

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 292

AN ACT

To repeal sections 362.105, 362.111, 362.280, 362.285, 365.100, 408.140, 408.330, and 443.812, RSMo, and to enact in lieu thereof thirty-two new sections relating to powers of certain financial institutions, with penalty provisions.

---

---

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 362.105, 362.111, 362.280, 362.285,  
2 365.100, 408.140, 408.330, and 443.812, RSMo, are repealed and  
3 thirty-two new sections enacted in lieu thereof, to be known as  
4 sections 362.105, 362.111, 362.1010, 362.1015, 362.1020,  
5 362.1030, 362.1035, 362.1037, 362.1040, 362.1045, 362.1050,  
6 362.1055, 362.1060, 362.1065, 362.1070, 362.1075, 362.1080,  
7 362.1085, 362.1090, 362.1095, 362.1100, 362.1105, 362.1110,  
8 362.1115, 362.1116, 362.1117, 362.1118, 365.100, 374.191,  
9 408.140, 408.330, and 443.812, to read as follows:

10           362.105. 1. Every bank and trust company created under the  
11 laws of this state may for a fee or other consideration, directly  
12 or through a subsidiary company, and upon complying with any  
13 applicable licensing statute:

1           (1) Conduct the business of receiving money on deposit and  
2 allowing interest thereon not exceeding the legal rate or without  
3 allowing interest thereon, and of buying and selling exchange,  
4 gold, silver, coin of all kinds, uncurrent money, of loaning  
5 money upon real estate or personal property, and upon collateral  
6 of personal security at a rate of interest not exceeding that  
7 allowed by law, and also of buying, investing in, selling and  
8 discounting negotiable and nonnegotiable paper of all kinds,  
9 including bonds as well as all kinds of commercial paper; and for  
10 all loans and discounts made, the corporation may receive and  
11 retain the interest in advance;

12           (2) Accept for payment, at a future date, drafts drawn upon  
13 it by its customers and to issue letters of credit authorizing  
14 the holders thereof to draw drafts upon it or upon its  
15 correspondents at sight or on time not exceeding one year;  
16 provided, that no bank or trust company shall incur liabilities  
17 under this subdivision to an amount equal at any time in the  
18 aggregate to more than its paid-up and unimpaired capital stock  
19 and surplus fund, except with the approval of the director under  
20 such general regulations as to amount of acceptances as the  
21 director may prescribe;

22           (3) Purchase and hold, for the purpose of becoming a member  
23 of a Federal Reserve Bank, so much of the capital stock thereof  
24 as will qualify it for membership in the reserve bank pursuant to  
25 an act of Congress, approved December 23, 1913, entitled "The  
26 Federal Reserve Act" and any amendments thereto; to become a  
27 member of the Federal Reserve Bank, and to have and exercise all  
28 powers, not in conflict with the laws of this state, which are

1 conferred upon any member by the Federal Reserve Act and any  
2 amendments thereto. The member bank or trust company and its  
3 directors, officers and stockholders shall continue to be  
4 subject, however, to all liabilities and duties imposed upon them  
5 by any law of this state and to all the provisions of this  
6 chapter relating to banks or trust companies;

7 (4) Subscribe for and purchase such stock in the Federal  
8 Deposit Insurance Corporation and to make such payments to and to  
9 make such deposits with the Federal Deposit Insurance Corporation  
10 and to pay such assessments made by such corporation as will  
11 enable the bank or trust company to obtain the benefits of the  
12 insurance of deposits under the act of Congress known as "The  
13 Banking Act of 1933" and any amendments thereto;

14 (5) Invest in a bank service corporation as defined by the  
15 act of Congress known as the "Bank Service Corporation Act",  
16 Public Law 87-856, as approved October 23, 1962, to the same  
17 extent as provided by that act or any amendment thereto;

18 (6) Hold a noncontrolling equity interest in any business  
19 entity that conducts only activities that are financial in nature  
20 or incidental to financial activity or that is established  
21 pursuant to subdivision (16) of this subsection where the  
22 majority of the stock or other interest is held by Missouri  
23 banks, Missouri trust companies, national banks located in  
24 Missouri, or any foreign bank with a branch or branches in  
25 Missouri, or any combination of these financial institutions;  
26 provided that if the entity is defined pursuant to Missouri law  
27 as any type of financial institution subsidiary or other type of  
28 entity subject to special conditions or regulations, those

1 conditions and regulations shall remain applicable, and provided  
2 that such business entity may be formed as any type of business  
3 entity, in which each investor's liability is limited to the  
4 investment in and loans to the business entity as otherwise  
5 provided by law;

6 (7) Receive upon deposit for safekeeping personal property  
7 of every description, and to own or control a safety vault and  
8 rent the boxes therein;

9 (8) Purchase and hold the stock of one safe deposit company  
10 organized and existing under the laws of the state of Missouri  
11 and doing a safe deposit business on premises owned or leased by  
12 the bank or trust company at the main banking house and any  
13 branch operated by the bank or trust company; provided, that the  
14 purchasing and holding of the stock is first duly authorized by  
15 resolution of the board of directors of the bank or trust company  
16 and by the written approval of the director, and that all of the  
17 shares of the safe deposit company shall be purchased and held,  
18 and shall not be sold or transferred except as a whole and not be  
19 pledged at all, all sales or transfers or pledges in violation  
20 hereof to be void;

21 (9) Act as the fiscal or transfer agent of the United  
22 States, of any state, municipality, body politic or corporation  
23 and in such capacity to receive and disburse money, to transfer,  
24 register and countersign certificates of stock, bonds and other  
25 evidences of indebtedness;

26 (10) Acquire or convey real property for the following  
27 purposes:

28 (a) Real property conveyed to it in satisfaction or part

1 satisfaction of debts previously contracted in the course of its  
2 business; [and]

3 (b) Real property purchased at sales under judgment,  
4 decrees or liens held by it; and

5 (c) Real property purchased or leased by a bank for the  
6 purpose of leasing or subleasing that property to a public entity  
7 including, but not limited to, government buildings, municipal  
8 buildings, school buildings and grounds, and public hospitals.  
9 The bank shall only lease the property to a public entity that  
10 has sufficient resources to make all rental payments as the  
11 payments become due. The lease agreement shall provide that,  
12 upon the expiration of the lease, the public entity will become  
13 the owner of the real property and any building or facility  
14 located thereon. No bank shall purchase or lease real estate for  
15 this purpose if the purchase or lease will exceed the bank's  
16 lending limit under section 362.170;

17 (11) Purchase, hold and become the owner and lessor of  
18 personal property acquired upon the specific request of and for  
19 use of a customer; and, in addition, leases that neither  
20 anticipate full purchase price repayment on the leased asset, nor  
21 require the lease to cover the physical life of the asset, other  
22 than those for motor vehicles which will not be used by bank or  
23 trust company personnel, and may incur such additional  
24 obligations as may be incident to becoming an owner and lessor of  
25 the property, subject to the following limitations:

26 (a) Lease transactions do not result in loans for the  
27 purpose of section 362.170, but the total amount disbursed under  
28 leasing obligations or rentals by any bank to any person,

1 partnership, association, or corporation shall at no time exceed  
2 the legal loan limit permitted by statute except upon the written  
3 approval of the director of finance; and

4 (b) Lease payments are in the nature of rent rather than  
5 interest, and the provisions of chapter 408 are not applicable;

6 (12) Contract with another bank or trust company, bank  
7 service corporation or other partnership, corporation,  
8 association or person, within or without the state, to render or  
9 receive any banking or trust services authorized under this  
10 chapter such as check and deposit sorting and posting,  
11 computation and posting of interest and other credits and  
12 charges, preparation and mailing of checks, statements, notices,  
13 and similar items, or any other clerical, bookkeeping,  
14 accounting, statistical, financial counseling, or similar  
15 services, or the storage, transmitting or processing of any  
16 information or data[; except that, the contract shall provide, to  
17 the satisfaction of the director of finance, that the party  
18 providing such services to a bank or trust company will be  
19 subject to regulation and examination to the same extent as if  
20 the services were being performed by the bank or trust company on  
21 its own premises. This subdivision shall not be deemed to  
22 authorize a bank or trust company to provide any customer  
23 services through any system of electronic funds transfer at  
24 places other than bank premises]. Any person or entity that  
25 provides, by contract or otherwise, such services to a bank or  
26 trust company, other than an entity that is a founding member and  
27 is represented on the executive committee of the Payment Card  
28 Industry Security Standards Council and that is examined and

1 regulated under the Bank Service Company Act (12 U.S.C. Sections  
2 1861 to 1867(c)) or any successor statute by an appropriate  
3 federal banking agency, shall be subject to examination by the  
4 division of finance to the same extent as if the service was  
5 being performed by the bank or trust company on its own premises.  
6 Each bank or trust company under the jurisdiction of the division  
7 of finance shall provide a list of all persons or entities  
8 providing services to the bank or trust company;

9 (13) Purchase and hold stock in a corporation whose only  
10 purpose is to purchase, lease, hold or convey real property of a  
11 character which the bank or trust company holding stock in the  
12 corporation could itself purchase, lease, hold or convey pursuant  
13 to the provisions of [paragraph (a) of] subdivision (10) of this  
14 subsection; provided, the purchase and holding of the stock is  
15 first duly authorized by resolution of the board of directors of  
16 the bank or trust company [and by the written approval of the  
17 director,] and that all of the shares of the corporation shall be  
18 purchased and held by the bank or trust company and shall not be  
19 sold or transferred except as a whole;

20 (14) Purchase and sell investment securities, without  
21 recourse, solely upon order and for the account of customers; and  
22 establish and maintain one or more mutual funds and offer to the  
23 public shares or participations therein. Any bank which engages  
24 in such activity shall comply with all provisions of chapter 409  
25 regarding the licensing and registration of sales personnel for  
26 mutual funds so offered, provided that such banks shall register  
27 as a broker-dealer with the office of the commissioner of  
28 securities and shall consent to supervision and inspection by

1 that office and shall be subject to the continuing jurisdiction  
2 of that office;

3 (15) Make debt or equity investments in corporations or  
4 projects, whether for profit or not for profit, designed to  
5 promote the development of the community and its welfare,  
6 provided that the aggregate investment in all such corporations  
7 and in all such projects does not exceed five percent of the  
8 unimpaired capital of the bank, and provided that this limitation  
9 shall not apply to loans made under the authority of other  
10 provisions of law, and other provisions of law shall not limit  
11 this subdivision; and

12 (16) Offer through one or more subsidiaries any products  
13 and services which a national bank may offer through its  
14 financial subsidiaries, subject to the limitations that are  
15 applicable to national bank financial subsidiaries, and provided  
16 such bank or trust company meets the division of finance safety  
17 and soundness considerations. This subdivision is enacted to  
18 provide in part competitive equality with national banks' powers  
19 under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

20 2. In addition to the power and authorities granted in  
21 subsection 1 of this section, and notwithstanding any limitations  
22 therein, a bank or trust company may:

23 (1) Purchase or lease, in an amount not exceeding its legal  
24 loan limit, real property and improvements thereto suitable for  
25 the convenient conduct of its functions. The bank may derive  
26 income from renting or leasing such real property or improvements  
27 or both. If the purchase or lease of such real property or  
28 improvements exceeds the legal loan limit or is from an officer,



1 director, employee, affiliate, principal shareholder or a related  
2 interest of such person, prior approval shall be obtained from  
3 the director of finance; and

4 (2) Loan money on real estate as defined in section  
5 442.010, and handle escrows, settlements and closings on real  
6 estate for the benefit of the bank's customers, as a core part of  
7 the banking business, notwithstanding any other provision of law  
8 to the contrary.

9 3. In addition to the powers and authorities granted in  
10 subsection 1 of this section, every trust company created under  
11 the laws of this state shall be authorized and empowered to:

12 (1) Receive money in trust and to accumulate the same at  
13 such rate of interest as may be obtained or agreed upon, or to  
14 allow such interest thereon as may be prescribed or agreed;

15 (2) Accept and execute all such trusts and perform such  
16 duties of every description as may be committed to it by any  
17 person or persons whatsoever, or any corporation, and act as  
18 assignee, receiver, trustee and depositary, and to accept and  
19 execute all such trusts and perform such duties of every  
20 description as may be committed or transferred to it by order,  
21 judgment or decree of any courts of record of this state or other  
22 states, or of the United States;

23 (3) Take, accept and hold, by the order, judgment or decree  
24 of any court of this state, or of any other state, or of the  
25 United States, or by gift, grant, assignment, transfer, devise or  
26 bequest of any person or corporation, any real or personal  
27 property in trust, and to execute and perform any and all the  
28 legal and lawful trusts in regard to the same upon the terms,

1 conditions, limitations and restrictions which may be declared,  
2 imposed, established or agreed upon in and by the order,  
3 judgment, decree, gift, grant, assignment, transfer, devise or  
4 bequest;

5 (4) Buy, invest in and sell all kinds of stocks or other  
6 investment securities;

7 (5) Execute, as principal or surety, any bond or bonds  
8 required by law to be given in any proceeding, in law or equity,  
9 in any of the courts of this state or other states, or of the  
10 United States;

11 (6) Act as trustee, personal representative, or conservator  
12 or in any other like fiduciary capacity; and

13 (7) Act as attorney-in-fact or agent of any person or  
14 corporation, foreign or domestic, in the management and control  
15 of real or personal property, the sale or conveyance of same, the  
16 investment of money, and for any other lawful purpose.

17 4. (1) In addition to the powers and authorities granted  
18 in this section, the director of finance may, from time to time,  
19 with the approval of the state banking and savings and loan  
20 board, issue orders granting such other powers and authorities as  
21 have been granted to financial institutions subject to the  
22 supervision of the federal government to:

23 (a) State-chartered banks and trust companies which are  
24 necessary to enable such banks and trust companies to compete;

25 (b) State-chartered banks and trust companies to establish  
26 branches to the same extent that federal law permits national  
27 banks to establish branches;

28 (c) Subsidiaries of state-chartered banks and trust

1 companies to the same extent powers are granted to national bank  
2 subsidiaries to enable such banks and trust companies to compete;  
3 and

4 (d) State-chartered banks and trust companies to establish  
5 trust representative offices to the same extent national banks  
6 are permitted such offices[.]; and

7 (2) The orders shall be promulgated as provided in section  
8 361.105 and shall not be inconsistent with the constitution and  
9 the laws of this state.

10 5. As used in this section, the term "subsidiary" shall  
11 include one or more business entities of which the bank or trust  
12 company is the owner, provided the owner's liability is limited  
13 by the investment in and loans to the subsidiary as otherwise  
14 provided for by law.

15 6. A bank or trust company to which authority is granted by  
16 regulation in subsection 4 of this section, based on the  
17 population of the political subdivision, may continue to exercise  
18 such authority for up to five years after the appropriate  
19 decennial census indicates that the population of the town in  
20 which such bank or trust company is located has exceeded the  
21 limits provided for by regulation pursuant to subsection 4 of  
22 this section.

23 362.111. 1. A bank or trust company may impose fees or  
24 service charges on deposit accounts; however, such fees or  
25 service charges are subject to such conditions or requirements  
26 that may be fixed by regulations pursuant to section 361.105 by  
27 the director of the division of finance and the state banking and  
28 savings and loan board. Notwithstanding any law to the contrary,

1 no such condition or requirement shall be more restrictive than  
2 the fees or service charges on deposit accounts or similar  
3 accounts permitted any federally chartered depository institution  
4 and no contractual fee charged for overdrawing the balance of a  
5 deposit account shall be deemed interest.

6 2. A bank may impose a convenience fee for payments using  
7 an alternative payment channel that accepts a debit or credit  
8 card not present transaction, non-face-to-face payment, provided  
9 that:

10 (a) The person making the payment is notified of the  
11 convenience fee; and

12 (b) The fee is fixed or flat, except that the fee may vary  
13 based upon method of payment used.

14 3. An agreement to operate or share an automated teller  
15 machine shall not prohibit an owner or operator of the automated  
16 teller machine from imposing, on an individual who conducts a  
17 transaction using a foreign account, an access fee or surcharge  
18 that is not otherwise prohibited under federal or state law.

19 [3.] 4. As used in this section, the following terms mean:

20 (1) "Automated teller machine", any electronic device,  
21 wherever located, through which a consumer may initiate an  
22 electronic funds transfer or may order, instruct, or authorize a  
23 financial institution to debit or credit an account and includes  
24 any machine or device which may be used to carry out electronic  
25 banking business. "Automated teller machine" does not include  
26 point of sale terminals or telephones or personal computers  
27 operated by a consumer;

28 (2) "Foreign account", an account with a financial

1 institution located outside the United States.

2 362.1010. Sections 362.1010 to 362.1115 shall be known and  
3 may be cited as the "Missouri Family Trust Company Act".

4 362.1015. For purposes of sections 362.1010 to 362.1115,  
5 the following terms mean:

6 (1) "Authorized representative", if a family trust company  
7 is organized as a corporation, then an officer or director of the  
8 family trust company or, if a family trust company is organized  
9 as a limited liability company, then a manager, officer, or  
10 member of the family trust company;

11 (2) "Collateral kinship", a relationship that is not lineal  
12 but stems from a common ancestor;

13 (3) "Controlling stockholder or member", an individual who  
14 owns or has the ability or power to directly or indirectly vote  
15 ten percent or more of the outstanding shares, membership  
16 interest, or membership units of the family trust company;

17 (4) "Designated relative", a common ancestor of a family,  
18 either living or deceased, who is so designated in an  
19 organizational instrument. No family trust company shall have  
20 more than one designated relative;

21 (5) "Engage in trust company business with the general  
22 public", any sales, solicitations, arrangements, agreements, or  
23 transactions to provide trust or other business services, whether  
24 for a fee, commission, or any other type of remuneration, with  
25 any person who is not a family member or any sole proprietorship,  
26 partnership, limited liability company, joint venture,  
27 association, corporation, trust, estate, business trust, or other  
28 company that is not one hundred percent owned by one or more

1 family members;

2 (6) "Family affiliate", a company or other entity wholly  
3 and exclusively owned by, directly or indirectly, and operated  
4 for the sole benefit of:

5 (a) One or more family members; or

6 (b) Charitable foundations, charitable trusts, or other  
7 charitable entities if such foundation, trust, or entity is  
8 funded exclusively by one or more family members;

9 (7) "Family member":

10 (a) A designated relative;

11 (b) Any person within the tenth degree of lineal kinship of  
12 a designated relative;

13 (c) Any person within the ninth degree of collateral  
14 kinship to a designated relative;

15 (d) The spouse of any person who qualifies under paragraphs  
16 (a) through (c) of this subdivision;

17 (e) Any former spouse of any person who qualifies under  
18 paragraphs (a) through (c) of this subdivision;

19 (f) The probate estate of any person who qualified as a  
20 family member under paragraphs (a) through (e) of this  
21 subdivision;

22 (g) A family affiliate;

23 (h) An irrevocable trust funded exclusively by one or more  
24 family members of which all permissible distributees, as defined  
25 under subdivision (15) of section 456.1-103, qualify under  
26 paragraphs (a) through (g) of this subdivision or are charitable  
27 foundations, charitable trusts, or other charitable entities; or

28 (i) A revocable trust of which one or more family members

1 are the sole settlors.

2  
3 For purposes of this subdivision, a legally adopted person shall  
4 be treated as a natural child of the adoptive parents; a  
5 stepchild shall be treated as a natural child of the family  
6 member who is or was the stepparent of that child; and a foster  
7 child or an individual who was a minor when a family member  
8 became his or her legal guardian shall be treated as a natural  
9 child of the family member appointed as foster parent or  
10 guardian. Degrees of kinship are calculated by adding the number  
11 of steps from the designated relative through each person to the  
12 family member either directly in case of lineal kinship or  
13 through the common ancestor in the case of collateral kinship;

14 (8) "Family trust company", a corporation or limited  
15 liability company organized or qualified to do business in this  
16 state that is wholly owned and exclusively controlled by,  
17 directly or indirectly, one or more family members, excluding any  
18 former spouse of a family member; that operates for the exclusive  
19 benefit of a family member regardless of whether compensation is  
20 received or anticipated; and that does not engage in trust  
21 company business with the general public or otherwise hold itself  
22 out as a trustee for hire by advertisement, solicitation, or  
23 other means. The term "family trust company" shall include  
24 foreign family trust companies unless context indicates  
25 otherwise;

26 (9) "Family trust company affiliated party":

27 (a) A director, officer, manager, employee, or controlling  
28 stockholder or member of a family trust company; or

1       (b) A stockholder, member, or any other person as  
2 determined by the secretary who participates in the affairs of a  
3 family trust company;

4       (10) "Foreign family trust company", a family trust company  
5 that:

6       (a) Is licensed by the District of Columbia or a state in  
7 the United States other than this state;

8       (b) Has its principal place of business in the District of  
9 Columbia or a state in the United States other than this state;

10       (c) Is operated in accordance with family or private trust  
11 company laws of the District of Columbia or of the state in which  
12 it is licensed;

13       (d) Is subject to statutory or regulatory mandated  
14 oversight by the District of Columbia or state in which the  
15 principal place of business is located; and

16       (e) Is not owned by or a subsidiary of a corporation,  
17 limited liability company, or other business entity that is  
18 organized in or licensed by any foreign country;

19       (11) "Lineal kinship", a relationship in the direct line of  
20 ascent or descent from a designated relative;

21       (12) "Officer", an individual, regardless of whether the  
22 individual has an official title or receives a salary or other  
23 compensation, who may participate in the major policy making  
24 functions of a family trust company other than as a director.

25 The term shall not include an individual who may have an official  
26 title and exercises discretion in the performance of duties and  
27 functions but who does not participate in determining the major  
28 policies of the family trust company and whose decisions are



1 limited by policy standards established by other officers,  
2 regardless of whether the policy standards have been adopted by  
3 the board of directors. The chair of the board of directors, the  
4 president, the chief executive officer, the chief financial  
5 officer, the senior trust officer, all executive vice presidents  
6 of a family trust company, and all managers if organized as a  
7 limited liability company are presumed to be officers unless such  
8 officer is excluded, other than in the capacity of a director, by  
9 resolution of the board of directors or members or by the bylaws  
10 or operating agreement of the family trust company from  
11 participating in major policy making functions of the family  
12 trust company, and such excluded officer does not actually  
13 participate therein;

14 (13) "Organizational instrument", the articles of  
15 incorporation for a corporation or the articles of organization  
16 for a limited liability company;

17 (14) "Principal place of business", the physical location  
18 where officers of a family trust company direct, control, and  
19 coordinate the trust company's activities;

20 (15) "Principal place of operations", the physical location  
21 in this state where a foreign family trust company stores and  
22 maintains its books and records pertaining to operations in this  
23 state;

24 (16) "Qualified beneficiary", the same meaning as defined  
25 under subdivision (20) of section 456.1-103;

26 (17) "Registered agent", a business or individual  
27 designated by a family trust company to receive service of  
28 process on behalf of the family trust company;

1       (18) "Reports of examinations, operations, or conditions",  
2 records submitted to the secretary or prepared by the secretary  
3 as part of the secretary's duties performed under sections  
4 362.1010 to 362.1117;

5       (19) "Secretary", the secretary of state for the state of  
6 Missouri;

7       (20) "Secretary's designee", an attorney-at-law or a  
8 certified public accountant designated by the secretary under  
9 subsection 1 of section 362.1085;

10       (21) "Working papers", the records of the procedures  
11 followed, tests performed, information obtained, and conclusions  
12 reached in an investigation under sections 362.1010 to 362.1117.  
13 The term shall also include books and records.

14       362.1020. If a family trust company limits its activities  
15 to the activities authorized under sections 362.1010 to 362.1117,  
16 then section 361.160 and sections 362.010 to 362.950 shall not  
17 apply to the family trust company.

18       362.1030. 1. There is hereby established in the state  
19 treasury the "Family Trust Company Fund", which shall consist of  
20 all fees collected by the secretary from family trust companies  
21 registering as provided in this section. The state treasurer  
22 shall be custodian of the fund. In accordance with sections  
23 30.170 and 30.180, the state treasurer may approve disbursements.  
24 The fund shall be a dedicated fund, and moneys in the fund shall  
25 be used solely to support the secretary's role and fulfillment of  
26 duties under sections 362.1010 to 362.1117. Notwithstanding the  
27 provisions of section 33.080 to the contrary, any moneys  
28 remaining in the fund at the end of the biennium shall revert to

1 the credit of the general revenue fund. The state treasurer  
2 shall invest moneys in the fund in the same manner as other funds  
3 are invested. Any interest and moneys earned on such investments  
4 shall be credited to the fund.

5 2. No family trust company shall conduct business in this  
6 state unless such family trust company pays a one-time original  
7 filing fee of five thousand dollars to the secretary and  
8 registers with the secretary in a format prescribed by the  
9 secretary. The secretary shall deposit all family trust company  
10 filing fees into the family trust company fund established under  
11 subsection 1 of this section.

12 3. To register, a family trust company that is not a  
13 foreign family trust company shall file its organizational  
14 instrument with the secretary. At a minimum, the organizational  
15 instrument shall state:

16 (1) The name of the designated relative;

17 (2) That the family trust company is a family trust company  
18 as defined under sections 362.1010 to 362.1117; and

19 (3) That its operations will comply with sections 362.1010  
20 to 362.1117.

21 4. A foreign family trust company shall register by filing  
22 with the secretary:

23 (1) An initial registration to begin operations as a  
24 foreign family trust company; and

25 (2) An application for a certificate of authority in  
26 accordance with and subject to chapters 347 or 351.

27 5. A foreign family trust company application shall be  
28 submitted on a form prescribed by the secretary and be signed,

1 under penalty of perjury, by an authorized representative. At a  
2 minimum, the application shall include:

3 (1) A statement attesting that the foreign family trust  
4 company:

5 (a) Will comply with the provisions of sections 362.1010 to  
6 362.1117; and

7 (b) Is in compliance with the family trust company laws and  
8 regulations of the jurisdiction of its incorporation or  
9 organization;

10 (2) The current telephone number and street address of:

11 (a) The foreign family trust company's principal place of  
12 business in the jurisdiction of its incorporation or  
13 organization;

14 (b) The foreign family trust company's principal place of  
15 operations; and

16 (c) Any other offices located within this state;

17 (3) The name and current street address in this state of  
18 its registered agent;

19 (4) A certified copy of a certificate of good standing, or  
20 an equivalent document, authenticated by the official having  
21 custody of records in the jurisdiction where the foreign family  
22 trust company is incorporated or organized;

23 (5) Satisfactory proof, as determined by the secretary,  
24 that the foreign family trust company is organized in a manner  
25 similar to a Missouri family trust company and is in compliance  
26 with the family trust company laws and regulations of the  
27 jurisdiction in which the foreign family trust company was  
28 incorporated or organized; and

1       (6) Any other information reasonably and customarily  
2 required by the secretary of foreign corporations or foreign  
3 limited liability companies seeking to qualify to conduct  
4 business in this state.

5       362.1035. 1. No family trust company shall be organized or  
6 operated with a capital account of less than two hundred fifty  
7 thousand dollars. The full amount of the initial capital account  
8 of a family trust company shall consist of one or more asset  
9 groups described under subsection 1 of section 362.1070,  
10 exclusive of all organization expenses.

11       2. A family trust company shall maintain:

12       (1) A physical office in this state where original or true  
13 copies, including electronic copies, of all material business  
14 records and accounts of the family trust company may be accessed  
15 and are readily available for examination by the secretary. A  
16 family trust company may also maintain one or more branch offices  
17 within or outside of this state;

18       (2) A registered agent who maintains an office in this  
19 state;

20       (3) All applicable state and local business licenses,  
21 charters, and permits; and

22       (4) A deposit account with a state-chartered or national  
23 financial institution that has a principal or branch office in  
24 this state.

25       3. In addition to the requirements of subsection 2 of this  
26 section, a foreign family trust company shall also:

27       (1) Be in good standing in the jurisdiction in which it is  
28 incorporated or organized; and

1       (2) Stay in compliance with the family trust company laws  
2 and regulations of such jurisdiction.

3       362.1037. Exclusive authority to manage a family trust  
4 company shall be vested in:

5       (1) If a corporation, a board of directors that consists of  
6 at least three directors; or

7       (2) If a limited liability company, a board of directors or  
8 managers that consists of three directors or managers.

9  
10 At least one director or manager of the company shall be a  
11 resident of this state.

12       362.1040. 1. One or more persons may subscribe to an  
13 organizational instrument in writing for the purpose of forming a  
14 family trust company, subject to the conditions prescribed by  
15 law.

16       2. The organizational instrument of a family trust company  
17 shall set forth all of the information required under chapters  
18 347 or 351, as applicable, and the following:

19       (1) The name of the company, which shall distinguish the  
20 company from any other nonfamily trust company or family trust  
21 company formed or engaging in business in this state. If the  
22 word "trust" is included in the name, it shall be immediately  
23 preceded by the word "family" so as to distinguish the entity  
24 from a nonfamily trust company operating under this chapter.  
25 This subdivision shall not apply to a foreign family trust  
26 company using a fictitious name that is registered and maintained  
27 in this state pursuant to the requirements administered by the  
28 secretary and that distinguishes the foreign family trust company

1 from a nonfamily trust company authorized to operate under this  
2 chapter;

3 (2) The purpose for which the company is formed, which  
4 shall clearly identify the restricted activities permissible to a  
5 family trust company under sections 362.1010 to 362.1117; and

6 (3) A statement affirming that the family trust company  
7 shall not engage in trust company business with the general  
8 public.

9 3. The term "trust company" in the name adopted by a family  
10 trust company shall not violate section 362.425.

11 362.1045. 1. A family trust company may procure and  
12 maintain fidelity bonds on all active officers, directors,  
13 managers, and members acting in a managerial capacity and on all  
14 employees of the company in order to indemnify the family trust  
15 company against loss resulting from dishonest, fraudulent, or  
16 criminal acts or omissions committed by any such person, whether  
17 acting alone or in combination with other persons and regardless  
18 of whether such person receives a salary or other compensation  
19 from the company.

20 2. A family trust company may also procure and maintain an  
21 errors and omissions insurance policy in which the family trust  
22 company is listed as the insured to cover the acts and omissions  
23 of officers, directors, managers, and members acting in a  
24 managerial capacity, regardless of whether any such person  
25 receives a salary or other compensation from the company.

26 3. A family trust company may also procure and maintain  
27 other insurance policies necessary or desirable in connection  
28 with the business of the company including, but not limited to,

1 one or more casualty insurance policies.

2 362.1050. 1. A family trust company shall maintain its  
3 fiduciary books and records separate and distinct from other  
4 records of the company and shall segregate all assets held in any  
5 fiduciary capacity from other assets of the company.

6 2. Assets received or held in a fiduciary capacity by a  
7 family trust company shall not be subject to the debts or  
8 obligations of the company.

9 362.1055. 1. A family trust company shall file an annual  
10 registration report with, and shall pay an annual filing fee of  
11 one thousand dollars to, the secretary.

12 2. The annual registration report filed by a family trust  
13 company that is not a foreign family trust company shall include:

14 (1) A statement by an authorized representative verifying  
15 that the family trust company is in compliance with the  
16 provisions of sections 362.1010 to 362.1117 and with applicable  
17 federal laws including, but not limited to, anti-money laundering  
18 and customer identification rules or regulations;

19 (2) The name of the company's designated relative and the  
20 street address for its principal place of business; and

21 (3) Any other information reasonably and customarily  
22 required by the secretary of general business corporations in  
23 connection with filing their annual registration reports.

24 3. The annual registration report filed by a foreign family  
25 trust company shall include:

26 (1) A statement by an authorized representative verifying  
27 that the foreign family trust company is in compliance with the  
28 provisions of sections 362.1010 to 362.1117, with the family



1 trust company laws and regulations of the jurisdiction in which  
2 it was incorporated or organized, and with applicable federal  
3 laws including, but not limited to, anti-money laundering and  
4 customer identification rules or regulations;

5 (2) The current telephone number and street address of the  
6 foreign family trust company's principal place of business in the  
7 jurisdiction in which it was incorporated or organized;

8 (3) The current telephone number and street address of the  
9 foreign family trust company's principal place of operations;

10 (4) The current telephone number and address of the  
11 physical location of any other offices located in this state;

12 (5) The name and current street address in this state of  
13 the trust company's registered agent;

14 (6) Documentation, to the satisfaction of the secretary,  
15 showing that the foreign family trust company is in compliance  
16 with the family trust company laws and regulations of the  
17 jurisdiction in which it was incorporated or organized; and

18 (7) Any other information reasonably and customarily  
19 required by the secretary of general business corporations in  
20 connection with filing their annual registration reports.

21 4. An annual registration report shall be submitted on a  
22 form prescribed by the secretary and signed under penalty of  
23 perjury by an authorized representative.

24 362.1060. 1. A family trust company may, but only for  
25 family members:

26 (1) Act as a sole or co-personal representative, executor,  
27 or administrator for a probate estate within or outside this  
28 state;

1       (2) Act as an attorney-in-fact or agent under a power of  
2 attorney;

3       (3) Except as provided under section 362.1065, act within  
4 or outside this state as a sole fiduciary or cofiduciary,  
5 including acting as a trustee, advisory agent, assignee, assignee  
6 for the benefit of creditors, authenticating agent, bailee, bond  
7 or indenture trustee, conservator, conversion agent, custodian,  
8 escrow agent, fiscal or paying agent, financial advisor,  
9 guardian, investment advisor or manager, managing agent, purchase  
10 agent, receiver, registrar, safekeeping or subscription agent,  
11 transfer agent for entities other than public companies, warrant  
12 agent, or other similar capacity generally performed by a  
13 corporate trustee. In so acting, the family trust company may  
14 possess, purchase, sell, invest, reinvest, safekeep, or otherwise  
15 manage or administer the real or personal property of family  
16 members;

17       (4) Exercise the powers of a corporation or limited  
18 liability company incorporated or organized under the laws of  
19 this state, or qualified to transact business as a foreign  
20 corporation or limited liability company under the laws of this  
21 state that are reasonably necessary to enable the trust company  
22 to fully exercise a power conferred under sections 362.1010 to  
23 362.1117 in accordance with commonly accepted customs and usages;

24       (5) Delegate duties and powers, including investment and  
25 management functions under section 469.909, in accordance with  
26 the powers granted to a trustee under chapter 456 or other  
27 applicable law and retain agents, attorneys, accountants,  
28 investment advisors, or other individuals or entities to advise

1 or assist the family trust company in the exercise of its powers  
2 and duties under sections 362.1010 to 362.1117 and chapter 456.  
3 Such exercise of power may include, but is not limited to,  
4 retaining a bank trust department or a public trust company other  
5 than another family trust company; and

6 (6) Perform all acts necessary to exercise the powers  
7 enumerated in this section or authorized under sections 362.1010  
8 to 362.1117 and other applicable laws of this state.

9 2. A foreign family trust company in good standing in the  
10 jurisdiction in which it is incorporated or organized may  
11 exercise all the trust powers in this state that a Missouri  
12 family trust company may exercise.

13 362.1065. Notwithstanding any other provision of sections  
14 362.1010 to 362.1117, no family trust company shall engage in  
15 commercial banking. However, a family trust company may  
16 establish accounts at financial institutions for its own purposes  
17 or on behalf of family members to whom it provides services under  
18 sections 362.1010 to 362.1117.

19 362.1070. 1. The assets forming the minimum capital  
20 account of a family trust company shall:

21 (1) Consist of cash, United States Treasury obligations, or  
22 any combination thereof; and

23 (2) Have an aggregate market value of at least one hundred  
24 percent of the company's required capital account, as specified  
25 under subsection 1 of section 362.1035. If the aggregate market  
26 value of one hundred percent of the company's capital account is,  
27 at any time, less than the amount required under subsection 1 of  
28 section 362.1035, the company shall have five business days to

1 bring such capital account into compliance with subsection 1 of  
2 section 362.1035.

3 2. A family trust company may purchase or rent real or  
4 personal property for use in conducting business and other  
5 activities of the company.

6 3. Notwithstanding any other provision of law, a family  
7 trust company may invest funds for its own account, other than  
8 those required or allowed under subsection 1 or 2 of this  
9 section, in any type or character of equity securities, debt  
10 securities, or other assets.

11 4. Notwithstanding any other provision of law, a family  
12 trust company may, while acting as a fiduciary, purchase directly  
13 from underwriters or broker-dealers or purchase in the secondary  
14 market:

15 (1) Bonds or other securities underwritten or brokered by:

16 (a) The family trust company;

17 (b) A family affiliate; or

18 (c) A syndicate, including the family trust company or a  
19 family affiliate; and

20 (2) Securities of investment companies for which the family  
21 trust company acts as an advisor, custodian, distributor,  
22 manager, registrar, shareholder servicing agent, sponsor, or  
23 transfer agent. For purposes of this section, investment  
24 companies shall be deemed to include mutual funds, closed-end  
25 funds, or unit investment trusts as defined under the Investment  
26 Company Act of 1940, 76 P.L. 768, as amended.

27 5. The authority granted under subsection 4 of this section  
28 may be exercised only if:

1       (1) The investment is not expressly prohibited by the  
2 instrument, judgment, decree, or order that establishes the  
3 fiduciary relationship;

4       (2) The family trust company procures in writing the  
5 consent of all cofiduciaries with discretionary investment powers  
6 to the investment, if any; and

7       (3) The family trust company discloses its intent to  
8 exercise the authority granted under subsection 4 of this section  
9 in writing to all of the trust company's account statement  
10 recipients before the first exercise of such authority, and each  
11 such disclosure states:

12       (a) Any interest the family trust company has or reasonably  
13 expects to have in the underwriting or distribution of the bonds  
14 or securities;

15       (b) Any fee or other compensation received or reasonably  
16 expected to be received by the family trust company as a result  
17 of the transaction or services provided to an investment company;  
18 and

19       (c) Any relationship between the family trust company and  
20 an investment company.

21       6. Subsections 4 and 5 of this section shall not affect the  
22 degree of prudence required of fiduciaries under the laws of this  
23 state. However, a purchase of bonds or securities under this  
24 section shall be presumed unaffected by a conflict between the  
25 fiduciary's personal and fiduciary interests if such purchase:

26       (1) Is negotiated at a fair price;

27       (2) Is in accordance with:

28       (a) The interest of the qualified beneficiaries of the

1 trust for which the purchase is made; and

2 (b) The purposes of the trust; and

3 (3) Otherwise complies with:

4 (a) The Missouri prudent investor act, sections 469.900 to  
5 469.913, unless such compliance is waived in a manner as provided  
6 by law; and

7 (b) The terms of the instrument, judgment, decree, or order  
8 establishing the fiduciary relationship.

9 7. Notwithstanding subsections 1 through 6 of this section,  
10 no family trust company shall, while acting as a fiduciary,  
11 purchase a bond or security issued by the family trust company,  
12 its parent, or a subsidiary company of either unless:

13 (1) The family trust company is expressly authorized to do  
14 so by:

15 (a) The terms of the instrument creating the trust for  
16 which such purchase is made;

17 (b) A court order;

18 (c) The written consent of the settlor of such trust for  
19 which the family trust company is serving as trustee; or

20 (d) The written consent of every adult qualified  
21 beneficiary of such trust who, at the time of such purchase, is  
22 entitled to receive income under the trust or who would be  
23 entitled to receive a distribution of principal if the trust were  
24 terminated; and

25 (2) The purchase of the security is at a fair price and  
26 complies with the Missouri prudent investor act, sections 469.900  
27 to 469.913, unless compliance is waived in a manner as provided  
28 by law, and with the terms of the instrument, judgment, decree,

1 or order establishing the fiduciary relationship.

2 8. Except as otherwise expressly limited by this section, a  
3 family trust company is authorized, without limiting any powers  
4 otherwise conferred on fiduciaries by law, to do any of the  
5 following actions while acting as a fiduciary, and such actions  
6 shall be presumed to be unaffected by a conflict between the  
7 fiduciary's personal and fiduciary interests:

8 (1) Make an equity investment in a closely held entity that  
9 may or may not be marketable and that is directly or indirectly  
10 owned or controlled by one or more family members;

11 (2) Place a security transaction using a broker who is a  
12 family member;

13 (3) Enter into an agreement with a family member who is the  
14 settlor or a qualified beneficiary of a trust with respect to the  
15 appointment of the family trust company as a fiduciary of the  
16 trust or with respect to the compensation of the family trust  
17 company for service as a fiduciary;

18 (4) Transact business with a family member;

19 (5) Transact business with or invest in any asset of  
20 another trust, estate, guardianship, or conservatorship for which  
21 the family trust company is a fiduciary or in which a family  
22 member has an interest;

23 (6) Deposit trust assets in a financial institution that is  
24 owned, controlled, or operated by one or more family members;

25 (7) Purchase, sell, hold, own, or invest in a security,  
26 bond, real property, personal property, stock, or other asset of  
27 a family member; and

28 (8) With or without adequate security, lend moneys to or

1 borrow moneys from a family member or a trust, estate, or  
2 guardianship for which the family trust company serves as a  
3 fiduciary.

4 9. If not inconsistent with and subject to the terms of  
5 subsections 4 through 8 of this section, the duty of loyalty  
6 under section 456.8-802 applies to a family trust company when  
7 the family trust company serves as trustee of a trust whose  
8 administration is subject to chapter 456.

9 362.1075. If a family trust company is required to make an  
10 oath, affirmation, affidavit, or acknowledgment regarding a  
11 fiduciary capacity in which the family trust company is acting or  
12 preparing to act, a director, officer, or, if the company is a  
13 limited liability company, a manager or officer expressly  
14 authorized by the family trust company shall make and, if  
15 required, subscribe to such oath, affirmation, affidavit, or  
16 acknowledgment on behalf of the company.

17 362.1080. No family trust company shall advertise its  
18 services to the public.

19 362.1085. 1. The secretary may designate an attorney-at-  
20 law or a certified public accountant to examine or investigate,  
21 or assist in the examination of, a family trust company.

22 2. The secretary or the secretary's designee may examine or  
23 investigate a family trust company at any time the secretary  
24 deems necessary to determine if the family trust company engaged  
25 in an act prohibited under section 362.1065 or 362.1080 and, if a  
26 family trust company engaged in such act, to determine whether  
27 any other applicable law was violated.

28 3. The secretary or the secretary's designee may examine



1 the books and records of a foreign family trust company at any  
2 time the secretary deems necessary to determine if such foreign  
3 family trust company is in compliance with sections 362.1010 to  
4 362.1117. In connection with an examination of the books and  
5 records of the trust company, the secretary or the secretary's  
6 designee may rely upon the most recent examination report,  
7 review, certification letters, or similar documentation issued by  
8 the agency supervising the foreign family trust company in the  
9 jurisdiction in which the foreign family trust company is  
10 incorporated or organized. The examination by the secretary or  
11 the secretary's designee of the books and records of a foreign  
12 family trust company shall be, to the extent practicable, limited  
13 to books and records of operations in this state.

14 4. For each examination or investigation of a family trust  
15 company under this section, the family trust company shall pay  
16 the costs of the examination or investigation. As used in this  
17 subsection, the term "costs" means the salary of and travel  
18 expenses incurred by any individual that are directly  
19 attributable to the examination or investigation of the family  
20 trust company. The mailing of payment for costs incurred shall  
21 be postmarked within thirty days after the receipt of a notice  
22 that states the costs are due. The secretary may levy a late  
23 payment of up to one hundred dollars per day for each day that a  
24 payment is overdue unless waived for good cause. However, if the  
25 late payment of costs is intentional, the secretary may levy an  
26 administrative fine of up to one thousand dollars per day for  
27 each day the payment is overdue.

28 5. The secretary may establish by rule the requirements and

1 records necessary to demonstrate conformity with sections  
2 362.1010 to 362.1117 by a family trust company.

3 362.1090. 1. The secretary or the secretary's designee may  
4 issue and serve upon a family trust company or family trust  
5 company affiliated party a notice of charges if the secretary or  
6 the secretary's designee has reason to believe that such company,  
7 family trust company affiliated party, or individual named  
8 therein is engaging in or has engaged in any of the following  
9 acts:

10 (1) The family trust company fails to satisfy the  
11 requirements of a family trust company or foreign family trust  
12 company under sections 362.1010 to 362.1117;

13 (2) A violation of section 362.1035, 362.1040, 362.1050,  
14 362.1055, 362.1060, or 362.1080;

15 (3) A violation of any rule of the secretary;

16 (4) A violation of any order of the secretary;

17 (5) A breach of any written agreement with the secretary;

18 (6) A prohibited act or practice under section 362.1065;

19 (7) A willful failure to provide information or documents  
20 to the secretary upon written request;

21 (8) An act of commission or omission that is judicially  
22 determined by a court of competent jurisdiction to be a breach of  
23 trust or fiduciary duty; or

24 (9) A violation of state or federal law related to  
25 anti-money laundering, customer identification, or any related  
26 rule or regulation.

27 2. The notice of charges shall contain a statement of facts  
28 and notice of opportunity for a hearing.

1       3. If no hearing is requested within thirty days after the  
2 date of service of the notice of charges or if a hearing is held  
3 and the secretary or secretary's designee finds that any of the  
4 charges are true, the secretary or secretary's designee may enter  
5 an order directing the family trust company, family trust company  
6 affiliated party, or the individual named in the notice of  
7 charges to cease and desist such conduct and to take corrective  
8 action.

9       4. A contested or default cease and desist order is  
10 effective when reduced to writing and served upon the family  
11 trust company, family trust company affiliated party, or the  
12 individual named therein. An uncontested cease and desist order  
13 is effective as agreed.

14       5. If the secretary or the secretary's designee finds that  
15 conduct described under subsection 1 of this section is likely to  
16 cause substantial prejudice to members, shareholders,  
17 beneficiaries of fiduciary accounts of the family trust company,  
18 or beneficiaries of services rendered by the family trust  
19 company, the secretary or the secretary's designee may issue an  
20 emergency cease and desist order requiring the family trust  
21 company, family trust company affiliated party, or individual  
22 named therein to immediately cease and desist from engaging in  
23 the conduct stated and to take corrective action. The emergency  
24 order is effective immediately upon service of a copy of the  
25 order upon the family trust company or family trust company  
26 affiliated party and shall remain effective for ninety days. If  
27 the secretary or the secretary's designee begins nonemergency  
28 cease and desist proceedings under subsection 1 of this section,

1 the emergency order shall remain effective until the conclusion  
2 of the proceedings under this section.

3 6. A family trust company shall have ninety days to wind up  
4 its affairs after entry of any order to cease and desist from  
5 operating as a family trust company. If a family trust company  
6 that is not a foreign family trust company is still operating  
7 after ninety days, the secretary or the secretary's designee may  
8 seek an order from a circuit court for the annulment or  
9 dissolution of the company. If a foreign family trust company is  
10 still operating after ninety days, the secretary or the  
11 secretary's designee may seek an injunction from a circuit court  
12 restraining the company from continuing to operate in this state.

13 362.1095. If a family trust company fails to submit within  
14 the prescribed period its annual registration report or any other  
15 report required by sections 362.1010 to 362.1117 or rule, the  
16 secretary may impose a fine of up to one hundred dollars for each  
17 day that the annual registration report or other report is  
18 overdue. Failure to provide the annual registration report  
19 within sixty days after the end of the calendar year shall  
20 automatically result in termination of the registration of a  
21 family trust company. A family trust company may have its  
22 registration automatically reinstated by submitting to the  
23 secretary, on or before August thirty-first of the calendar year  
24 in which the annual registration report is due, the company's  
25 annual registration report, a five hundred dollar late fee, and  
26 the amount of any fine imposed by the secretary under this  
27 section. A family trust company that fails to renew or reinstate  
28 its registration shall wind up its affairs on or before November

1 thirtieth of the calendar year in which such failure occurs.

2 362.1100. 1. The secretary or the secretary's designee may  
3 issue and serve upon a family trust company and a family trust  
4 company affiliated party a notice of charges if the secretary or  
5 the secretary's designee has reason to believe that the family  
6 trust company affiliated party is engaging or has engaged in  
7 conduct that:

8 (1) Demonstrates that the family trust company does not  
9 satisfy the requirements of a family trust company or of a  
10 foreign family trust company under sections 362.1010 to 362.1117;

11 (2) Is a prohibited act or practice under section 362.1065;

12 (3) Violates section 362.1035, 362.1040, 362.1050,  
13 362.1055, 362.1060, or 362.1080;

14 (4) Violates any other law involving fraud or moral  
15 turpitude that constitutes a felony;

16 (5) Violates a state or federal law related to anti-money  
17 laundering, customer identification, or any related rule or  
18 regulation;

19 (6) Is a willful violation of a rule of the secretary;

20 (7) Is a willful violation of an order of the secretary;

21 (8) Is a willful breach of a written agreement with the  
22 secretary; or

23 (9) Is an act of commission or omission or a practice that  
24 the secretary or the secretary's designee has reason to believe  
25 is a breach of trust or fiduciary duty.

26 2. The notice of charges shall contain a statement of facts  
27 and notice of opportunity for a hearing.

28 3. If no hearing is requested within thirty days after the

1 date of service of the notice of charges or if a hearing is held  
2 and the secretary or secretary's designee finds that any of the  
3 charges in the notice of charges are true, the secretary or  
4 secretary's designee may enter an order that removes the family  
5 trust company affiliated party from the family trust company or  
6 that restricts or prohibits the family trust company affiliated  
7 party from participating in the affairs of the family trust  
8 company.

9 4. A contested or default order of removal is effective  
10 when reduced to writing and served upon the family trust company  
11 and the family trust company affiliated party. An uncontested  
12 order of removal is effective as agreed.

13 5. (1) The chief executive officer of a family trust  
14 company or the person holding the equivalent office shall  
15 promptly notify the secretary if such person has actual knowledge  
16 that a family trust company affiliated party is charged with a  
17 felony in a state or federal court.

18 (2) If a family trust company affiliated party is charged  
19 with a felony in a state or federal court or, in a court of a  
20 foreign country with which the United States maintains diplomatic  
21 relations, is charged with an offense that involves a violation  
22 of law relating to fraud, currency transaction reporting, money  
23 laundering, theft, or moral turpitude and such offense is  
24 equivalent to a felony charge under state or federal law, then  
25 the secretary or the secretary's designee may enter an emergency  
26 order that suspends the family trust company affiliated party or  
27 that restricts or prohibits participation by such party in the  
28 affairs of the family trust company effective upon service of the

1 order on the company and such family trust company affiliated  
2 party.

3 (3) The order shall contain notice of opportunity for a  
4 hearing, at which the family trust company affiliated party may  
5 request a post-suspension hearing to show that continued service  
6 to or participation in the affairs of the family trust company  
7 does not pose a threat to the interests of the family trust  
8 company. In accordance with applicable rules, the secretary or  
9 secretary's designee shall notify the family trust company  
10 affiliated party whether the order suspending or prohibiting the  
11 family trust company affiliated party from participating in the  
12 affairs of the family trust company will be rescinded or  
13 otherwise modified. The emergency order shall remain in effect,  
14 unless otherwise modified by the secretary or secretary's  
15 designee, until the criminal charge is disposed. The emergency  
16 order shall dissolve upon the final, unappealed dismissal of all  
17 charges against or the acquittal of the family trust company  
18 affiliated party. Such occurrences shall not prohibit the  
19 secretary or the secretary's designee from instituting  
20 proceedings under subsection 1 of this section. If the family  
21 trust company affiliated party charged is convicted or pleads  
22 guilty or nolo contendere, regardless of adjudication, the  
23 emergency order shall become final.

24 6. No family trust company affiliated party removed from  
25 office under this section shall be eligible for reinstatement to  
26 such office or to any other official position in a family trust  
27 company or financial institution in this state except with the  
28 written consent of the secretary. A family trust company

1 affiliated party who is removed, restricted, or prohibited from  
2 participation in the affairs of a family trust company under this  
3 section may petition the secretary for modification or  
4 termination of such removal, restriction, or prohibition.

5 7. The resignation, termination of employment or  
6 participation, or separation from a family trust company of the  
7 family trust company affiliated party shall not affect the  
8 jurisdiction and authority of the secretary or the secretary's  
9 designee to issue a notice and proceed under this section against  
10 the family trust company affiliated party if such notice is  
11 served within six years of the date such person ceased to be a  
12 family trust company affiliated party.

13 362.1105. 1. The books and records of a family trust  
14 company are confidential and shall be made available for  
15 inspection and examination only:

16 (1) To the secretary or the secretary's authorized  
17 representative;

18 (2) To any person authorized to act for the family trust  
19 company;

20 (3) As compelled by a court, pursuant to a subpoena issued  
21 in accordance with state or federal law. Before the production  
22 of the books and records, the party seeking production shall  
23 agree to reimburse the company for the reasonable costs and fees  
24 incurred in compliance with the production. If the parties  
25 disagree on the amount of reimbursement, the party seeking the  
26 records may request the court that issued the subpoena to set the  
27 amount of reimbursement;

28 (4) Pursuant to a subpoena held by any federal or state law



1 enforcement or prosecutorial instrumentality authorized to  
2 investigate suspected criminal activity;

3 (5) As authorized by, if a corporation, the board of  
4 directors or, if a limited liability company, the managers; or

5 (6) As provided under subsection 2 of this section.

6 2. (1) If a corporation, each customer and stockholder,  
7 or, if a limited liability company, each member has the right to  
8 inspect the books and records of a family trust company as they  
9 pertain to such person's accounts or the determination of such  
10 person's voting rights.

11 (2) The books and records pertaining to customers, members,  
12 and stockholders of a family trust company shall be kept  
13 confidential by the company and its directors, managers,  
14 officers, and employees. The books and records of customers,  
15 members, and stockholders shall not be released except upon the  
16 express authorization of the customer as to his or her own  
17 accounts or a stockholder or member regarding his or her voting  
18 rights. However, information may be released without the  
19 authorization of a customer, member, or shareholder in a manner  
20 prescribed by the board of directors of a corporation or managers  
21 of a limited liability company for the purposes of verifying or  
22 corroborating the existence or amount of a customer's account if  
23 such information is reasonably provided to meet the needs of  
24 commerce and to ensure accurate credit information.

25 Notwithstanding this subdivision, this subsection shall not  
26 prohibit a family trust company from disclosing financial  
27 information as permitted under 15 U.S.C. Section 6802, as  
28 amended.

1       (3) The willful unlawful disclosure of confidential  
2 information in violation of this section shall be a class E  
3 felony.

4       (4) This subsection shall not apply to a foreign family  
5 trust company. The laws of the jurisdiction in which a foreign  
6 family trust company was incorporated or organized govern the  
7 rights of its customers, members, and stockholders to inspect its  
8 books and records.

9       3. For purposes of this section, the term "books and  
10 records" shall include, but is not limited to, the initial  
11 registration documents of a family trust company under section  
12 362.1030 and the annual registration report made by a family  
13 trust company under section 362.1055.

14       362.1110. 1. A family trust company shall keep at its  
15 principal place of business or principal place of operations:

16       (1) Full and complete records of the names and residences  
17 of all its shareholders or members;

18       (2) The number of shares or membership units held by each,  
19 as applicable; and

20       (3) The ownership percentage of each shareholder or member.

21  
22 The records are subject to inspection by all shareholders or  
23 members of the family trust company and the secretary or the  
24 secretary's authorized representative during the normal business  
25 hours of the family trust company. A current list of  
26 shareholders or members shall be made available to the secretary  
27 or the secretary's authorized representative for their inspection  
28 and, upon the request of the secretary, shall be submitted to the

1 secretary.

2 2. The secretary shall retain for at least ten years:

3 (1) Examination reports;

4 (2) Investigatory records;

5 (3) The organizational instrument of a family trust  
6 company; and

7 (4) The annual registration reports filed by a family trust  
8 company.

9 3. A copy of any document on file with the secretary that  
10 is certified by the secretary as a true copy may be introduced in  
11 evidence as if it were the original. The secretary shall  
12 establish a schedule of fees for preparing true copies of  
13 documents.

14 4. Orders issued by courts or administrative law judges for  
15 the production of confidential records or information shall  
16 provide for inspection in camera by the court or the  
17 administrative law judge. If the court or administrative law  
18 judge determines that the documents requested are relevant or  
19 would likely lead to the discovery of admissible evidence, the  
20 documents shall be subject to further orders by the court or the  
21 administrative law judge to protect the confidentiality thereof.  
22 An order directing the release of information shall be  
23 immediately reviewable, and a petition by the secretary for  
24 review of the order shall automatically stay any further  
25 proceedings in a trial court or administrative hearing until the  
26 disposition of the petition by the reviewing court. If any other  
27 party files a petition for review, such filing shall stay  
28 proceedings only upon an order of the reviewing court.

1           362.1115. 1. The following information held by the  
2 secretary is confidential and exempt from chapter 610:

3           (1) Any personal identifying information appearing in  
4 records relating to a registration or an annual certification of  
5 a family trust company;

6           (2) Any personal identifying information appearing in  
7 records relating to an examination of a family trust company;

8           (3) Any personal identifying information appearing in  
9 reports of examinations, operations, or conditions of a family  
10 trust company, including working papers;

11           (4) Any portion of a list of names of the shareholders or  
12 members of a family trust company;

13           (5) Information received by the secretary from a person  
14 from another state or nation or the federal government that is  
15 otherwise confidential or exempt under the laws of such state or  
16 nation or under federal law; and

17           (6) An emergency cease and desist order issued under  
18 section 362.1090 until the emergency order is made permanent,  
19 unless the secretary finds that such confidentiality will result  
20 in substantial risk of financial loss to the public.

21           2. Information made confidential and exempt under  
22 subsection 1 of this section may be disclosed by the secretary  
23 to:

24           (1) The authorized representative or representatives of the  
25 family trust company under examination. The authorized  
26 representative or representatives shall be identified in a  
27 resolution or by written consent of the board of directors if a  
28 corporation or the managers if a limited liability company;

1       (2) A fidelity insurance company upon written consent of  
2 the family trust company's board of directors if a corporation or  
3 its managers if a limited liability company;

4       (3) An independent auditor upon written consent of the  
5 family trust company's board of directors if a corporation or its  
6 managers if a limited liability company;

7       (4) A liquidator, receiver, or conservator if appointed.  
8 However, any portion of the information that discloses the  
9 identity of a bondholder, customer, family member, member, or  
10 stockholder shall be redacted by the secretary before releasing  
11 such information;

12       (5) Any other state, federal, or foreign agency responsible  
13 for the regulation or supervision of family trust companies;

14       (6) A law enforcement agency in the furtherance of such  
15 agency's official duties and responsibilities;

16       (7) The appropriate law enforcement or prosecutorial agency  
17 for the purpose of reporting any suspected criminal activity; or

18       (8) Comply with a legislative subpoena. A legislative body  
19 or committee that receives records or information pursuant to  
20 such subpoena shall maintain the confidential status of such  
21 records or information. However, in a case involving the  
22 investigation of charges against a public official subject to  
23 impeachment or removal, records or information may be disclosed  
24 to the extent necessary as determined by the legislative body or  
25 committee.

26       3. This section shall not prevent or restrict the  
27 publication of:

28       (1) A report required by federal law; or

1       (2) The name of the family trust company and the address of  
2 its registered agent.

3       4. The willful disclosure of information made confidential  
4 and exempt by this section is a class E felony.

5       362.1116. The secretary may issue forms and orders and,  
6 after notice and comment, may adopt and amend rules necessary or  
7 appropriate to carry out the provisions of sections 362.1010 to  
8 362.1117 and may repeal rules and forms.

9       362.1117. 1. Except as otherwise provided in sections  
10 362.1010 to 362.1117, any interested person aggrieved by any  
11 order of the secretary or secretary's designee under any  
12 provision of sections 362.1010 to 362.1117 shall be entitled to a  
13 hearing before the secretary or the secretary's authorized  
14 representative in accordance with the provisions of chapter 536.  
15 A cease and desist order issued by the secretary or secretary's  
16 designee is subject to judicial review in accordance with the  
17 provisions of chapter 536 in the circuit court of Cole County.

18       2. A rule adopted under sections 362.1010 to 362.1117 is  
19 subject to judicial review in accordance with the provisions of  
20 chapter 536 in the circuit court of Cole County.

21       362.1118. If any provision of sections 362.1010 to 362.1117  
22 or its application to any person or circumstances is held  
23 invalid, the invalidity does not affect other provisions or  
24 applications of sections 362.1010 to 362.1117 that can be given  
25 effect without the invalid provision or application, and to this  
26 end the provisions of sections 362.1010 to 362.1117 are  
27 severable.

28       365.100. 1. For contracts entered into on or after August

1 28, 2005, if the contract so provides, the holder thereof may  
2 charge, finance, and collect:

3 (1) A charge for late payment on each installment or  
4 minimum payment in default for a period of not less than fifteen  
5 days in an amount not to exceed five percent of each installment  
6 due or the minimum payment due or twenty-five dollars, whichever  
7 is less; except that, a minimum charge of ten dollars may be  
8 made, or when the installment is for twenty-five dollars or less,  
9 a charge for late payment for a period of not less than fifteen  
10 days shall not exceed five dollars, provided, however, that a  
11 minimum charge of one dollar may be made;

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

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

23 (4) All other reasonable expenses incurred in the  
24 origination, servicing, and collection of the amount due under  
25 the contract.

26 2. A holder of a contract may impose a convenience fee for  
27 payments using an alternative payment channel that accepts a  
28 debit or credit card not present transaction, non-face-to-face

1 payment, provided that:

2 (a) The person making the payment is notified of the  
3 convenience fee; and

4 (b) The fee is fixed or flat, except that the fee may vary  
5 based upon method of payment used.

6 374.191. 1. If an insurance company is required to pay  
7 interest on any claims, refunds, penalties, or payments under a  
8 market conduct examination, investigation, stipulation of  
9 settlement agreement, voluntary forfeiture agreement, or any  
10 other legal or remedial action ordered by the department under  
11 any law of this state, in which the interest rate is not provided  
12 for by law, such claims, refunds, penalties, or payments shall  
13 bear interest at the annual adjusted prime rate of interest as  
14 determined by section 32.065, but under no circumstance shall  
15 such interest rate exceed nine percent per annum.

16 2. The provisions of this section shall not apply to  
17 payments subject to the provisions of section 376.383 nor any  
18 other statute in which the interest rate is specified.

19 408.140. 1. No further or other charge or amount  
20 whatsoever shall be directly or indirectly charged, contracted  
21 for or received for interest, service charges or other fees as an  
22 incident to any such extension of credit except as provided and  
23 regulated by sections 367.100 to 367.200 and except:

24 (1) On loans for thirty days or longer which are other than  
25 "open-end credit" as such term is defined in the federal Consumer  
26 Credit Protection Act and regulations thereunder, a fee, not to  
27 exceed ten percent of the principal amount loaned not to exceed  
28 one hundred dollars may be charged by the lender; however, no



1 such fee shall be permitted on any extension, refinance,  
2 restructure or renewal of any such loan, unless any investigation  
3 is made on the application to extend, refinance, restructure or  
4 renew the loan;

5 (2) The lawful fees actually and necessarily paid out by  
6 the lender to any public officer for filing, recording, or  
7 releasing in any public office any instrument securing the loan,  
8 which fees may be collected when the loan is made or at any time  
9 thereafter; however, premiums for insurance in lieu of perfecting  
10 a security interest required by the lender may be charged if the  
11 premium does not exceed the fees which would otherwise be  
12 payable;

13 (3) If the contract so provides, a charge for late payment  
14 on each installment or minimum payment in default for a period of  
15 not less than fifteen days in an amount not to exceed five  
16 percent of each installment due or the minimum payment due or  
17 fifteen dollars, whichever is greater, not to exceed fifty  
18 dollars. If the contract so provides, a charge for late payment  
19 on each twenty-five dollars or less installment in default for a  
20 period of not less than fifteen days shall not exceed five  
21 dollars;

22 (4) If the contract so provides, a charge for late payment  
23 for a single payment note in default for a period of not less  
24 than fifteen days in an amount not to exceed five percent of the  
25 payment due; provided that, the late charge for a single payment  
26 note shall not exceed fifty dollars;

27 (5) Charges or premiums for insurance written in connection  
28 with any loan against loss of or damage to property or against

1 liability arising out of ownership or use of property as provided  
2 in section 367.170; however, notwithstanding any other provision  
3 of law, with the consent of the borrower, such insurance may  
4 cover property all or part of which is pledged as security for  
5 the loan, and charges or premiums for insurance providing life,  
6 health, accident, or involuntary unemployment coverage;

7 (6) Reasonable towing costs and expenses of retaking,  
8 holding, preparing for sale, and selling any personal property in  
9 accordance with [section 400.9] the uniform commercial code -  
10 secured transactions, sections 400.9-101 to 400.9-809;

11 (7) Charges assessed by any institution for processing a  
12 refused instrument plus a handling fee of not more than  
13 twenty-five dollars;

14 (8) If the contract or promissory note, signed by the  
15 borrower, provides for attorney fees, and if it is necessary to  
16 bring suit, such attorney fees may not exceed fifteen percent of  
17 the amount due and payable under such contract or promissory  
18 note, together with any court costs assessed. The attorney fees  
19 shall only be applicable where the contract or promissory note is  
20 referred for collection to an attorney, and is not handled by a  
21 salaried employee of the holder of the contract;

22 (9) Provided the debtor agrees in writing, the lender may  
23 collect a fee in advance for allowing the debtor to defer up to  
24 three monthly loan payments, so long as the fee is no more than  
25 the lesser of fifty dollars or ten percent of the loan payments  
26 deferred, no extensions are made until the first loan payment is  
27 collected and no more than one deferral in a twelve-month period  
28 is agreed to and collected on any one loan; this subdivision

1 applies to nonprecomputed loans only and does not affect any  
2 other subdivision;

3 (10) If the open-end credit contract is tied to a  
4 transaction account in a depository institution, such account is  
5 in the institution's assets and such contract provides for loans  
6 of thirty-one days or longer which are "open-end credit", as such  
7 term is defined in the federal Consumer Credit Protection Act and  
8 regulations thereunder, the creditor may charge a credit advance  
9 fee of up to the lesser of seventy-five dollars or ten percent of  
10 the credit advanced from time to time from the line of credit;  
11 such credit advance fee may be added to the open-end credit  
12 outstanding along with any interest, and shall not be considered  
13 the unlawful compounding of interest as [that term is defined in]  
14 specified under section 408.120;

15 (11) A deficiency waiver addendum, guaranteed asset  
16 protection, or a similar product purchased as part of a loan  
17 transaction with collateral and at the borrower's consent,  
18 provided the cost of the product is disclosed in the loan  
19 contract, is reasonable, and the requirements of section 408.380  
20 are met;

21 (12) A convenience fee for payments using an alternative  
22 payment channel that accepts a debit or credit card not present  
23 transaction, non-face-to-face payment, provided that:

24 (a) The person making the payment is notified of the  
25 convenience fee; and

26 (b) The fee is fixed or flat, except that the fee may vary  
27 based upon method of payment used.

28 2. Other provisions of law to the contrary notwithstanding,

1 an open-end credit contract under which a credit card is issued  
2 by a company, financial institution, savings and loan or other  
3 credit issuing company whose credit card operations are located  
4 in Missouri may charge an annual fee, provided that no finance  
5 charge shall be assessed on new purchases other than cash  
6 advances if such purchases are paid for within twenty-five days  
7 of the date of the periodic statement therefor.

8 3. Notwithstanding any other provision of law to the  
9 contrary, in addition to charges allowed pursuant to section  
10 408.100, an open-end credit contract provided by a company,  
11 financial institution, savings and loan or other credit issuing  
12 company which is regulated pursuant to this chapter may charge an  
13 annual fee not to exceed fifty dollars.

14 408.330. 1. If a retail time contract or a retail charge  
15 agreement so provides, the holder thereof may charge and collect:

16 (1) A premium for insurance in lieu of charges for  
17 perfecting a security interest required by the lender if the  
18 premium does not exceed the fees which would otherwise be  
19 payable;

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

23 (3) A delinquency and collection charge on each installment  
24 in default for a period of not less than ten days in an amount  
25 not to exceed ten dollars or five dollars when the monthly  
26 installment is less than twenty-five dollars; or

27 (4) Interest on each delinquent payment thereunder at a  
28 rate which will not exceed the highest lawful contract rate. In

1 addition to such delinquency charge, the contract may provide for  
2 the payment of attorney fees not exceeding fifteen percent of the  
3 amount due and payable under such contract where such contract is  
4 referred for collection to an attorney not a salaried employee of  
5 the holder of the contract and for court costs.

6 2. The parties to a retail time contract who have entered  
7 into more than one contract at substantially different times may  
8 agree to consolidate such contracts resulting in a single  
9 schedule of payments; provided, however, that the time charge on  
10 the new unpaid balance shall not exceed the maximum specified in  
11 section 408.300.

12 3. A holder of a contract may impose a convenience fee for  
13 payments using an alternative payment channel that accepts a  
14 debit or credit card not present transaction, non-face-to-face  
15 payment, provided that:

16 (a) The person making the payment is notified of the  
17 convenience fee; and

18 (b) The fee is fixed or flat, except that the fee may vary  
19 based upon method of payment used.

20 443.812. 1. Only one license shall be issued to each  
21 person conducting the activities of a residential mortgage loan  
22 broker. A residential mortgage loan broker shall register with  
23 the director each office, place of business or location in  
24 Missouri where the residential mortgage loan broker conducts any  
25 part of the residential mortgage loan broker's business pursuant  
26 to section 443.839.

27 2. Residential mortgage loan brokers may only solicit,  
28 broker, fund, originate, serve and purchase residential mortgage

1 loans in conformance with sections 443.701 to 443.893 and such  
2 rules as may be promulgated by the director.

3 3. No residential mortgage loan broker shall permit an  
4 unlicensed individual to engage in the activities of a mortgage  
5 loan originator and no residential mortgage loan broker shall  
6 permit a mortgage loan originator to engage in the activities of  
7 a mortgage loan originator under the supervision of the  
8 residential mortgage loan broker until that mortgage loan  
9 originator is shown to be employed by the residential mortgage  
10 loan broker as provided in this section.

11 4. Each residential mortgage loan broker shall report and  
12 file a listing with the director showing each mortgage loan  
13 originator licensed in Missouri and employed under the  
14 supervision of the residential mortgage loan broker. The listing  
15 shall show the name and unique identifier of each mortgage loan  
16 originator. The listing shall be updated with changes and filed  
17 no later than the next business day. The director may authorize  
18 a system of reporting that shows mortgage loan originators  
19 employed by Missouri residential mortgage loan brokers via the  
20 NMLSR in substitution for the report and filing requirement under  
21 this subsection.

22 5. The director may grant waivers of residential mortgage  
23 loan broker licensing requirements for persons engaged primarily  
24 in servicing residential mortgage loans where such waiver shall  
25 benefit borrowers including in particular the requirement to  
26 maintain a full-service office in Missouri.

27 6. (1) The provisions of this subsection shall apply only  
28 to residential mortgage loan brokers exclusively making loans on

1 manufactured or modular homes.

2 (2) A residential mortgage loan broker licensed in this  
3 state shall not be required to maintain a full-service office in  
4 Missouri; however, nothing in this subsection shall be construed  
5 as relieving a broker of the requirement to be licensed in this  
6 state and to obtain a certificate of authority to transact  
7 business in this state from the secretary of state.

8 (3) A residential mortgage loan broker licensed in this  
9 state who does not maintain a full-service office in Missouri  
10 shall file with the license application an irrevocable consent in  
11 a form to be determined by the director, duly acknowledged, which  
12 provides that, for suits and actions commenced against the broker  
13 in the courts of this state and, if necessary, for actions  
14 brought against the broker, the venue shall lie in the circuit  
15 court of Cole county.

16 (4) The director may assess the reasonable costs of any  
17 investigation incurred by the division that are outside the  
18 normal expense of any annual or special examination or any other  
19 costs incurred by the division as a result of a licensed  
20 residential mortgage loan broker who does not maintain a full-  
21 service office in Missouri. All costs assessed under this  
22 subsection shall be paid to the director of the department of  
23 insurance, financial institutions and professional registration  
24 and shall be deposited into the credit of the division of  
25 finance.

26  
27 [362.280. 1. The board of directors of every  
28 bank and trust company at least once in each year and  
29 whenever and as often as required by the director, and  
30 within thirty days after notice from him, shall examine

1 or cause a committee of at least three of its members  
2 or stockholders to examine fully the books, papers and  
3 affairs of the bank, and the loans and discounts and  
4 acceptances thereof, and particularly the loans or  
5 discounts or acceptances made directly or indirectly to  
6 its officers or directors, or for the benefit of these  
7 officers or directors, or for the benefit of other  
8 corporations of which these officers or directors are  
9 also officers or directors, or in which they have a  
10 beneficial interest as stockholders, creditors, or  
11 otherwise, with the special view of ascertaining their  
12 safety and present value, and the value of the  
13 collateral security, if any, held in connection  
14 therewith, and into such other matters as the director  
15 may require; provided, however, that no examination  
16 shall be required of a bank or trust company which is a  
17 member of the Federal Reserve System or of a bank or  
18 trust company whose deposits are insured by the Federal  
19 Deposit Insurance Corporation.

20 2. The directors or committee of stockholders  
21 shall have the power to employ such assistance in  
22 making such examination as they may deem necessary.]  
23

24 [362.285. 1. Within ten days succeeding any  
25 examination made pursuant to the requirements of  
26 section 362.280, a report in writing thereof, sworn to  
27 by the directors or stockholders making the same, shall  
28 be made to the board of directors of the bank or trust  
29 company, and placed on file in the bank or trust  
30 company, and a duplicate thereof filed in the office of  
31 the finance director.

32 2. The report shall particularly contain a  
33 statement of the assets and liabilities of the bank or  
34 trust company examined, as shown by the books, together  
35 with such deductions from the assets, and the addition  
36 of the liabilities, direct, indirect, contingent or  
37 otherwise, as the directors or committee, after the  
38 examination, may find necessary in order to determine  
39 the true condition of the bank or trust company. It  
40 shall also contain a statement showing in detail every  
41 known liability to the bank or trust company, direct or  
42 indirect, contingent or otherwise, of every officer or  
43 director thereof and of every corporation in which the  
44 officer or director owns stock to the amount of  
45 twenty-five percent of the total outstanding stock, or  
46 of which the officer or director is also an officer or  
47 director. It shall also contain a statement, in  
48 detail, of loans, if any, which in their opinion are  
49 doubtful or worthless, together with their reasons for  
50 so regarding them; also a statement of loans made on  
51 collateral security which in their opinion are



1 insufficiently secured, giving in each case the amount  
2 of the loan, the name and market value of the  
3 collateral, if it has any market value, and, if not, a  
4 statement of that fact, and its actual value as nearly  
5 as possible. The report shall also contain a statement  
6 of overdrafts, of the names and amounts of the ones  
7 considered worthless or doubtful, and a full statement  
8 of such other matters as affect the solvency and  
9 soundness of the institution.

10 3. If the directors of any bank or trust company  
11 shall fail to make, or to cause to be made or to file  
12 the report of examination in the manner and within the  
13 time specified, the bank or trust company shall forfeit  
14 to the state one hundred dollars for every day such  
15 report shall be delayed.]  
16