 structures which, in the traveling mode, is eight body feet or more  
10 in width or forty body feet or more in length, or, when erected on  
11 site, contains three hundred twenty or more square feet, equipped  
12 with the necessary service connections and made so as to be readily  
13 movable as a unit or units on its or their own running gear and  
14 designed to be used as a dwelling unit or units with or without a  
15 permanent foundation. The phrase "without a permanent  
16 foundation" indicates that the support system is constructed with  
17 the intent that the manufactured home placed thereon may be  
18 moved from time to time at the convenience of the owner;

19 (4) "Manufacturer", any person who manufactures  
20 manufactured homes, including persons who engage in importing  
21 manufactured homes for resale;

22 (5) "Person", any individual, partnership, corporation or  
23 other legal entity.]

[700.455. 1. Every dealer shall, on or before January  
2 fifteenth of each year, instead of registering each manufactured  
3 home dealt in, make a verified application, upon a blank for such  
4 purpose to be furnished by the commission, for a distinctive  
5 number for all the manufactured homes dealt in or controlled by  
6 such dealer. The application shall contain, but need not be limited  
7 to:

8 (1) When the applicant is a partnership, the name and  
9 address of each partner, or, when the applicant is a corporation,  
10 the names of the principal officers of the corporation and the state  
11 in which it is incorporated. The application shall be verified by the  
12 oath or affirmation of the applicant, if an individual, or in the  
13 event an applicant is a partnership or corporation, then by a  
14 partner or officer;

15 (2) A bona fide established place of business shall be  
16 required for every dealer. A bona fide established place of business  
17 for any dealer shall include a permanent enclosed building or  
18 structure, either owned in fee or leased and actually occupied as a  
19 place of business by the applicant for the selling, bartering, trading

20 or exchanging of manufactured homes, where the public may  
21 contact the owner or operator at any reasonable time and where  
22 the books, records, files and other matters required and necessary  
23 to conduct the business shall be kept and maintained.

24 2. The application shall contain the business address, not  
25 a post-office box, and telephone number of the place where the  
26 books, records, files and other matters required and necessary to  
27 conduct the business are located and where the same may be  
28 inspected during normal daytime business hours.

29 3. Each application shall contain such additional  
30 information as may be required by the commission to enable it to  
31 determine whether the applicant is a bona fide dealer in fact and  
32 is of good moral character.

33 4. On the payment of a registration fee of fifty dollars there  
34 shall be assigned to each dealer a certificate of registration in such  
35 form as the commission shall prescribe.]

[700.460. 1. Each person registered as a dealer pursuant  
2 to the provisions of sections 700.450 to 700.470 shall file monthly  
3 reports with the commission, which reports shall be in the form  
4 and manner and contain the information required by the  
5 commission by rules promulgated pursuant to chapter 536, RSMo,  
6 and shall permit an employee of the commission or any law  
7 enforcement official to inspect, during normal business hours, any  
8 of the following documents which are in his possession or under his  
9 custody or control:

- 10 (1) Any title to any manufactured home;
- 11 (2) Any application for title to any manufactured home;
- 12 (3) Any affidavit provided pursuant to chapter 301 or 407,  
13 RSMo;
- 14 (4) Any assignment of title to any manufactured home;
- 15 (5) Any disclosure statement or other document required by  
16 the laws of the United States or any other state.

17 2. For purposes of this section, the term "law enforcement  
18 official" shall mean any of the following:

- 19 (1) Attorney general, or any person designated by him to  
20 make such an inspection;

21                   (2) Any prosecuting attorney or any person designated by  
22 a prosecuting attorney to make such an inspection;

23                   (3) Any member of the highway patrol;

24                   (4) Any sheriff or deputy sheriff;

25                   (5) Any peace officer certified pursuant to chapter 590,  
26 RSMo, acting in his official capacity.]

                  [700.465. No insurance company, finance company, bank or  
2 trust company shall be required to register with the commission in  
3 order to sell any manufactured home repossessed or purchased by  
4 the company on the basis of total destruction or theft thereof when  
5 the sale of the manufactured home is in conformance with  
6 applicable title and registration laws of this state.]

                  [700.470. 1. The commission may refuse to register an  
2 applicant as a dealer, or may suspend the registration of an  
3 existing dealer from one day to thirty days, or revoke the  
4 registration of a dealer, after a written notice and a hearing when  
5 he is satisfied that the applicant or dealer has failed to comply  
6 with the provisions set out in sections 700.450 to  
7 700.470. Notification of unfavorable action by the commission on  
8 any application for registration or renewal of registration must be  
9 accompanied by a notice informing the recipient that the decision  
10 of the director may be appealed as provided in chapter 536, RSMo.

11                   2. It shall be unlawful for any person to hold forth or act as  
12 a dealer who is not currently registered as a dealer by the  
13 commission as required by sections 700.450 to 700.470.]

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