

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 106
AN ACT

To repeal sections 361.097, 361.110, 361.727, 362.023, 362.044, 362.165, 362.247, 362.250, 362.340, 362.550, 362.570, 365.100, 365.140, 367.150, 369.049, 400.3-309, 408.035, 408.100, 408.140, 408.178, 408.233, 408.234, 408.250, 408.553, and 408.554, RSMo, and to enact in lieu thereof twenty-six new sections relating to financial institutions.

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

Section A. Sections 361.097, 361.110, 361.727, 362.023,
2 362.044, 362.165, 362.247, 362.250, 362.340, 362.550, 362.570,
3 365.100, 365.140, 367.150, 369.049, 400.3-309, 408.035,
4 408.100, 408.140, 408.178, 408.233, 408.234, 408.250, 408.553,
5 and 408.554, RSMo, are repealed and twenty-six new sections
6 enacted in lieu thereof, to be known as sections 361.097,
7 361.110, 361.727, 362.023, 362.044, 362.165, 362.247, 362.250,
8 362.340, 362.550, 362.570, 362.765, 365.100, 365.140, 369.049,
9 369.705, 400.3-309, 408.035, 408.100, 408.140, 408.178,
10 408.233, 408.234, 408.250, 408.553, and 408.554, to read as
11 follows:

361.097. 1. The state banking and savings and loan
2 board shall consist of five members who shall be appointed
3 by the governor, the senate concurring. No person shall be
4 eligible for appointment unless he or she is a resident of
5 this state. One member shall be an attorney at law and a
6 member of the Missouri Bar in good standing. [Two] Three
7 members shall each have had at least five years of active

8 bank or association management experience at an institution
9 chartered under chapters 362 or 369 in this state. [One
10 member shall have had at least five years of active
11 management experience in this state of one or more
12 associations as defined in chapter 369.] One member shall
13 be an individual who is not involved in the administration
14 of a financial institution. Not more than three members of
15 the board shall be members of the same political party.

16 2. The term of office of each member of the state
17 banking and savings and loan board shall be six years. The
18 board shall select its own chairman and secretary. The
19 members of the state banking and savings and loan board
20 shall hold office for the respective terms for which they
21 are appointed and until their successors shall qualify.
22 Vacancies on such board shall be filled by appointment for
23 the unexpired term in the same manner as in the case of an
24 original appointment.

361.110. 1. On Monday of each week or, if Monday is a
2 holiday, the next day that is not a holiday, the director of
3 finance shall [keep in his office, in a place] post by five
4 o'clock p.m. on a publicly accessible [to the general
5 public, a bulletin board upon which he shall cause to be
6 posted at noon on Friday, of each week,] website of the
7 division of finance a detailed statement signed by [him] the
8 director or, in case of [his] the director's absence from
9 the City of Jefferson or inability to act, by the deputy
10 director in charge, giving the following items of general
11 information with regard to the work of the division since
12 the preceding statement:

13 (1) The name of every corporation whose articles of
14 agreement have been filed for examination in the office of
15 the director, its location and the date of filing of such
16 articles of agreement;

17 (2) The name and location of every corporation
18 authorized by the director to commence or continue business,
19 its capital, surplus and the date of authorization;

20 (3) The name of every proposed corporation which a
21 certificate of incorporation has been refused by the
22 director and the date of notice of refusal;

23 (4) The name and location of every foreign
24 corporation, whose authorization certificate or license has
25 been revoked by the director and the date of such revocation;

26 (5) The name of every corporation that has applied to
27 the director for permission to open a branch office, the
28 date of such application and the location of the proposed
29 branch;

30 (6) The name of every corporation that has been
31 authorized by the director to open a branch office, the date
32 of approval and the location of such branch office;

33 (7) The name and location of every corporation
34 authorized by the director to increase or reduce its capital
35 stock or permanent capital, the date of such authorization
36 and the amount of the increase or reduction;

37 (8) The names and locations of all corporations that
38 have merged pursuant to the provisions of this chapter and
39 the dates of such mergers;

40 (9) The name and residence of every person appointed
41 by the director as a deputy, examiner or employee in the
42 banking department, the title of the office to which
43 appointed, the compensation paid and the date of appointment;

44 (10) The date on which a call for a quarterly report
45 by banks or trust companies was issued by the director and
46 the day designated as the day with reference to which such
47 report should be made;

48 (11) The name and location of every corporation of
49 whose property and business the director shall have taken

50 possession and the date of taking possession, and the name
51 and residence of every person appointed by the director as a
52 special deputy director;

53 (12) The name and location of every corporation which
54 shall have been authorized by the director to resume
55 business and the date of resumption;

56 (13) The name and location of every corporation whose
57 creditors or depositors have been paid in full by the
58 director and a meeting of whose stockholders shall have been
59 called together with the date of notice of meeting and date
60 of meeting; and

61 (14) The name and location of every corporation
62 subject to the provisions of this chapter whose affairs and
63 business shall have been finally liquidated and the
64 corporation dissolved.

65 2. [Every such statement, after having been so posted
66 for one week, shall be placed on file and kept in the office
67 of the director.] All such statements shall be retained by
68 the division of finance as public documents and at all
69 reasonable times shall be open to public inspection and
70 available on a publicly accessible website of the division
71 of finance.

361.727. The director shall issue regulations
2 necessary to carry out the intent and purposes of sections
3 361.700 to 361.727, pursuant to the provisions of section
4 [361.103] 361.105 and chapter 536.

362.023. 1. Other provisions of the law to the
2 contrary notwithstanding, the articles of agreement of any
3 trust company may preclude the acceptance of demand
4 deposits, in which case the procedure for granting or
5 denying a charter for the proposed trust company shall be as
6 provided in sections 362.025 to 362.040, except that the
7 determination of need and convenience as provided in section

8 362.030 shall be limited to the need for fiduciary services
9 as authorized under subsection [2] 3 of section 362.105.

10 2. No trust company the articles of which preclude or
11 do not affirmatively provide for the acceptance of demand
12 deposits, and no trust company which does not regularly
13 accept demand deposits on September 28, 1977, shall accept
14 demand deposits without a certificate issued by the director
15 of finance authorizing the acceptance of demand deposits.
16 The application for such certificate shall be treated as an
17 application for a new charter and shall be granted or denied
18 as provided in sections 362.030 to 362.040.

362.044. 1. Stockholders' meetings may be held at
such place, within this state, as may be prescribed in the
bylaws. In the absence of any such provisions, all meetings
shall be held at the principal banking house of the bank or
trust company.

2. An annual meeting of stockholders for the election
of directors shall be held on a day which each bank or trust
company shall fix by its bylaws; and if no day be so
provided, then on the second Monday of January.

10 3. Special meetings of the stockholders may be called
11 by the directors or upon the written request of the owners
12 of a majority of the stock.

13 4. [Notice of annual or special stockholders' meetings
14 shall state the place, day and hour of the meeting, and
15 shall be published at least ten days prior to the meeting
16 and once a week after the first publication with the last
17 publication being not more than seven days before the day
18 fixed for such meeting, in some daily or weekly newspaper
19 printed and published in the city or town in which the bank
20 or trust company is located, and if there be none, then in
21 some newspaper printed and published in the county in which
22 the bank or trust company is located, and if there be none,

23 then in some newspaper printed and published in an adjoining
24 county.] A written or printed copy of the notice of an
25 annual or special stockholders' meeting shall be delivered
26 personally [or mailed], by mail, or electronically to each
27 stockholder at least ten but not more than fifty days prior
28 to the day fixed for the meeting, and shall state, in
29 addition to the place, day and hour, the purpose of any
30 special meeting or an annual meeting at which the
31 stockholders will consider a change in the par value of the
32 corporation stock, the issuance of preferred shares, a
33 change in the number of directors, an increase or reduction
34 of the capital stock of the bank or trust company, a change
35 in the length of the corporate life, an extension or change
36 of its business, a change in its articles to avail itself of
37 the privileges and provisions of this chapter, or any other
38 change in its articles in any way not inconsistent with the
39 provisions of this chapter. Any stockholder may waive
40 notice by causing to be delivered to the secretary during,
41 prior to or after the meeting a written, signed waiver of
42 notice, or by attending such meeting except where a
43 stockholder attends a meeting for the express purpose of
44 objecting to the transaction of any business because the
45 meeting is not lawfully called or convened.

46 5. Unless otherwise provided in the articles of
47 incorporation, a majority of the outstanding shares entitled
48 to vote at any meeting represented in person or by proxy
49 shall constitute a quorum at a meeting of stockholders;
50 provided, that in no event shall a quorum consist of less
51 than a majority of the outstanding shares entitled to vote,
52 but less than a quorum shall have the right successively to
53 adjourn the meeting to a specified date no longer than
54 ninety days after the adjournment, and no notice need be
55 given of the adjournment to shareholders not present at the

56 meeting. Every decision of a majority of the quorum shall
57 be valid as a corporate act of the bank or trust company
58 unless a larger vote is required by this chapter. For the
59 purposes of this section, a stockholder is considered to
60 have appeared in person at an annual or special
61 stockholders' meeting even if the stockholder appears
62 remotely via telephone or videoconference.

63 6. (1) The stockholders of the bank or trust company
64 may approve business by proxy and cancel any stockholders'
65 meeting, provided:

66 (a) The stockholders are sent notice of such
67 stockholders' meeting and a proxy referred to in this
68 section;

69 (b) Within such proxy the stockholders are given the
70 opportunity to approve or disapprove the cancellation of
71 such stockholders' meeting;

72 (c) At least eighty percent of such bank or trust
73 company's stock is voted by proxy; and

74 (d) All stockholders voting by proxy vote to cancel
75 such stockholders' meeting.

76 (2) No business shall be voted on by proxy other than
77 that expressly set out and clearly explained by the proxy
78 material. If such stockholders' meeting is cancelled by
79 proxy, notice of such cancellation shall be sent to all
80 stockholders at least five days prior to the date originally
81 set for such stockholders' meeting. The corporate secretary
82 shall reflect all proxy votes by subject and in
83 chronological order in the board of directors' minute book.
84 The notice for such stockholders' meeting shall state the
85 effective date of any of the following: new directors'
86 election, change in corporate structure and any other change
87 requiring stockholder approval.

88 7. The voting shareholder or shareholders of the bank
89 or trust company may transact all business required at an
90 annual or special stockholders' meeting by unanimous written
91 consent.

362.165. 1. All real estate, including any subsurface
2 rights or interests therein, purchased by any bank or trust
3 company or taken by it in its own right in settlement of
4 debts due it shall be conveyed to it directly by name and
5 the conveyance immediately recorded in the office of the
6 proper recording officer of the county or city in which the
7 real estate is located.

8 2. Such real estate, rights, or interests so purchased
9 or acquired by any bank or trust company shall be sold by it
10 within ten years of the date on which it shall have been
11 acquired unless it shall be held or occupied in whole or in
12 part by the bank or trust company under the authority of
13 paragraph (c) of subdivision (10) of subsection 1 of section
14 362.105~~[, subsection 1, subdivision (9), paragraph (a)]~~;
15 provided, that if at any time a bank or trust company
16 changes its location it may have ten years from the date of
17 the change to sell the former location. The aggregate
18 amount of earnings from such real estate, rights or
19 interests shall be separately disclosed in reports of the
20 bank or trust company.

362.247. 1. A majority of the full board of directors
2 shall constitute a quorum for the transaction of business
3 unless another number is required by the articles of
4 agreement, the bylaws or by law. The act of a majority of
5 the directors present at a meeting at which a quorum is
6 present shall be the act of the board of directors unless
7 the act of a greater number is required by the articles of
8 agreement, the bylaws or by law.

9 2. [When the board of] Unless otherwise prohibited by
10 statute or regulation, directors [meets] may attend board
11 meetings by telephonic conference call or video
12 conferencing, and the bank or trust company may include in a
13 quorum directors who are not physically present but are
14 allowed to vote, provided the [bank and directors meet the
15 applicable requirements of this section as follows:

16 (1) The] bank or trust company has a composite rating
17 of 1 or 2 under the [CAMELS (Capital, Assets, Management,
18 Earnings, Liquidity, and Sensitivity)] Uniform Financial
19 Institutions Rating System of the Federal Financial
20 Institution Examination Counsel (FFIEC) [; and

21 (2) The bank or trust company's board meeting will not
22 be attended by representatives of the bank or trust
23 company's state or federal bank regulator].

24 3. Any director [who is not physically present within
25 the common area for the meeting and wishes to] remotely
26 attending a board meeting via telephone or video
27 conferencing may be counted toward a quorum for such meeting
28 [shall sign an affidavit under penalty of perjury that such]
29 and, if the director is not otherwise prohibited, may vote
30 on matters before the bank or trust company's board so long
31 as the meeting minutes identify the director appearing
32 remotely and reflect that the remote director:

33 (1) Received formal notice of the board meeting for
34 which he or she is attending or waived such notice as
35 otherwise provided by law;

36 (2) Received the board meeting information required
37 for each board of director's meeting as provided by section
38 362.275; [and]

39 (3) Was alone when participating in such board meeting
40 or was in the physical presence of no one not a director of
41 such bank or trust company[,]; and

42 (4) Was able to clearly hear such board meeting
43 discussion from its beginning to end.

44 4. [Notwithstanding the provisions of subsections 2
45 and 3 of this section to the contrary,] The director of the
46 division of finance may promulgate [alternative or]
47 additional regulations, reasonable in scope, to provide for
48 the integrity of the board of directors' operations when
49 directors [who are not physically present and counted toward
50 such board's quorum, provided the regulations balance the
51 integrity of such board's] attend board meetings remotely,
52 the safety and soundness of the bank or trust company's
53 operation [with], and the bank or trust company's interest
54 in minimizing the cost of compliance with such regulation.

55 [5. The sole remedy when the bank, trust company or
56 director fails to follow the procedures for directors who
57 are not physically present and counted toward the board's
58 quorum as provided in this section shall be limited to such
59 action as the division of finance may bring under its
60 enforcement authority as provided in chapter 361.]

362.250. 1. Every person elected director of a bank
2 or trust company shall, within thirty days after election,
3 qualify himself or herself as director by filing with the
4 officers of the bank or trust company an oath that he or she
5 will, so far as the duty devolves on him or her, diligently
6 and honestly administer the affairs of the bank or trust
7 company, and will not knowingly violate, or willingly permit
8 to be violated, any of the provisions of law applicable to
9 the bank or trust company.

10 2. The oath shall be subscribed by the director making
11 it, and certified by an officer authorized by law to
12 administer oaths, and the fact of the oath having been made
13 and filed with the officers of the bank or trust company
14 shall be noted on the records of the acts of the directors.

15 3. The oath, subscribed by the director making it[,]
16 and certified by the officer before whom it is taken, shall
17 be [immediately transmitted to the director of finance and
18 shall be filed and preserved in his office] retained with
19 the official records of the board of directors.

20 4. Failure to comply with this provision within the
21 time specified shall work a forfeiture of the position;
22 provided, however, that the director of finance may, for
23 cause deemed sufficient by him or her, extend the time; and
24 when any vacancy occurs by this failure the board of
25 directors shall, at the next regular meeting thereafter,
26 enter the fact of the vacancy upon their records and
27 promptly proceed to elect some competent person to fill the
28 vacancy for the unexpired term.

362.340. 1. The directors of a bank or trust company
2 shall direct and require good and sufficient fidelity bonds
3 on all active officers and employees, whether or not they
4 draw salary or compensation, which bonds shall provide for
5 indemnity to the bank on account of any losses sustained by
6 it as the result of any dishonest, fraudulent or criminal
7 act or omission committed or omitted by them acting
8 independently or in collusion or combination with any person
9 or persons. The bonds may be in individual, schedule or
10 blanket form, and the premiums therefor may be paid by the
11 bank or trust company.

12 2. The directors may also direct and require suitable
13 insurance protection to the bank against burglary, robbery,
14 theft and other similar insurable hazards to which the bank
15 or trust company may be exposed in the operations of its
16 business on the premises or elsewhere.

17 3. The directors shall be responsible for approving at
18 least once in each year the amount or penal sum of the bonds
19 or policies and the sureties or underwriters thereon, after

20 giving due and careful consideration to all known elements
21 and factors constituting the risk or hazard. The action
22 shall be recorded in the minutes of the board of directors
23 and [thereafter be reported to the director and be subject
24 to his approval] the relevant information documented on a
25 form provided by the division of finance. Thereafter, the
26 completed form shall be retained and preserved by the bank
27 or trust company. The director of finance shall publish
28 yearly a tiered schedule of minimum levels of coverages.

362.550. 1. When any trust company organized pursuant
2 to the laws of this state shall have been nominated as
3 personal representative of the last will of any deceased
4 person, the court or officer authorized pursuant to the law
5 of this state to grant letters testamentary thereon shall,
6 upon proper application, grant letters testamentary thereon
7 to the trust company or to its successor by merger.

8 2. When application is made for the appointment of a
9 personal representative on the estate of any deceased
10 person, and there is no person entitled to the letters, or
11 if there is one so entitled then, on the application of the
12 person, the court or officer making the appointment may
13 grant letters of administration with will annexed to any
14 trust company.

15 3. Any trust company may be appointed conservator,
16 trustee, personal representative, receiver, assignee or in
17 any other fiduciary capacity, in the manner now provided by
18 law for appointment of individuals to any such office. On
19 the application of any natural person acting in any such
20 office, or on the application of any natural persons acting
21 jointly in any such office, any trust company may be
22 appointed by the court or officer having jurisdiction in the
23 place and stead of the person or persons; or on the
24 application of the person or persons any trust company may

25 be appointed to the office to act jointly with the person or
26 persons theretofore appointed, or appointed at the same
27 time; provided, the appointment shall not increase the
28 compensation to be paid the joint fiduciaries over the
29 amount pursuant to the law payable to a fiduciary acting
30 alone.

31 4. Any natural person or persons heretofore or
32 hereafter appointed as guardian, trustee, personal
33 representative, receiver, assignee, or in any other
34 fiduciary capacity, desiring to have their bond under the
35 office reduced, or desiring to be appointed under a reduced
36 bond, the person or persons may apply to the court to have
37 their appointment put or made under such limitation of
38 powers and upon such terms and conditions as to the deposits
39 of assets by the person or persons with any trust company,
40 under such reduced bond to be given by the person or persons
41 as the court or judge shall prescribe, and the court or
42 judge may make any proper order in the premises.

43 5. Any investments made by any trust company of money
44 received by it in any fiduciary capacity shall be at its
45 sole risk, and for all losses of such money the capital
46 stock and property of the company shall be absolutely
47 liable, unless the investments are such as are proper when
48 made by an individual acting in such fiduciary capacity, or
49 such as are permitted under and by the instrument or order
50 creating or defining the trust. Any trust company in the
51 exercise of its fiduciary powers as personal representative,
52 guardian, trustee or other fiduciary capacity, may retain
53 and continue to hold, as an investment of an estate, trust
54 or other account administered by it as fiduciary, any shares
55 of the capital stock, and other securities or obligations,
56 of the trust company so acting, and of any parent company or
57 affiliated company of such trust company, which stock,

58 securities and obligations have been transferred to or
59 deposited with such fiduciary by the creator or creators of
60 such fiduciary account or other donors or grantors, or
61 received by it in exchange for, or as dividends upon, or
62 purchased by the exercise of subscription rights, including
63 rights to purchase fractional shares, in respect of, any
64 other stock, securities or obligations so transferred to or
65 deposited with it, or which have been purchased by such
66 fiduciary pursuant to a requirement of the instrument or
67 order governing such account or pursuant to the direction of
68 such person or persons other than the trust company having
69 power to direct such fiduciary with respect to such
70 purchases; but except as herein provided, including the
71 exercise of subscription rights, no such trust company shall
72 purchase as an investment for any fiduciary account, in the
73 exercise of its own discretion, any stock or other
74 securities or obligations, other than deposit accounts,
75 savings certificates or certificates of deposits, issued by
76 such trust company, or its parent or affiliated companies.
77 This subsection shall not be construed to prohibit a trust
78 company, in the exercise of its own discretion, from
79 purchasing as an investment, for any fiduciary account,
80 securities or obligations of any state or political
81 subdivision thereof which meet investment standards which
82 shall be established by the director of the division of
83 finance, even though such obligations are underwritten by
84 such trust company or its parent or affiliated companies.

85 6. The court or officer may make orders respecting the
86 trusts and require any trust company to render all accounts
87 which the court or officer might lawfully require if the
88 personal representative, guardian, trustee, receiver,
89 depositary or the trust company acting in any other
90 fiduciary capacity, were a natural person.

91 7. Upon the appointment of a trust company to any
92 fiduciary office, no official oath shall be required.

93 8. Property or securities received or held by a trust
94 company in any fiduciary capacity shall be a special deposit
95 in the trust company, and the accounts thereof shall be kept
96 separate from each other and separate from the company's
97 individual business. The property or securities held in
98 trust shall not be mingled with the investments of the
99 capital stock or other property belonging to the trust
100 company or be liable for the debts or obligations thereof.
101 For the purpose of this section, the corporation shall have
102 a trust department, in which all business authorized by
103 subsection [2] 3 of section 362.105 is kept separate and
104 distinct from its general business.

105 9. The accounts, securities and all records of any
106 trust company relating to a trust committed to it shall be
107 open for the inspection of all persons interested in the
108 trust.

109 10. When any trust company organized pursuant to the
110 laws of this state shall have been appointed personal
111 representative of the estate of any deceased person, or
112 guardian, trustee, receiver, assignee, or in any other
113 fiduciary capacity, in the manner provided by law for
114 appointment to any such office, and if the trust company has
115 heretofore merged or consolidated with or shall hereafter
116 merge or consolidate with any other trust company organized
117 pursuant to the laws of this state, then, at the option of
118 the first mentioned company, and upon the filing by it, with
119 the court having jurisdiction of the estate being
120 administered, of a certificate of the merger or
121 consolidation, together with a statement that the other
122 trust company is to thereafter administer the estate held by
123 it and an acceptance by the latter trust company of the

124 trust to be administered, the certificate, statement and
125 acceptance to be executed by the president or vice president
126 of the respective companies and to have affixed thereto the
127 corporate seals of the respective companies, attested by the
128 secretary thereof, and further upon the approval of the
129 court and the giving of such bond as may be required, all
130 the rights, privileges, title and interest in and to all
131 property of whatsoever kind, whether real, personal or
132 mixed, and things in action belonging to the trust estate,
133 and every right, privilege or asset of conceivable value or
134 benefit then existing which would inure to the estate under
135 an unmerged or consolidated existence of the first mentioned
136 company, shall be fully and finally and without right of
137 reversion transferred to and vested in the corporation into
138 which it is merged or with which it is consolidated, without
139 further act or deed, and the last mentioned corporation
140 shall have and hold the same in its own right as fully as
141 the same was possessed and held by the corporation from
142 which it was, by operation of the provisions of this
143 section, transferred, and the corporation shall succeed to
144 all the relations, obligations and liabilities, and shall
145 execute and perform all the trusts and obligations devolving
146 upon it, in the same manner as though it had itself assumed
147 the relation or trust.

148 11. Notwithstanding any other provisions of law to the
149 contrary, a bank, trust company or affiliate thereof, when
150 acting as a trustee, investment advisor, custodian, or
151 otherwise in a fiduciary capacity with respect to the
152 investment and reinvestment of assets may invest and
153 reinvest the assets, subject to the standards contained in
154 section 456.8-816 and sections 469.900 to 469.913, in the
155 securities of any open-end or closed-end management
156 investment company or investment trust registered pursuant

157 to the federal Investment Company Act of 1940 as amended (15
158 U.S.C. Sections 80a-1, et seq.) (collectively, "mutual
159 funds"), or in shares or interests in a partnership or
160 limited liability company or other entity that operates as a
161 privately offered investment fund. Such investment and
162 reinvestment of assets may be made notwithstanding that such
163 bank, trust company, or affiliate provides services to the
164 investment company or trust or privately offered investment
165 fund as investment advisor, sponsor, distributor, custodian,
166 transfer agent, registrar, or otherwise, and receives
167 reasonable remuneration for such services. Such bank or
168 trust company or affiliate thereof is entitled to receive
169 fiduciary fees with respect to such assets. For such
170 services the bank or trust company or affiliate thereof
171 shall be entitled only to the normal fiduciary fee but
172 neither a bank, trust company nor affiliate shall be
173 required to reduce or waive its compensation for services
174 provided in connection with the investment and management of
175 assets because the fiduciary invests, reinvests or retains
176 assets in a mutual fund or privately offered investment
177 fund. The provisions of this subsection apply to any trust,
178 advisory, custody or other fiduciary relationship
179 established before or after August 28, 1999, unless the
180 governing instrument refers to this section and provides
181 otherwise.

182 12. As used in this section, the term "trust company"
183 applies to any state or national bank or trust company
184 qualified to act as fiduciary in this state.

362.570. 1. The trust guaranty fund shall be
2 absolutely pledged for the faithful performance by the bank
3 or trust company of its duties and undertakings under the
4 provisions of subsection [2] 3 of section 362.105[,] and
5 shall be applied to make good any default in the

6 performance[, and]. The pledge and liability shall not in
7 any way relieve the stock and general funds of the bank or
8 trust company, but creditors under the subdivisions shall
9 have an equal claim with other creditors upon the capital
10 and other property of the bank or trust company in addition
11 to the security hereby given, and in addition to the deposit
12 made with the finance director under the provisions of
13 section 362.590.

14 2. No portion of the trust guaranty fund shall be
15 transferred to the general capital while the bank or trust
16 company has undertakings of the kinds mentioned in
17 subsection [2] 3 of section 362.105, for whose performance
18 bonds are required from individuals, outstanding and
19 uncompleted, but income therefrom, if not required at any
20 dividend time to make good such undertakings, may be added
21 to and disposed of with the general income of the bank or
22 trust company.

362.765. 1. As used in this section, the following
2 terms mean:

3 (1) "Nonbank affiliate", any nonbank business entity
4 of which a bank holding company holds control, as defined
5 under section 362.910;

6 (2) "Nonbank business entity", an entity that is not a
7 bank, trust company, savings and loan association, or
8 savings bank;

9 (3) "Nonbank subsidiary", any nonbank business entity
10 of which a bank or trust company holds control, as defined
11 under section 362.910.

12 2. Upon approval by the director of finance, a bank or
13 trust company chartered under this chapter may merge with
14 one or more of its nonbank subsidiaries or nonbank
15 affiliates pursuant to an agreement of merger, provided that
16 the bank or trust company is the surviving institution.

17 3. The agreement of merger shall be submitted to the
18 director of finance, and the director shall act upon the
19 agreement of merger within thirty days of the submission.
20 In determining whether to approve or deny the merger, the
21 director shall consider the purpose of the transaction, its
22 impact on the safety and soundness of the bank or trust
23 company, and any effect on the bank or trust company's
24 customers. The director of finance may deny a merger if the
25 merger would have a negative effect in any such respect.

26 4. The decision of the director of finance may be
27 appealed in the same manner as decisions by the director
28 under section 362.040 may be appealed. Should the state
29 banking and savings and loan board decision result in the
30 approval of the agreement of merger, the board may impose
31 such conditions and terms upon the merger as the board deems
32 appropriate.

33 5. Should an agreement of merger be approved, the
34 director of finance shall provide a certification for the
35 effective date of the merger to the bank or trust company
36 that the bank or trust company may present to the secretary
37 of state or other applicable state business office to
38 demonstrate the completion of the merger.

39 6. A merger authorized under this section shall not
40 enable a bank or trust company to exercise any right, power,
41 privilege, or benefit that the bank or trust company could
42 not lawfully exercise immediately prior to the merger.

365.100. 1. For contracts entered into on or after
2 August 28, 2005, if the contract so provides, the holder
3 thereof may charge, finance, and collect:

4 (1) A charge for late payment on each installment or
5 minimum payment in default for a period of not less than
6 fifteen days in an amount not to exceed five percent of each
7 installment due or the minimum payment due or twenty-five

8 dollars, whichever is less; except that, a minimum charge of
9 ten dollars may be made, or when the installment is for
10 twenty-five dollars or less, a charge for late payment for a
11 period of not less than fifteen days shall not exceed five
12 dollars, provided, however, that a minimum charge of one
13 dollar may be made;

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

21 (3) [A dishonored or insufficient funds check fee
22 equal to such fee as provided in section 408.653, in
23 addition to fees charged by a bank for each check, draft,
24 order or like instrument which is returned unpaid] A
25 reasonable service fee not to exceed the amount permitted
26 under subdivision (2) of subsection 6 of section 570.120 for
27 any check, draft, order, or like instrument that is returned
28 unpaid by a financial institution, plus an amount equal to
29 the actual fees charged by the financial institution for
30 each check, draft, order, or like instrument returned
31 unpaid; and

32 (4) All other reasonable expenses incurred in the
33 origination, servicing, and collection of the amount due
34 under the contract.

35 2. A holder of a contract may impose a convenience fee
36 for payments using an alternative payment channel that
37 accepts a debit or credit card not present transaction,
38 nonface-to-face payment, provided that:

39 (1) The person making the payment is notified of the
40 convenience fee; and

41 (2) The fee is fixed or flat, except that the fee may
42 vary based upon method of payment used.

365.140. Notwithstanding the provisions of any retail
2 installment contract to the contrary any buyer may prepay in
3 full, whether by payment in cash, extension or renewal, at
4 any time before maturity the debt of any retail installment
5 contract and on so paying the debt shall receive a refund
6 credit thereon for the anticipation of payment. The amount
7 of the refund shall be calculated by the actuarial method.
8 The lender shall retain no more interest than is actually
9 earned whenever a retail installment contract is prepaid.
10 Any insurance rendered unnecessary by reason of prepayment
11 shall be cancelled by the holder and any refund of premiums
12 received by the holder shall be treated in accordance with
13 the provisions of subsection 2 of section 365.080. If a
14 retail installment contract is paid in full, the holder
15 shall provide the buyer proof of payment in full which may
16 be by a letter referencing the contract, which shall include
17 information identifying the contract such as the original
18 loan date, account number or other identifying number or
19 code, or by returning the original contract or a copy
20 thereof that is marked as paid in full by the holder.

369.049. 1. The name of every association [shall] may
2 include either the words "Savings Association", or "Savings
3 and Loan Association", except for associations domiciled in
4 Missouri at the time sections 369.010 to 369.369 become law
5 that use in their name "Building and Loan Association" or
6 "Loan and Building Association". No name shall be used
7 which is likely to mislead the public as to the character or
8 purpose of the association or which indicates it is
9 authorized to perform an act or conduct any business which
10 is forbidden to it by law. [The name of the association
11 shall not include the words, "National", "Federal", "United

12 States", "Insured", "Guaranteed", "Government", or
13 "Official".] The name of the association shall not be the
14 same as nor deceptively similar to that of any other
15 corporation authorized to transact business in this state,
16 except in the case of an association formed by the
17 reincorporation, reorganization, or consolidation of other
18 associations, or upon the sale of the property or business
19 of an association.

20 2. Notwithstanding the provisions of sections 362.421
21 and 362.425, any association may amend its charter to change
22 its name or in the case of a new charter, may adopt a name,
23 which includes the words "Savings Bank", in lieu of the
24 words "Savings and Loan Association" or "Savings
25 Association". For purposes of this chapter, the term
26 "association" shall include savings banks. The procedure
27 for adopting the name "savings bank" shall be as provided in
28 section 369.059.

29 3. No person, firm, or corporation, either domestic or
30 foreign, unless authorized to do business in this state
31 under the provisions of sections 369.010 to 369.369 shall do
32 business under any name or title which indicates or
33 reasonably implies that the business is the character or
34 kind of business carried on or transacted by an association
35 or which is likely to lead any person to believe that the
36 business is that of an association. Upon application by the
37 director of the division of finance or any association, a
38 court of competent jurisdiction may issue an injunction to
39 restrain any such entity from violating or continuing to
40 violate any of the foregoing provisions of this subsection.

369.705. 1. As used in this section, the following
2 terms mean:

3 (1) "Nonbank affiliate", any nonbank business entity
4 of which a bank holding company or bank savings and loan

5 holding company holds control, as defined under section
6 362.910;

7 (2) "Nonbank business entity", an entity that is not a
8 bank, trust company, savings and loan association, or
9 savings bank;

10 (3) "Nonbank subsidiary", any nonbank business entity
11 of which a savings and loan association or savings bank
12 holds control, as defined in section 362.910.

13 2. Upon approval by the director of finance, a savings
14 and loan institution or savings bank chartered under this
15 chapter may merge with one or more of its nonbank
16 subsidiaries or nonbank affiliates pursuant to an agreement
17 of merger, provided that the savings and loan institution or
18 savings bank is the surviving institution.

19 3. The agreement of merger shall be submitted to the
20 director of finance, and the director shall act upon the
21 agreement of merger within thirty days of the submission.
22 In determining whether to approve or deny the merger, the
23 director shall consider the purpose of the transaction, its
24 impact on the safety and soundness of the savings and loan
25 institution or savings bank, and any effect on the savings
26 and loan institution or savings bank customers. The
27 director of finance may deny the merger if the merger would
28 have a negative effect in any such respect.

29 4. The decision of the director of finance may be
30 appealed in the same manner as decisions by the director
31 under section 362.040 may be appealed. Should the state
32 banking and savings and loan board decision result in the
33 approval of the agreement of merger, the board may impose
34 such conditions and terms upon the merger as the board deems
35 appropriate.

36 5. Should the agreement of merger be approved, the
37 director of finance shall provide a certification for the

38 effective date of the merger to the savings and loan
39 institution or savings bank that the savings and loan
40 institution or savings bank may present to the secretary of
41 state or other applicable state business office to
42 demonstrate the completion of the merger.

43 6. A merger authorized under this section shall not
44 enable a savings and loan institution or savings bank to
45 exercise any right, power, privilege, or benefit that the
46 savings and loan institution or savings bank could not
47 lawfully exercise immediately prior to such merger.

400.3-309. (a) A person not in possession of an
2 instrument is entitled to enforce the instrument if:

3 (i) The person [was in possession of the instrument
4 and] seeking to enforce the instrument:

5 (A) Was entitled to enforce the instrument when loss
6 of possession occurred; or

7 (B) Has directly or indirectly acquired ownership of
8 the instrument from a person who was entitled to enforce
9 [it] the instrument when loss of possession occurred[,];

10 (ii) The loss of possession was not the result of a
11 transfer by the person or a lawful seizure[,]; and

12 (iii) The person cannot reasonably obtain possession of
13 the instrument because the instrument was destroyed, its
14 whereabouts cannot be determined, or it is in the wrongful
15 possession of an unknown person or a person that cannot be
16 found or is not amenable to service of process.

17 (b) A person seeking enforcement of an instrument
18 under subsection (a) must prove the terms of the instrument
19 and the person's right to enforce the instrument. If that
20 proof is made, Section 400.3-308 applies to the case as if
21 the person seeking enforcement had produced the instrument.
22 The court may not enter judgment in favor of the person
23 seeking enforcement unless it finds that the person required

24 to pay the instrument is adequately protected against loss
25 that might occur by reason of a claim by another person to
26 enforce the instrument. Adequate protection may be provided
27 by any reasonable means.

408.035. Notwithstanding the provisions of any other
2 law to the contrary, it is lawful for the parties to agree
3 in writing to any rate of interest, fees, and other terms
4 and conditions in connection with any:

5 (1) Loan to a corporation, general partnership,
6 limited partnership or limited liability company;

7 (2) [Business loan of five thousand dollars or more]

8 Extension of credit primarily for agricultural, business, or
9 commercial purposes;

10 (3) Real estate loan, other than residential real
11 estate loans and loans of less than five thousand dollars
12 secured by real estate used for an agricultural activity; or

13 (4) Loan of five thousand dollars or more secured
14 solely by certificates of stock, bonds, bills of exchange,
15 certificates of deposit, warehouse receipts, or bills of
16 lading pledged as collateral for the repayment of such loans.

408.100. This section shall apply to all loans which
2 are not made as permitted by other laws of this state except
3 that it shall not apply to loans which are secured by a lien
4 on real estate[, nonprocessed farm products, livestock, farm
5 machinery or crops or to loans to corporations]. On any
6 loan subject to this section, any person, firm, or
7 corporation may charge, contract for and receive interest on
8 the unpaid principal balance at rates agreed to by the
9 parties.

408.140. 1. No further or other charge or amount
2 whatsoever shall be directly or indirectly charged,
3 contracted for or received for interest, service charges or
4 other fees as an incident to any such extension of credit

5 except as provided and regulated by sections 367.100 to
6 367.200 and except:

7 (1) On loans for thirty days or longer which are other
8 than "open-end credit" as such term is defined in the
9 federal Consumer Credit Protection Act and regulations
10 thereunder, a fee, not to exceed ten percent of the
11 principal amount loaned not to exceed one hundred dollars
12 may be charged by the lender; however, no such fee shall be
13 permitted on any extension, refinance, restructure or
14 renewal of any such loan, unless any investigation is made
15 on the application to extend, refinance, restructure or
16 renew the loan;

17 (2) The lawful fees actually and necessarily paid out
18 by the lender to any public officer for filing, recording,
19 or releasing in any public office any instrument securing
20 the loan, and reasonable and bona fide third-party fees
21 incurred for remote or electronic filing, which fees may be
22 collected when the loan is made or at any time thereafter;
23 however, premiums for insurance in lieu of perfecting a
24 security interest required by the lender may be charged if
25 the premium does not exceed the fees which would otherwise
be payable;

27 (3) If the contract so provides, a charge for late
28 payment on each installment or minimum payment in default
29 for a period of not less than fifteen days in an amount not
30 to exceed five percent of each installment due or the
31 minimum payment due or fifteen dollars, whichever is
32 greater, not to exceed fifty dollars. If the contract so
33 provides, a charge for late payment on each twenty-five
34 dollars or less installment in default for a period of not
35 less than fifteen days shall not exceed five dollars;

36 (4) If the contract so provides, a charge for late
37 payment for a single payment note in default for a period of

38 not less than fifteen days in an amount not to exceed five
39 percent of the payment due; provided that, the late charge
40 for a single payment note shall not exceed fifty dollars;

41 (5) Charges or premiums for insurance written in
42 connection with any loan against loss of or damage to
43 property or against liability arising out of ownership or
44 use of property as provided in section 367.170; however,
45 notwithstanding any other provision of law, with the consent
46 of the borrower, such insurance may cover property all or
47 part of which is pledged as security for the loan, and
48 charges or premiums for insurance providing life, health,
49 accident, or involuntary unemployment coverage;

50 (6) Reasonable towing costs and expenses of retaking,
51 holding, preparing for sale, and selling any personal
52 property in accordance with the uniform commercial code -
53 secured transactions, sections 400.9-101 to 400.9-809;

54 (7) [Charges assessed by any institution for
55 processing a refused instrument plus a handling fee of not
56 more than twenty-five dollars] A reasonable service fee not
57 to exceed the amount permitted under subdivision (2) of
58 subsection 6 of section 570.120 for any check, draft, order,
59 or like instrument that is returned unpaid by a financial
60 institution, plus an amount equal to the actual fees charged
61 by the financial institution for each check, draft, order,
62 or like instrument returned unpaid;

63 (8) If the contract or promissory note, signed by the
64 borrower, provides for attorney fees, and if it is necessary
65 to bring suit, such attorney fees may not exceed fifteen
66 percent of the amount due and payable under such contract or
67 promissory note, together with any court costs assessed.

68 The attorney fees shall only be applicable where the
69 contract or promissory note is referred for collection to an

70 attorney, and is not handled by a salaried employee of the
71 holder of the contract;

72 (9) [Provided the debtor agrees in writing, the lender
73 may collect a fee in advance for allowing the debtor to
74 defer up to three monthly loan payments, so long as the fee
75 is no more than the lesser of fifty dollars or ten percent
76 of the loan payments deferred, no extensions are made until
77 the first loan payment is collected and no more than one
78 deferral in a twelve-month period is agreed to and collected
79 on any one loan; this subdivision applies to nonprecomputed
80 loans only and does not affect any other subdivision;

81 (10)] If the open-end credit contract is tied to a
82 transaction account in a depository institution, such
83 account is in the institution's assets and such contract
84 provides for loans of thirty-one days or longer which are
85 "open-end credit", as such term is defined in the federal
86 Consumer Credit Protection Act and regulations thereunder,
87 the creditor may charge a credit advance fee of up to the
88 lesser of seventy-five dollars or ten percent of the credit
89 advanced from time to time from the line of credit; such
90 credit advance fee may be added to the open-end credit
91 outstanding along with any interest, and shall not be
92 considered the unlawful compounding of interest as specified
93 under section 408.120;

94 [(11)] (10) A deficiency waiver addendum, guaranteed
95 asset protection, or a similar product purchased as part of
96 a loan transaction with collateral and at the borrower's
97 consent, provided the cost of the product is disclosed in
98 the loan contract, is reasonable, and the requirements of
99 section 408.380 are met;

100 [(12)] (11) A convenience fee for payments using an
101 alternative payment channel that accepts a debit or credit

102 card not present transaction, nonface-to-face payment,
103 provided that:

104 (a) The person making the payment is notified of the
105 convenience fee; and

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

108 2. Other provisions of law to the contrary
109 notwithstanding, an open-end credit contract under which a
110 credit card is issued by a company, financial institution,
111 savings and loan or other credit issuing company whose
112 credit card operations are located in Missouri may charge an
113 annual fee, provided that no finance charge shall be
114 assessed on new purchases other than cash advances if such
115 purchases are paid for within twenty-five days of the date
116 of the periodic statement therefor.

117 3. Notwithstanding any other provision of law to the
118 contrary, in addition to charges allowed pursuant to section
119 408.100, an open-end credit contract provided by a company,
120 financial institution, savings and loan or other credit
121 issuing company which is regulated pursuant to this chapter
122 may charge an annual fee not to exceed fifty dollars.

408.178. Notwithstanding any other law to the
2 contrary, [on loans with an original amount of six hundred
3 dollars or more,] and provided the debtor agrees in writing,
4 the lender may collect a fee in advance for allowing the
5 debtor to defer monthly loan payments, so long as the fee on
6 each deferred period is no more than the lesser of fifty
7 dollars or ten percent of the loan payments deferred,
8 however, a minimum fee of twenty-five dollars is permitted,
9 and no extensions are made until the first loan payment is
10 collected on any one loan. This section applies to
11 nonprecomputed loans only.

408.233. 1. No charge other than that permitted by
2 section 408.232 shall be directly or indirectly charged,
3 contracted for or received in connection with any second
4 mortgage loan, except as provided in this section:

5 (1) Fees and charges prescribed by law actually and
6 necessarily paid to public officials for perfecting,
7 releasing, or satisfying a security interest related to the
8 second mortgage loan and reasonable and bona fide third-
9 party fees incurred for remote or electronic filing;

10 (2) Taxes;

11 (3) Bona fide closing costs paid to third parties,
12 which shall include:

13 (a) Fees or premiums for title examination, title
14 insurance, or similar purposes including survey;

15 (b) Fees for preparation of a deed, settlement
16 statement, or other documents;

17 (c) Fees for notarizing deeds and other documents;

18 (d) Appraisal fees; and

19 (e) Fees for credit reports;

20 (4) Charges for insurance as described in subsection 2
21 of this section;

22 (5) A nonrefundable origination fee not to exceed five
23 percent of the principal which may be used by the lender to
24 reduce the rate on a second mortgage loan;

25 (6) Any amounts paid to the lender by any person,
26 corporation or entity, other than the borrower, to reduce
27 the rate on a second mortgage loan or to assist the borrower
28 in qualifying for the loan;

29 (7) For revolving loans, an annual fee not to exceed
30 fifty dollars may be assessed.

31 2. An additional charge may be made for insurance
32 written in connection with the loan, including insurance

33 protecting the lender against the borrower's default or
34 other credit loss, and:

- 35 (1) For insurance against loss of or damage to
36 property where no such coverage already exists; and
37 (2) For insurance providing life, accident, health or
38 involuntary unemployment coverage.

39 3. The cost of any insurance shall not exceed the
40 rates filed with the department of commerce and insurance,
41 and the insurance shall be obtained from an insurance
42 company duly authorized to conduct business in this state.
43 Any person or entity making second mortgage loans, or any of
44 its employees, may be licensed to sell insurance permitted
45 in this section.

46 4. On any second mortgage loan, a default charge may
47 be contracted for and received for any installment or
48 minimum payment not paid in full within fifteen days of its
49 scheduled due date equal to five percent of the amount or
50 fifteen dollars, whichever is greater, not to exceed fifty
51 dollars. A default charge may be collected only once on an
52 installment or a payment due however long it remains in
53 default. A default charge may be collected at the time it
54 accrues or at any time thereafter and for purposes of
55 subsection 3 of section 408.234 a default charge shall
56 be treated as a payment. No default charge may be collected
57 on an installment or a payment due which is paid in full
58 within fifteen days of its scheduled due date even though an
59 earlier installment or payment or a default charge on
60 earlier installment or payments may not have been paid in
61 full.

62 5. The lender shall, in addition to the charge
63 authorized by subsection 4 of this section, be allowed to
64 assess the borrower or other maker of refused instrument the
65 actual charge made by any institution for processing the

66 negotiable instrument, plus a handling fee of not more than
67 twenty-five dollars; and, if the contract or promissory
68 note, signed by the borrower, provides for attorney fees,
69 and if it is necessary to bring suit, such attorney fees may
70 not exceed fifteen percent of the amount due and payable
71 under such contract or promissory note, together with any
72 court costs assessed. The attorney fees shall only be
73 applicable where the contract or promissory note is referred
74 for collection to an attorney, and are not handled by a
75 salaried employee of the holder of the contract or note.

76 6. No provision of this section shall be construed to
77 prohibit the sale of a deficiency waiver addendum,
78 guaranteed asset protection, or a similar product purchased
79 as part of a loan transaction with collateral and at the
80 borrower's consent, provided the cost of the product is
81 disclosed in the loan contract, is reasonable, and the
82 requirements of section 408.380 are met.

408.234. 1. [No lender shall make a second mortgage
2 loan pursuant to sections 408.231 to 408.241 in an initial
3 principal amount of less than two thousand five hundred
4 dollars.

5 2.] A lender may take a security interest in any
6 collateral in conjunction with residential real estate in
7 connection with a second mortgage loan.

8 [3.] 2. The borrower shall have an unconditional right
9 to prepay any second mortgage loan. If any such loan
10 providing for interest being added to the principal is
11 prepaid in full one month or more before the final
12 installment date, the lender shall recompute the amount of
13 interest earned to the date of prepayment in full on the
14 basis of the rate of interest originally contracted for
15 computed on the actual unpaid principal balances for the
16 time actually outstanding.

17 [4.] 3. When fees charged need not be disclosed in the
18 annual percentage rate required by Title 15, U.S.C. Sections
19 1601, et seq., and regulations thereunder because such fees
20 are deminimus amounts or for other reasons, such fees need
21 not be included in the annual percentage rate for state
22 examination purposes.

408.250. Unless otherwise clearly indicated by the
2 context, the following words when used in sections 408.250
3 to 408.370, for the purposes of sections 408.250 to 408.370,
4 shall have the meanings respectively ascribed to them in
5 this section:

6 (1) "Cash sale price" means the price stated in a
7 retail time transaction for which the seller would have sold
8 or furnished to the buyer, and the buyer would have bought
9 or obtained from the seller, the goods or services which are
10 the subject matter of the retail time transaction, if such
11 sale were for cash. The cash sale price may include the
12 cost of taxes, official fees, if any, and charges for
13 accessories and their installation and delivery, and for the
14 servicing, repairing or improving of goods. If a retail
15 time transaction involves the repair, modernization,
16 alteration or rehabilitation of real property, the cash sale
17 price may include reasonable fees and costs actually to be
18 paid for construction permits and similar fees, the services
19 of an attorney and any title search and title insurance
20 relating to any mortgage, lien or other security interest
21 taken, granted or reserved pursuant to contract;

22 (2) "Credit" means the right granted by a creditor to
23 a debtor to defer payment of a debt or to incur debt and
24 defer its payment. It includes the right to incur debt and
25 defer its payment pursuant to the use of a card, plate,
26 coupon book, or other credit confirmation or identification
27 device or number or other identifying description;

28 (3) The term "creditor" refers only to creditors who
29 regularly extend, or arrange for the extension of, credit
30 whether in connection with loans, sales of property or
31 services, or otherwise;

32 (4) "Goods" means all tangible chattels personal and
33 merchandise certificates or coupons issued by a retail
34 seller exchangeable for tangible chattels personal of such
35 seller, but the term does not include motor vehicles,
36 nonprocessed farm products, livestock, money, things in
37 action, or intangible personal property. The term includes
38 tangible chattels personal which, at the time of the sale or
39 subsequently, are to be so affixed to realty as to become a
40 part thereof whether or not severable therefrom;

41 (5) "Holder" of a retail time contract means the
42 retail seller of the goods or services under the contract
43 or, if the contract is purchased or otherwise acquired, the
44 person purchasing or otherwise acquiring the contract;

45 (6) "Insurance company" means any form of lawfully
46 authorized insurer in this state;

47 (7) "Motor vehicle" means any new or used automobile,
48 motor home, manufactured home as defined in section 700.010,
49 excluding a manufactured home with respect to which the
50 requirements of subsections 1 to 3 of section 700.111, as
51 applicable, have been satisfied, motorcycle, truck, trailer,
52 semitrailer, truck tractor, or bus, primarily designed or
53 used to transport persons or property on a public highway,
54 road or street, or a mobile or modular home or farm
55 machinery or implements;

56 (8) "Official fees" means the fees prescribed by law
57 for filing, recording or otherwise perfecting and releasing
58 or satisfying any title or lien retained or taken by a
59 seller in connection with a retail time transaction, and

60 reasonable and bona fide third party fees incurred for
61 remote or electronic filing;

62 (9) "Person" means an individual, partnership,
63 corporation, association, and any other group however
64 organized;

65 (10) "Principal balance" means the cash sale price of
66 the goods or services which are the subject matter of a
67 retail time transaction plus the amount, if any, included in
68 a retail time contract, if a separate identified charge is
69 made therefor and stated in the contract, for insurance and
70 other benefits and official fees, minus the amount of the
71 buyer's down payment in money or goods;

72 (11) "Retail buyer" or "buyer" means a person who buys
73 goods or obtains services to be used primarily for personal,
74 family, or household purposes and not primarily for
75 business, commercial, or agricultural purposes from a retail
76 seller in a retail time transaction;

77 (12) "Retail charge agreement" means an agreement
78 entered into in this state between a retail seller and a
79 retail buyer prescribing the terms of retail time
80 transactions to be made from time to time pursuant to such
81 agreement, and which provides for a time charge to be
82 computed on the buyer's total unpaid balance from time to
83 time;

84 (13) "Retail seller" or "seller" means a person who
85 regularly sells or offers to sell goods or services to a
86 buyer primarily for the latter's personal, family, or
87 household use and not primarily for business, commercial, or
88 agricultural use. The term also includes a person who
89 regularly grants credit to retail buyers for the purpose of
90 purchasing goods or services from any person, pursuant to a
91 retail charge agreement, but shall not apply to any person

92 licensed or chartered and regulated to engage regularly in
93 the business of making loans from or in this state;

94 (14) "Retail time contract" means an agreement
95 evidencing one or more retail time transactions entered into
96 in this state pursuant to which a buyer engages to pay in
97 one or more deferred payments the time sale price of goods
98 or services. The term includes a chattel mortgage;
99 conditional sales contract; and a contract for the bailment
100 or leasing of goods by which the bailee or lessee contracts
101 to pay as compensation for their use a sum substantially
102 equivalent to or in excess of their cash sale price and by
103 which it is agreed that the bailee or lessee is bound to
104 become, or, for no further or a merely nominal consideration
105 has the option of becoming, the owner of the goods upon full
106 compliance with the provisions of the contract;

107 (15) "Retail time transaction" means a contract to
108 sell or furnish or the sale of or furnishing of goods or
109 services by a retail seller to a retail buyer for which
110 payment is to be made in one or more deferred payments under
111 and pursuant to a retail time contract or a retail charge
112 agreement;

113 (16) "Services" means work, labor and services of any
114 kind furnished or agreed to be furnished by a retail seller
115 but does not include professional services including, but
116 not limited to, services performed by an accountant,
117 physician, lawyer or the like, unless the furnishing of such
118 professional services is the subject of a signed retail time
119 transaction;

120 (17) "Time charge" means the amount, however
121 denominated or expressed, in excess of the cash sale price
122 under a retail charge agreement or the principal balance
123 under a retail time contract which a retail buyer contracts
124 to pay or pays for goods or services. It includes the

125 extension to the buyer of the privilege of paying therefor
126 in one or more deferred payments;

127 (18) "Time sale price" means the total of the cash
128 sale price of the goods or services and the amount, if any,
129 included for insurance and other benefits if a separate
130 identified charge is made therefor, and the amounts of the
131 official fees, and the time charge.

408.553. Upon default the lender shall be entitled to
2 recover [no more than the amount which the borrower would
3 have been required to pay upon prepayment of the obligation
4 on] the amount due and accrued under the agreement,
5 including interest and penalties through the date of payment
6 in full or to the date of a final judgment [together with
7 interest thereafter at]. Following a judgment, the lender
8 may additionally recover the simple interest equivalent of
9 the rate provided in the contract as applied to the amount
10 of the judgment until the date the judgment is paid and
11 satisfied.

408.554. 1. After a borrower has been in default for
2 ten days for failure to make a required payment and has not
3 voluntarily surrendered possession of the collateral, a
4 lender may give the borrower and all cosigners on the credit
5 transaction the notice described in this section. A lender
6 gives notice to the borrower and cosigners under this
7 section when he delivers the notice to the borrower or
8 cosigner or mails the notice to him at his last known
9 address.

10 2. Except as provided in subsection 4 of this section,
11 the notice shall be in writing and conspicuously state: The
12 name, address and telephone number of the lender to whom
13 payment is to be made, a brief identification of the credit
14 transaction, the borrower's right to cure the default, and
15 the amount of payment and date by which payment must be made

16 to cure the default. A notice in substantially the
17 following form complies with this subsection:

18 (name, address, and telephone number of lender)

19 (account number, if any)

20 (brief identification of credit transaction)

21 (amount) is the AMOUNT NOW DUE

22 (date) is the LAST DAY FOR PAYMENT

23 You are late in making your payment(s). If you
24 pay the AMOUNT NOW DUE (above) by the LAST DAY
25 FOR PAYMENT (above), you may continue with the
26 contract as though you were not late. If you do
27 not pay by that date, we may exercise our rights
28 under the law.

29 3. If the loan transaction is an insurance premium
30 loan, the notice shall conform to the requirements of
31 subsection 2 of this section and a notice in substantially
32 the form specified in that subsection complies with this
33 subsection, except for the following:

34 (1) In lieu of a brief identification of the loan
35 transaction, the notice shall identify the transaction as an
36 insurance premium loan and each insurance policy or contract
37 that may be cancelled;

38 (2) In lieu of the statement in the form of notice
39 specified in subsection 2 of this section that the lender
40 may exercise his rights under the law, the statement that
41 each policy or contract identified in the notice may be
42 cancelled; and

43 (3) The last paragraph of the form of notice specified
44 in subsection 2 of this section shall be omitted.

45 4. If a credit transaction is secured, the notice
46 described in this section shall further state the following:

47 "If you voluntarily surrender possession of the
48 following specified collateral, you could still

49 owe additional money after the money received
50 from the sale of the collateral is deducted from
51 the total amount you owe."

52 [5. In the case of a second default on the same loan
53 made pursuant to section 408.100 or on the same retail time
54 transaction as defined in section 408.250 or in the case of
55 a third default on the same second mortgage loan as defined
56 in section 408.231, the notice described in subsection 2 of
57 this section shall indicate that in the case of further
58 default, the borrower will have no right to cure.]

2 [367.150. Every lender shall, on or before
3 April thirtieth of each year, and upon a form
4 prescribed by the director, file with the
5 director a written report under oath containing
6 the following information pertaining to the
7 supervised business conducted by the lender
during the preceding calendar year:

8 (1) The name of the lender, and the
9 address of each office in the state of Missouri,
10 and the principal office if it is outside the
11 state of Missouri;

12 (2) The names and addresses of all
13 officers and directors of the lender, and where
14 a partnership the names and addresses of all
15 partners, giving their respective interests;

16 (3) A balance sheet showing the financial
17 condition of the lender as of the end of the
18 lender's previous fiscal year, including a
19 statement of the total assets used and useful in
20 conducting the business, both tangible and
21 intangible. Where any item of assets or
22 liabilities is involved both in the consumer
23 loan business and in additional loan or other
24 business of the lender, the latter shall
25 indicate on the balance sheet the proportion of
26 each item properly attributable to the consumer
27 loan business in accordance with formulae and
28 regulations prescribed by the director. In the
29 event the lender is a corporation, in addition
30 to the statement of assets and liabilities
31 normally included in balance sheets, a detailed
32 statement of the lender's capitalization shall
33 be given, including:

34 (a) Total of each class of securities
35 authorized and outstanding;
36 (b) Capital or paid-in surplus;
37 (c) Earned surplus at beginning of period;
38 (d) Dividends paid during period;
39 (e) Earned surplus at end of period;
40 (4) A profit and loss statement covering
41 operations of the supervised business during the

42 previous fiscal year, including a statement of
43 gross earnings, a detailed statement of expenses
44 and the amount paid or reserved for federal,
45 state and other taxes. Where any item of income
46 or expenses arises in connection with both the
47 consumer loan business and some additional loan
48 or other business of the lender the latter shall
49 indicate on the profit and loss statement the
50 proportion of each item properly attributable to
51 the consumer loan business, in accordance with
52 formulae and regulations prescribed by the
53 director;

54 (5) The total aggregate number and
55 principal amount of loans made by the lender in
56 the following categories:

57	(a) \$ 1 — \$ 100
58	(b) \$ 100 — \$ 200
59	(c) \$ 200 — \$ 400
60	(d) \$ 400 — \$ 600
61	(e) \$ 600 — \$ 1000
62	(f) \$ 1000 — or
63	higher

64 (6) The number of garnishments,
65 attachments and other suits filed and judgments
66 obtained;

67 (7) The number of security agreements
68 foreclosed and the amount received from such
69 sales and from the resale;

70 (8) Any other additional and relevant
71 information relating to loans that the director
72 may from time to time prescribe by regulation.]