

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1250

99TH GENERAL ASSEMBLY

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 7, 2018, with recommendation that the Senate Committee Substitute do pass.

4128S.02C

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal sections 456.985, 456.1035, 456.1080, 456.4-414, 474.150, 515.575, and 515.635, RSMo, and to enact in lieu thereof twenty-seven new sections relating to trusts and estates.

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

Section A. Sections 456.985, 456.1035, 456.1080, 456.4-414, 474.150, 515.575, and 515.635, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 456.006, 456.985, 456.1035, 456.1080, 456.4-414, 472.400, 472.405, 472.410, 472.415, 472.420, 472.425, 472.430, 472.435, 472.440, 472.445, 472.450, 472.455, 472.460, 472.465, 472.470, 472.475, 472.480, 472.485, 472.490, 474.150, 515.575, and 515.635, to read as follows:

**456.006. 1. Where a trust or custodial account constitutes a health savings account, as defined in the Internal Revenue Code of 1986, as amended, a trust may be created by any of the following:**

**(1) A transfer of moneys to the trustee or custodian holding such trust or custodial account;**

**(2) The documentation of the creation of such trust or custodial account in the records of the trustee or custodian holding such trust or custodial account; or**

**(3) The execution of a trust or custodial agreement with respect to such trust or custodial account.**

**2. In any case, a trust or custodial account shall be deemed to have been established on the first day on which the individual who is the beneficiary of such trust or custodial account is an eligible**

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

14 **individual, as defined in the Internal Revenue Code of 1986, as**  
15 **amended, in that calendar year in which such trust or custodial**  
16 **account is created in accordance with this section.**

456.985. 1. Except as otherwise provided in the terms of an instrument  
2 creating or exercising a power of appointment, sections 456.970 to 456.1135  
3 govern powers of appointment.

4 2. The terms of an instrument creating or exercising a power of  
5 appointment prevail over any provisions of sections 456.970 to 456.1135 except:

6 (1) **The requisites for the creation of a power of appointment**  
7 **under subsections 1 to 4 of section 456.990;**

8 (2) The transferability of a power of appointment by a powerholder under  
9 subsection 1 of section 456.995;

10 [(2)] (3) The limitations on the authority of a donor to extend a general  
11 power of appointment beyond the death of a powerholder under subsection 3 of  
12 section 456.995;

13 [(3)] (4) The power is exclusionary if the permissible appointees of a  
14 power of appointment are not defined and limited under subsection 3 of section  
15 456.1005;

16 [(4)] (5) The requisites for the exercise of a power of appointment under  
17 section 456.1015;

18 [(5)] (6) The effect of an impermissible appointment under section  
19 456.1045;

20 [(6)] (7) A general power of appointment which is presently exercisable  
21 may be reached by the creditors of the powerholder or the powerholder's estate  
22 under section 456.1100.

456.1035. 1. A powerholder of a general power of appointment that  
2 permits appointment to the powerholder or the powerholder's estate may make  
3 any appointment, including an appointment in trust or creating a new power of  
4 appointment, that the powerholder could make in disposing of the powerholder's  
5 own property.

6 2. A powerholder of a general power of appointment that permits  
7 appointment only to the creditors of the powerholder or of the powerholder's  
8 estate may appoint only to those creditors.

9 3. The powerholder of a nongeneral power may:

10 (1) Make an appointment in any form, including an appointment in trust,  
11 in favor of a permissible appointee;

12 (2) Create a general power **or nongeneral power** in a permissible  
13 appointee; or

14 (3) Create a nongeneral power in any person to appoint to one or more of  
15 the permissible appointees of the original nongeneral power.

456.1080. As provided by sections 469.010 to [469.210] **469.120**, a  
2 powerholder may disclaim all or part of a power of appointment, and a  
3 permissible appointee, appointee, or taker in default of appointment may disclaim  
4 all or part of an interest in appointive property.

456.4-414. 1. After notice to the qualified beneficiaries, the trustee of a  
2 trust consisting of trust property having a total value less than [one hundred  
3 thousand] **two hundred fifty thousand** dollars may terminate the trust if the  
4 trustee concludes that the value of the trust property is insufficient to justify the  
5 cost of administration.

6 2. The court may modify or terminate a trust or remove the trustee and  
7 appoint a different trustee if it determines that the value of the trust property is  
8 insufficient to justify the cost of administration.

9 3. Upon termination of a trust under this section, the trustee shall  
10 distribute the trust property in a manner consistent with the purposes of the  
11 trust.

12 4. This section does not apply to an easement for conservation or  
13 preservation.

**472.400. Sections 472.400 to 472.490 shall be known and may be**  
2 **cited as the "Missouri Fiduciary Access to Digital Assets Act".**

**472.405. As used in sections 472.400 to 472.490, the following**  
2 **terms mean:**

3 (1) "Access", includes view, marshal, manage, copy, distribute, or  
4 delete;

5 (2) "Account", an arrangement under a terms-of-service  
6 agreement in which a custodian carries, maintains, processes, receives,  
7 or stores a digital asset of the user or provides goods or services to the  
8 user;

9 (3) "Agent", an attorney-in-fact granted authority under a durable  
10 or nondurable power of attorney;

11 (4) "Carries", engages in the transmission of electronic  
12 communications;

13 (5) "Catalogue of electronic communications", information that

14 identifies each person with which a user has had an electronic  
15 communication, the time and date of the communication, and the  
16 electronic address of the person;

17 (6) "Conservator", a person appointed by a court to have the care  
18 and custody of the estate of a minor or a disabled person. A "limited  
19 conservator" is one whose duties or powers are limited. The term  
20 "conservator", as used in sections 472.400 to 472.490, includes limited  
21 conservator unless otherwise specified or apparent from the context;

22 (7) "Content of an electronic communication", information  
23 concerning the substance or meaning of the communication which:

24 (a) Has been sent or received by a user;

25 (b) Is in electronic storage by a custodian providing an  
26 electronic-communication service to the public or is carried or  
27 maintained by a custodian providing a remote-computing service to the  
28 public; and

29 (c) Is not readily accessible to the public;

30 (8) "Court", any court with competent jurisdiction within this  
31 state;

32 (9) "Custodian", a person that carries, maintains, processes,  
33 receives, or stores a digital asset of a user;

34 (10) "Designated recipient", a person chosen by a user using an  
35 online tool to administer digital assets of the user;

36 (11) "Digital asset", an electronic record in which an individual  
37 has a right or interest. The term does not include an underlying asset  
38 or liability unless the asset or liability is itself an electronic record;

39 (12) "Electronic", relating to technology having electrical, digital,  
40 magnetic, wireless, optical, electromagnetic, or similar capabilities;

41 (13) "Electronic communication", has the same meaning as set  
42 forth in 18 U.S.C. Section 2510(12), as amended;

43 (14) "Electronic communication service", a custodian that  
44 provides to a user the ability to send or receive an electronic  
45 communication;

46 (15) "Fiduciary", an original, additional, or successor personal  
47 representative, conservator, agency, or trustee;

48 (16) "Information", data, text, images, videos, sounds, codes,  
49 computer programs, software, databases, or the like;

50 (17) "Online tool", an electronic service provided by a custodian

51 that allows the user, in an agreement distinct from the terms-of-service  
52 agreement between the custodian and user, to provide directions for  
53 disclosure or nondisclosure of digital assets to a third person;

54 (18) "Person", an individual, estate, trust, business or nonprofit  
55 entity, public corporation, government or governmental subdivision,  
56 agency, instrumentality, or other legal entity;

57 (19) "Personal representative", executor or administrator,  
58 including an administrator with the will annexed, an administrator de  
59 bonis non, an administrator pending contest, an administrator during  
60 minority or absence, and any other type of administrator of the estate  
61 of a decedent whose appointment is permitted, or any person who  
62 performs substantially the same function under the law of Missouri,  
63 including without limitation an affiant who has filed a small estate  
64 affidavit under section 473.097. It does not include an executor de son  
65 tort;

66 (20) "Power of attorney", a record that grants an agent authority  
67 to act in the place of a principal;

68 (21) "Principal", an individual who grants authority to an agent  
69 in a power of attorney;

70 (22) "Protected person", an individual for whom a conservator  
71 has been appointed, including a protectee, a disabled person, and an  
72 individual for whom an application for the appointment of a  
73 conservator is pending;

74 (23) "Record", information that is inscribed on a tangible medium  
75 or that is stored in an electronic or other medium and is retrievable in  
76 perceivable form;

77 (24) "Remote computing service", a custodian that provides to a  
78 user computer processing services or the storage of digital assets by  
79 means of an electronic communications system, as defined in 18 U.S.C.  
80 Section 2510(14), as amended;

81 (25) "Terms-of-service agreement", an agreement that controls the  
82 relationship between a user and a custodian;

83 (26) "Trustee", a fiduciary with legal title to property under an  
84 agreement or declaration that creates a beneficial interest in another,  
85 including an original, additional, and successor trustee, and a co-  
86 trustee;

87 (27) "User", a person that has an account with a custodian;

88           (28) "Will", includes a testamentary instrument, a codicil, a  
89 testamentary instrument that only appoints an executor, and  
90 instrument that revokes or revises a testamentary instrument.

472.410. 1. Sections 472.400 to 472.490 shall apply to:

2           (1) A fiduciary or agent acting under a will or power of attorney  
3 executed before, on, or after the effective date of sections 472.400 to  
4 472.490;

5           (2) A personal representative acting for a decedent who dies  
6 before, on, or after the effective date of sections 472.400 to 472.490;

7           (3) A conservatorship proceeding commenced before, on, or after  
8 the effective date of sections 472.400 to 472.490; and

9           (4) A trustee acting under a trust created before, on, or after the  
10 effective date of sections 472.400 to 472.490.

11           2. Sections 472.400 to 472.490 shall apply to a custodian if the  
12 user resides in this state or resided in this state at the time of the  
13 user's death.

14           3. Sections 472.400 to 472.490 shall not apply to a digital asset of  
15 an employer used by an employee in the ordinary course of the  
16 employer's business.

472.415. 1. A user may use an online tool to direct the custodian  
2 to disclose to a designated recipient or not to disclose some or all of the  
3 user's digital assets, including the content of electronic  
4 communications. If the online tool allows the user to modify or delete  
5 a direction at all times, a direction regarding disclosure using an  
6 online tool overrides a contrary direction by the user in a will, trust,  
7 power of attorney, or other record.

8           2. If a user has not used an online tool to give direction under  
9 subsection 1 of this section or if the custodian has not provided an  
10 online tool, the user may allow or prohibit in a will, trust, power of  
11 attorney, or other record, disclosure to a fiduciary of some or all of the  
12 user's digital assets, including the content of electronic  
13 communications sent or received by the user.

14           3. A user's direction under subsection 1 or 2 of this section  
15 overrides a contrary provision in a terms-of-service agreement that  
16 does not require the user to act affirmatively and distinctly from the  
17 user's assent to the terms-of-service.

472.420. 1. Sections 472.400 to 472.490 shall not change or impair

2 a right of a custodian or a user under a terms-of-service agreement to  
3 access and use digital assets of the user.

4 2. Sections 472.400 to 472.490 shall not give a fiduciary or a  
5 designated recipient any new or expanded rights other than those held  
6 by the user for whom, or for whose estate, the fiduciary or designated  
7 recipient acts or represents.

8 3. A fiduciary's or a designated recipient's access to digital assets  
9 may be modified or eliminated by a user, by federal law, or by a terms-  
10 of-service agreement if the user has not provided direction under  
11 section 472.415.

12 472.425. 1. When disclosing digital assets of a user under  
13 sections 472.400 to 472.490, the custodian may at its sole discretion:

14 (1) Grant a fiduciary or designated recipient full access to the  
15 user's account;

16 (2) Grant a fiduciary or designated recipient partial access to the  
17 user's account sufficient to perform the tasks with which the fiduciary  
18 or designated recipient is charged; or

19 (3) Provide a fiduciary or designated recipient a copy in a record  
20 of any digital asset that, on the date the custodian received the request  
21 for disclosure, the user could have accessed if the user were alive and  
22 had full capacity and access to the account.

23 2. A custodian may assess a reasonable administrative charge for  
24 the cost of disclosing digital assets under sections 472.400 to 472.490.

25 3. A custodian shall not disclose under sections 472.400 to 472.490  
26 a digital asset deleted by a user.

27 4. If a user directs or a fiduciary requests a custodian to disclose  
under sections 472.400 to 472.490 some, but not all, of the user's digital  
assets, the custodian need not disclose the assets if segregation of the  
assets would impose an undue burden on the custodian. If the  
custodian believes the direction or request imposes an undue burden,  
the custodian or fiduciary may seek an order from the court to disclose:

(1) A subset limited by date of the user's digital assets;

(2) All of the user's digital assets to the fiduciary or designated  
recipient;

(3) None of the user's digital assets; or

(4) All of the user's digital assets to the court for review in  
camera.

472.430. If a deceased user consented or a court directs  
2 disclosure of the contents of electronic communications of the user, the  
3 custodian shall disclose to the personal representative of the estate of  
4 the user the content of an electronic communication sent or received  
5 by the user if the representative gives the custodian:

6 (1) A written request for disclosure in physical or electronic  
7 form;

8 (2) A certified copy of the death certificate of the user;

9 (3) A certified copy of the letters testamentary or letters of  
10 administration of the representative or a certified copy of the  
11 certificate of clerk in connection with a small estate affidavit or court  
12 order;

13 (4) Unless the user provided direction using an online tool, then  
14 in the case of user consent to disclosure, a copy of the user's will, trust,  
15 power of attorney, or other record evidencing the user's consent to  
16 disclosure of the content of electronic communications; and

17 (5) If requested by the custodian for the purpose of identifying  
18 the correct account of the user:

19 (a) A number, username, address, or other unique subscriber or  
20 account identifier assigned by the custodian to identify the user's  
21 account;

22 (b) Evidence linking the account to the user; or

23 (c) A finding by the court that:

24 a. The user had a specific account with the custodian,  
25 identifiable by the information specified in paragraph (a) of this  
26 subdivision;

27 b. Disclosure of the content of electronic communications of the  
28 user would not violate 18 U.S.C. Section 2701, et seq., as amended, 47  
29 U.S.C. Section 222, as amended, or other applicable law;

30 c. Unless the user provided direction using an online tool, the  
31 user consented to disclosure of the content of electronic  
32 communications; or

33 d. Disclosure of the content of electronic communications of the  
34 user is reasonably necessary for administration of the estate.

472.435. Unless the user prohibited disclosure of digital assets or  
2 the court directs otherwise, a custodian shall disclose to the personal  
3 representative of the estate of a deceased user a catalogue of electronic



4 communications sent or received by the user and digital assets, other  
5 than the content of electronic communications, of the user, if the  
6 representative gives the custodian:

7 (1) A written request for disclosure in physical or electronic  
8 form;

9 (2) A certified copy of the death certificate of the user;

10 (3) A certified copy of the letters testamentary or letters of  
11 administration of the representative or a certified copy of certificate  
12 of clerk in connection with a small-estate affidavit or court order; and

13 (4) If requested by the custodian for the purpose of identifying  
14 the correct account of the correct user:

15 (a) A number, username, address, or other unique subscriber or  
16 account identifier assigned by the custodian to identify the user's  
17 account;

18 (b) Evidence linking the account to the user;

19 (c) An affidavit stating that disclosure of the user's digital assets  
20 is reasonably necessary for administration of the estate; or

21 (d) A finding by the court that:

22 a. The user had a specific account with the custodian,  
23 identifiable by the information specified in paragraph (a) of this  
24 subdivision; or

25 b. Disclosure of the user's digital assets is reasonably necessary  
26 for administration of the estate.

472.440. To the extent a power of attorney expressly grants an  
2 agent authority over the content of an electronic communication sent  
3 or received by the principal and unless directed otherwise by the  
4 principal or the court, a custodian shall disclose to the agent the  
5 content if the agent gives the custodian:

6 (1) A written request for disclosure in physical or electronic  
7 form;

8 (2) An original or copy of the power of attorney expressly  
9 granting the agent authority over the content of electronic  
10 communications of the principal;

11 (3) A certification by the agent, under penalty of perjury, that  
12 the power of attorney is in effect; and

13 (4) If requested by the custodian for the purpose of identifying  
14 the correct account of the correct user:

15           **(a) A number, username, address, or other unique subscriber or**  
16 **account identifier assigned by the custodian to identify the principal's**  
17 **account; or**

18           **(b) Evidence linking the account to the principal.**

**472.445. Unless otherwise ordered by the court, directed by the**  
2 **principal, or provided by a power of attorney, a custodian shall disclose**  
3 **to an agent with specific authority over digital assets or general**  
4 **authority to act on behalf of a principal a catalogue of electronic**  
5 **communications sent or received by the principal and digital assets,**  
6 **other than the content of electronic communications, of the principal**  
7 **if the agent gives the custodian:**

8           **(1) A written request for disclosure in physical or electronic**  
9 **form;**

10           **(2) An original or a copy of the power of attorney that gives the**  
11 **agent specific authority over digital assets or general authority to act**  
12 **on behalf of the principal;**

13           **(3) A certification by the agent, under penalty of perjury, that**  
14 **the power of attorney is in effect; and**

15           **(4) If requested by the custodian for the purpose of identifying**  
16 **the correct account of the correct user:**

17           **(a) A number, username, address, or other unique subscriber or**  
18 **account identifier assigned by the custodian to identify the principal's**  
19 **account; or**

20           **(b) Evidence linking the account to the principal.**

**472.450. Unless otherwise ordered by the court or provided in a**  
2 **trust, a custodian shall disclose to a trustee that is an original user of**  
3 **an account any digital asset of the account held in trust, including a**  
4 **catalogue of electronic communications of the trustee and the content**  
5 **of the electronic communications.**

**472.455. Unless otherwise ordered by the court, directed by the**  
2 **user, or provided in a trust, a custodian shall disclose to a trustee that**  
3 **is not an original user of an account the content of an electronic**  
4 **communication sent or received by an original or successor user and**  
5 **carried, maintained, processed, received, or stored by the custodian in**  
6 **the account of the trust if the trustee gives the custodian:**

7           **(1) A written request for disclosure in physical or electronic**  
8 **form;**

9           **(2) A certified copy of the trust instrument or a certification of**  
10 **the trust under section 456.10-1013 that includes consent to disclosure**  
11 **of the content of electronic communications to the trustee;**

12           **(3) A certification by the trustee, under penalty of perjury, that**  
13 **the trust exists and the trustee is a currently acting trustee of the trust;**  
14 **and**

15           **(4) If requested by the custodian for the purpose of identifying**  
16 **the correct account of the correct user:**

17           **(a) A number, username, address, or other unique subscriber or**  
18 **account identifier assigned by the custodian to identify the trust's**  
19 **account; or**

20           **(b) Evidence linking the account to the trust.**

**472.460. Unless otherwise ordered by the court, directed by the**  
2 **user, or provided in a trust, a custodian shall disclose, to a trustee that**  
3 **is not an original user of an account, a catalogue of electronic**  
4 **communications sent or received by an original or successor user and**  
5 **stored, carried, or maintained by the custodian in an account of the**  
6 **trust and any digital assets, other than the content of electronic**  
7 **communications, in which the trust has a right or interest if the trustee**  
8 **gives the custodian:**

9           **(1) A written request for disclosure in physical or electronic**  
10 **form;**

11           **(2) A certified copy of the trust instrument or a certification of**  
12 **the trust under section 456.10-1013;**

13           **(3) A certification by the trustee, under penalty of perjury, that**  
14 **the trust exists and the trustee is a currently acting trustee of the trust;**  
15 **and**

16           **(4) If requested by the custodian for the purpose of identifying**  
17 **the correct account of the correct user:**

18           **(a) A number, username, address, or other unique subscriber or**  
19 **account identifier assigned by the custodian to identify the trust's**  
20 **account; or**

21           **(b) Evidence linking the account to the trust.**

**472.465. 1. After an opportunity for a hearing under Missouri**  
2 **conservatorship law, the court may grant a conservator access to the**  
3 **digital assets of a protected person.**

4           **2. Unless otherwise ordered by the court or directed by the user,**

5 a custodian shall disclose to a conservator the catalogue of electronic  
6 communications sent or received by a protected person and any digital  
7 assets, other than the content of electronic communications, in which  
8 the protected person has a right or interest if the conservator gives the  
9 custodian:

10 (1) A written request for disclosure in physical or electronic  
11 form;

12 (2) A certified copy of the court order that gives the conservator  
13 authority over the digital assets of the protected person; and

14 (3) If requested by the custodian for the purpose of identifying  
15 the correct account of the correct user:

16 (a) A number, username, address, or other unique subscriber or  
17 account identifier assigned by the custodian to identify the account of  
18 the protected person; or

19 (b) Evidence linking the account to the protected person.

20 3. A conservator with general authority to manage the assets of  
21 a protected person may request a custodian of the digital assets of the  
22 protected person to suspend or terminate an account of the protected  
23 person for good cause. A request made under this subsection shall be  
24 accompanied by a certified copy of the court order giving the  
25 conservator authority over the protected person's property.

472.470. 1. The legal duties imposed on a fiduciary charged with  
2 managing tangible property apply to the management of digital assets,  
3 including:

4 (1) The duty of care;

5 (2) The duty of loyalty; and

6 (3) The duty of confidentiality.

7 2. A fiduciary's or designated recipient's authority with respect  
8 to a digital asset of a user:

9 (1) Except as otherwise provided in section 472.415, is subject to  
10 the applicable terms-of-service agreement;

11 (2) Is subject to other applicable law, including copyright law;

12 (3) In the case of a fiduciary, is limited by the scope of the  
13 fiduciary's duties; and

14 (4) May not be used to impersonate the user.

15 3. A fiduciary with authority over the property of a decedent,  
16 protected person, principal, or settlor has the right to access any

17 digital asset in which the decedent, protected person, principal, or  
18 settlor had a right or interest and that is not held by a custodian or  
19 subject to a terms-of-service agreement.

20 4. A fiduciary acting within the scope of the fiduciary's duties is  
21 an authorized user of the property of the decedent, protected person,  
22 principal, or settlor for the purpose of applicable computer-fraud and  
23 unauthorized-computer-access laws, including Missouri law on  
24 unauthorized computer access.

25 5. A fiduciary with authority over the tangible, personal property  
26 of a decedent, protected person, principal, or settlor:

27 (1) Has the right to access the property and any digital asset  
28 stored in it; and

29 (2) Is an authorized user for the purpose of computer-fraud and  
30 unauthorized-computer-access laws, including Missouri law on  
31 unauthorized computer access.

32 6. A custodian may disclose information in an account to a  
33 fiduciary of the user when the information is required to terminate an  
34 account used to access digital assets licensed to the user.

35 7. A fiduciary of a user may request a custodian to terminate the  
36 user's account. A request for termination shall be in writing, in either  
37 physical or electronic form, and accompanied by:

38 (1) If the user is deceased, a certified copy of the death  
39 certificate of the user;

40 (2) A certified copy of the letter of testamentary or letters of  
41 administration of the representative or a certified copy of the  
42 certificate of clerk in connection with a small-estate affidavit or court  
43 order, power of attorney, or trust giving the fiduciary authority over  
44 the account; and

45 (3) If requested by the custodian for the purpose of identifying  
46 the correct account of the correct user:

47 (a) A number, username, address, or other unique subscriber or  
48 account identifier assigned by the custodian to identify the user's  
49 account;

50 (b) Evidence linking the account to the user; or

51 (c) A finding by the court that the user had a specific account  
52 with the custodian, identifiable by the information specified in  
53 paragraph (a) of this subdivision.

472.475. 1. Not later than sixty days after receipt of the  
2 information required under sections 472.430 to 472.470, a custodian  
3 shall comply with a request under sections 472.400 to 472.490 from a  
4 fiduciary or designated recipient to disclose digital assets or terminate  
5 an account. If the custodian fails to comply, the fiduciary or designated  
6 recipient may apply to the court for an order directing compliance.

7 2. An order under subsection 1 of this section directing  
8 compliance shall contain a finding that compliance is not in violation  
9 of 18 U.S.C. Section 2702, as amended.

10 3. A custodian may notify the user that a request for disclosure  
11 or to terminate an account was made under sections 472.400 to 472.490.

12 4. A custodian may deny a request under sections 472.400 to  
13 472.490 from a fiduciary or designated recipient for disclosure of digital  
14 assets or to terminate an account if the custodian is aware of any  
15 lawful access to the account following the receipt of the fiduciary's  
16 request.

17 5. Sections 472.400 to 472.490 do not limit a custodian's ability to  
18 obtain or require a fiduciary or designated recipient requesting  
19 disclosure or termination under such sections to obtain a court order  
20 which:

21 (1) Specifies that an account belongs to the protected person or  
22 principal;

23 (2) Specifies that there is sufficient consent from the protected  
24 person or principal to support the requested disclosure; and

25 (3) Contains a finding required by law other than as provided  
26 under sections 472.400 to 472.490.

27 6. A custodian and its officers, employees, and agents are  
28 immune from liability for an act or omission done in good faith in  
29 compliance with sections 472.400 to 472.490.

472.480. In applying and construing sections 472.400 to 472.490,  
2 consideration may be given to the need to promote uniformity of the  
3 law with respect to its subject matter among states that enact similar  
4 provisions.

472.485. Sections 472.400 to 472.490 modify, limit, or supersede  
2 the Electronic Signatures in Global and National Commerce Act, 15  
3 U.S.C. Section 7001, et seq., but do not modify, limit, or supersede  
4 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize

5 **electronic delivery of any of the notices described in Section 103(b) of**  
6 **that act, 15 U.S.C. Section 7003(b).**

472.490. **If any provision of sections 472.400 to 472.490 or the**  
2 **application of such sections to any person or circumstance is held**  
3 **invalid, the invalidity does not affect other provisions or application of**  
4 **sections 472.400 to 472.490 which can be given effect without the invalid**  
5 **provision or application, and to this end the provisions of sections**  
6 **472.400 to 472.490 are severable.**

474.150. 1. Any gift made by a **married** person, whether dying testate  
2 or intestate, in fraud of the marital rights of **[his] the surviving spouse [to share**  
3 **in his estate] to whom the decedent was married at the time of such gift**  
4 **and who may share in the decedent's estate**, shall, at the election of **[the]**  
5 **such** surviving spouse, be treated as a testamentary disposition and may be  
6 recovered from the donee and persons taking from **[him] the decedent** without  
7 adequate consideration and applied to the payment of the spouse's share, as in  
8 case of his **or her** election to take against the will.

9 2. Any conveyance of real estate made by a married person at any time  
10 without the joinder or other written express assent of **[his] such** spouse, made  
11 at any time, duly acknowledged, is deemed to be in fraud of the marital rights of  
12 **[his] such** spouse, if the spouse becomes a surviving spouse, unless the contrary  
13 is shown.

14 3. Any conveyance of the property of the spouse of a disabled person is  
15 deemed not to be in fraud of the marital rights of the disabled person if the  
16 probate division of the circuit court authorizes the conservator of the disabled  
17 person to join in or assent to the conveyance after finding that it is not made in  
18 fraud of the marital rights. Any conveyance of the property of a minor or  
19 disabled person made by a conservator pursuant to an order of court is deemed  
20 not to be in fraud of the marital rights of the spouse of the protectee.

515.575. 1. Except as otherwise ordered by the court, the entry of an  
2 order appointing a general receiver shall operate as a stay, applicable to all  
3 persons, of:

4 (1) The commencement or continuation, including the issuance,  
5 employment, or service of process, of a judicial, administrative, or other action or  
6 proceeding against the debtor that was or could have been commenced before the  
7 entry of the order of appointment, or to recover a claim against the debtor that  
8 arose before the entry of the order of appointment;

9           (2) The enforcement against the debtor or any estate property of a  
10 judgment obtained before the order of appointment;

11           (3) Any act to obtain possession of estate property from the receiver, or  
12 to interfere with, or exercise control over, estate property;

13           (4) Any act to create, perfect, or enforce any lien or claim against estate  
14 property except by exercise of a right of setoff, to the extent that the lien secures  
15 a claim against the debtor that arose before the entry of the order of appointment;  
16 or

17           (5) Any act to collect, assess, or recover a claim against the debtor that  
18 arose before the entry of the order of appointment.

19           2. The stay shall automatically expire as to the acts specified in  
20 subdivisions (1), (2), and ~~[(3)]~~ (5) of subsection 1 of this section sixty days after  
21 the entry of the order of appointment unless before the expiration of the sixty-day  
22 period the debtor or receiver, for good cause shown, obtains an order of the court  
23 extending the stay, after notice and a hearing. A person whose action or  
24 proceeding is stayed by motion to the court may seek relief from the stay for good  
25 cause shown. Any judgment obtained against the debtor or estate property  
26 following the entry of the order of appointment is not a lien against estate  
27 property unless the receivership is terminated prior to a conveyance of the  
28 property against which the judgment would otherwise constitute a lien.

29           3. The entry of an order appointing a receiver does not operate as a stay  
30 of:

31           (1) The commencement or continuation of a criminal proceeding against  
32 the debtor;

33           (2) The commencement or continuation of an action or proceeding to  
34 establish paternity, or to establish or modify an order for alimony, maintenance,  
35 or support, or to collect alimony, maintenance, or support under any order of a  
36 court;

37           (3) Any act to perfect or to maintain or continue the perfection of an  
38 interest in estate property pursuant to any generally applicable Missouri law that  
39 permits perfection of an interest in property to be effective against an entity that  
40 acquires rights in such property before the date of perfection. Such right to  
41 perfect an interest in estate property includes any act to perfect an interest in  
42 purchase money collateral pursuant to sections 400.9-301 to 400.9-339, perfection  
43 of a lien that may be placed against real property under the provisions of chapter  
44 429, or the assertion of a right to continue in possession of any estate property



45 that is in the possession of a person entitled to retain possession of such property  
46 pending payment for work performed with respect to such property. If perfection  
47 of an interest would otherwise require seizure of the property involved or the  
48 commencement of an action, the perfection shall instead be accomplished by  
49 filing, and by serving upon the receiver, or receiver's counsel, if any, notice of the  
50 interest within the time fixed by law for seizure or commencement;

51 (4) The commencement or continuation of an action or proceeding by a  
52 governmental unit to enforce its police or regulatory power;

53 (5) The enforcement of a judgment, other than a money judgment,  
54 obtained in an action or proceeding by a governmental unit to enforce its police  
55 or regulatory power, or with respect to any licensure of the debtor;

56 (6) The exercise of a right of setoff, including but not limited to, any right  
57 of a commodity broker, forward contract merchant, stockbroker, financial  
58 institution, or securities clearing agency to set off a claim for a margin payment  
59 or settlement payment arising out of a commodity contract, forward contract, or  
60 securities contract against cash, securities, or other property held or due from the  
61 commodity broker, forward contract merchant, stockbroker, financial institution,  
62 or securities clearing agency to margin, guarantee, secure, or settle the  
63 commodity contract, forward contract, or securities contract, and any right of a  
64 swap participant to set off a claim for a payment due to the swap participant  
65 under or in connection with a swap agreement against any payment due from the  
66 swap participant under or in connection with the swap agreement or against cash,  
67 securities, or other property of the debtor held by or due from the swap  
68 participant to guarantee, secure, or settle the swap agreement;

69 (7) The establishment by a governmental unit of any tax liability and any  
70 appeal thereof; or

71 (8) Any action pending in a court other than that in which the receiver is  
72 appointed until transcription of the order appointing the receiver or extending the  
73 stay is made to the other court in which an action against the debtor is pending.

74 4. For the purposes of subdivision (8) of subsection 3 of this section, the  
75 receiver or any party in interest is authorized to cause to be transcribed any  
76 order appointing a receiver or extending the stay to any and all courts in which  
77 any action against a debtor is pending in this state. A court that receives a  
78 transcript of an order of receivership or extension of stay may on its own order  
79 sua sponte transfer the matter before the court to the court issuing an order of  
80 receivership.

515.635. To the extent that funds are available in the estate for  
2 distribution to creditors in a general receivership, the holder of an allowed  
3 noncontingent, liquidated claim is entitled to receive interest at the legal rate or  
4 other applicable rate from the date of appointment of the receiver or the date on  
5 which the claim became a noncontingent, liquidated claim. If there are  
6 **[sufficient] insufficient** funds in the estate to fully pay all interest owing to all  
7 members of the class, then interest shall be paid proportionately to each member  
8 of the class.

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