

FIRST REGULAR SESSION

SENATE BILL NO. 102

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0672S.011

AN ACT

To repeal sections 362.105, 362.200 and 362.205, RSMo, and to enact in lieu thereof one new section relating to powers of certain financial institutions.

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

Section A. Sections 362.105, 362.200 and 362.205, RSMo, are repealed and
2 one new section enacted in lieu thereof, to be known as section 362.105, to read
3 as follows:

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

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

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

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

19 of the director under such general regulations as to amount of acceptances as the
20 director may prescribe;

21 (3) Purchase and hold, for the purpose of becoming a member of a Federal
22 Reserve Bank, so much of the capital stock thereof as will qualify it for
23 membership in the reserve bank pursuant to an act of Congress, approved
24 December 23, 1913, entitled "The Federal Reserve Act" and any amendments
25 thereto; to become a member of the Federal Reserve Bank, and to have and
26 exercise all powers, not in conflict with the laws of this state, which are conferred
27 upon any member by the Federal Reserve Act and any amendments thereto. The
28 member bank or trust company and its directors, officers and stockholders shall
29 continue to be subject, however, to all liabilities and duties imposed upon them
30 by any law of this state and to all the provisions of this chapter relating to banks
31 or trust companies;

32 (4) Subscribe for and purchase such stock in the Federal Deposit
33 Insurance Corporation and to make such payments to and to make such deposits
34 with the Federal Deposit Insurance Corporation and to pay such assessments
35 made by such corporation as will enable the bank or trust company to obtain the
36 benefits of the insurance of deposits under the act of Congress known as "The
37 Banking Act of 1933" and any amendments thereto;

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

42 (6) Hold a noncontrolling equity interest in any business entity that
43 conducts only activities that are financial in nature or incidental to financial
44 activity or that is established pursuant to subdivision (16) of this subsection
45 where the majority of the stock or other interest is held by Missouri banks,
46 Missouri trust companies, national banks located in Missouri, or any foreign bank
47 with a branch or branches in Missouri, or any combination of these financial
48 institutions; provided that if the entity is defined pursuant to Missouri law as any
49 type of financial institution subsidiary or other type of entity subject to special
50 conditions or regulations, those conditions and regulations shall remain
51 applicable, and provided that such business entity may be formed as any type of
52 business entity, in which each investor's liability is limited to the investment in
53 and loans to the business entity as otherwise provided by law;

54 (7) Receive upon deposit for safekeeping personal property of every

55 description, and to own or control a safety vault and rent the boxes therein;

56 (8) Purchase and hold the stock of one safe deposit company organized
57 and existing under the laws of the state of Missouri and doing a safe deposit
58 business on premises owned or leased by the bank or trust company at the main
59 banking house and any branch operated by the bank or trust company; provided,
60 that the purchasing and holding of the stock is first duly authorized by resolution
61 of the board of directors of the bank or trust company and by the written approval
62 of the director, and that all of the shares of the safe deposit company shall be
63 purchased and held, and shall not be sold or transferred except as a whole and
64 not be pledged at all, all sales or transfers or pledges in violation hereof to be
65 void;

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

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

71 (a) Real property conveyed to it in satisfaction or part satisfaction of debts
72 previously contracted in the course of its business; [and]

73 (b) Real property purchased at sales under judgment, decrees or liens held
74 by it; **and**

75 (c) **Real property purchased for the purpose of leasing that**
76 **property to a public entity which includes government buildings,**
77 **municipal buildings, schools, and public hospitals. The bank shall lease**
78 **the property to the public entity having sufficient resources to make all**
79 **rental payments as they become due. The lease agreement shall**
80 **provide that the lessee shall become the owner of the real property and**
81 **any building or facility upon the expiration of the lease. The purchase**
82 **of the real estate for this purpose shall not exceed the bank's lending**
83 **limit in section 362.170;**

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

91 (a) Lease transactions do not result in loans for the purpose of section
92 362.170, but the total amount disbursed under leasing obligations or rentals by
93 any bank to any person, partnership, association, or corporation shall at no time
94 exceed the legal loan limit permitted by statute except upon the written approval
95 of the director of finance;

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

98 (12) Contract with another bank or trust company, bank service
99 corporation or other partnership, corporation, association or person, within or
100 without the state, to render or receive **any banking or trust** services [such as
101 check and deposit sorting and posting, computation and posting of interest and
102 other credits and charges, preparation and mailing of checks, statements, notices,
103 and similar items, or any other clerical, bookkeeping, accounting, statistical,
104 financial counseling, or similar services, or the storage, transmitting or
105 processing of any information or data; except that, the contract shall provide, to
106 the satisfaction of the director of finance, that the party providing such services
107 to a bank or trust company will be subject to regulation and examination to the
108 same extent as if the services were being performed by the bank or trust company
109 on its own premises. This subdivision shall not be deemed to authorize a bank
110 or trust company to provide any customer services through any system of
111 electronic funds transfer at places other than bank premises] **authorized by**
112 **this chapter. Any person or entity that provides, by contract or**
113 **otherwise, services to a bank or trust company shall be subject to**
114 **regulations and examination by the division of finance to the same**
115 **extent as if the service was being performed by the bank or trust**
116 **company on its own premises. Each bank or trust company under the**
117 **jurisdiction of the division of finance shall provide a list of all persons**
118 **or entities providing services to the bank or trust company;**

119 (13) Purchase and hold stock in a corporation whose only purpose is to
120 purchase, lease, hold or convey real property of a character which the bank or
121 trust company holding stock in the corporation could itself purchase, lease, hold
122 or convey pursuant to the provisions of [paragraph (a) of] subdivision (10) of this
123 subsection; provided, the purchase and holding of the stock is first duly
124 authorized by resolution of the board of directors of the bank or trust company
125 [and by the written approval of the director], and that all of the shares of the
126 corporation shall be purchased and held by the bank or trust company and shall

127 not be sold or transferred except as a whole;

128 (14) Purchase and sell investment securities, without recourse, solely
129 upon order and for the account of customers; and establish and maintain one or
130 more mutual funds and offer to the public shares or participations therein. Any
131 bank which engages in such activity shall comply with all provisions of chapter
132 409 regarding the licensing and registration of sales personnel for mutual funds
133 so offered, provided that such banks shall register as a broker-dealer with the
134 office of the commissioner of securities and shall consent to supervision and
135 inspection by that office and shall be subject to the continuing jurisdiction of that
136 office;

137 (15) Make debt or equity investments in corporations or projects, whether
138 for profit or not for profit, designed to promote the development of the community
139 and its welfare, provided that the aggregate investment in all such corporations
140 and in all such projects does not exceed five percent of the unimpaired capital of
141 the bank, and provided that this limitation shall not apply to loans made under
142 the authority of other provisions of law, and other provisions of law shall not
143 limit this subdivision;

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

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

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

161 (2) Loan money on real estate as defined in section 442.010, and handle
162 escrows, settlements and closings on real estate for the benefit of the bank's

163 customers, as a core part of the banking business, notwithstanding any other
164 provision of law to the contrary.

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

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

171 (2) Accept and execute all such trusts and perform such duties of every
172 description as may be committed to it by any person or persons whatsoever, or
173 any corporation, and act as assignee, receiver, trustee and depository, and to
174 accept and execute all such trusts and perform such duties of every description
175 as may be committed or transferred to it by order, judgment or decree of any
176 courts of record of this state or other states, or of the United States;

177 (3) Take, accept and hold, by the order, judgment or decree of any court
178 of this state, or of any other state, or of the United States, or by gift, grant,
179 assignment, transfer, devise or bequest of any person or corporation, any real or
180 personal property in trust, and to execute and perform any and all the legal and
181 lawful trusts in regard to the same upon the terms, conditions, limitations and
182 restrictions which may be declared, imposed, established or agreed upon in and
183 by the order, judgment, decree, gift, grant, assignment, transfer, devise or
184 bequest;

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

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

190 (6) Act as trustee, personal representative, or conservator or in any other
191 like fiduciary capacity;

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

196 4. (1) In addition to the powers and authorities granted in this section,
197 the director of finance may, from time to time, with the approval of the state
198 banking and savings and loan board, issue orders granting such other powers and

199 authorities as have been granted to financial institutions subject to the
200 supervision of the federal government to:

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

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

205 (c) Subsidiaries of state-chartered banks and trust companies to the same
206 extent powers are granted to national bank subsidiaries to enable such banks and
207 trust companies to compete;

208 (d) State-chartered banks and trust companies to establish trust
209 representative offices to the same extent national banks are permitted such
210 offices.

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

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

217 6. A bank or trust company to which authority is granted by regulation
218 in subsection 4 of this section, based on the population of the political
219 subdivision, may continue to exercise such authority for up to five years after the
220 appropriate decennial census indicates that the population of the town in which
221 such bank or trust company is located has exceeded the limits provided for by
222 regulation pursuant to subsection 4 of this section.

2 [362.200. No corporation organized under any law of this
3 state, whether general or special, as a bank or trust company, or to
4 carry on a banking business, shall, except as otherwise permitted
5 by law, employ its moneys, directly or indirectly, in trade or
6 commerce, by buying and selling ordinary goods, chattels, wares
7 and merchandise, or by owning or operating industrial plants;
8 provided, that it may sell all kinds of property which may come
9 into its possession as collateral security for loans, or in the
ordinary collection of debts.]

2 [362.205. 1. No bank or trust company shall by any system
3 of accounting or any device of bookkeeping, directly or indirectly,
enter any of its assets upon its books in the name of any other

4 individual, partnership or corporation, or under any title or
5 designation that is not truly descriptive thereof.

6 2. The bonds and other interest-bearing corporate securities
7 purchased by a bank or trust company shall be entered on its books
8 at the actual cost thereof, and for the purpose of calculating the
9 undivided profits applicable to the payment of dividends the
10 securities shall not be estimated at a valuation exceeding their
11 present cost as determined by amortization, that is, by deducting
12 from the cost of the security purchased for a sum in excess of the
13 amount payable thereon at maturity, and charging to profit and
14 loss a sufficient sum to bring it to par at maturity, or adding to the
15 cost of the security purchased at less than the amount payable
16 thereon at maturity, and crediting to profit and loss a sufficient
17 sum to bring it to par at maturity.

18 3. No bank or trust company shall, except with the written
19 approval of the director, enter or at any time carry on its books the
20 real estate and the building or buildings thereon or the furniture
21 and fixtures used by it at a valuation exceeding their actual cost to
22 the bank or trust company, or book value, whichever is less.

23 4. Every bank and trust company shall conform its methods
24 of keeping its books and records to such orders in respect thereto
25 as shall have been made and promulgated by the director pursuant
26 to section 361.260.]

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