

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 106

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

1062S.03P

ADRIANE D. CROUSE, Secretary

## 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369.049, 400.3-309, 408.035, 4 408.100, 408.140, 408.178, 408.233, 408.234, 408.250, 408.553, 5 and 408.554, RSMo, are repealed and twenty-six new sections 6 enacted in lieu thereof, to be known as sections 361.097, 7 361.110, 361.727, 362.023, 362.044, 362.165, 362.247, 362.250,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

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

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 chapter 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;

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

(11) The name and location of every corporation of whose property and business the director shall have taken possession and the date of taking possession, and the name and residence of every person appointed by the director as a special deputy director;

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

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

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

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

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

362.023. 1. Other provisions of the law to the  
contrary notwithstanding, the articles of agreement of any  
trust company may preclude the acceptance of demand  
deposits, in which case the procedure for granting or  
denying a charter for the proposed trust company shall be as  
provided in sections 362.025 to 362.040, except that the  
determination of need and convenience as provided in section  
362.030 shall be limited to the need for fiduciary services  
as authorized under subsection **[2] 3** of section 362.105.

2. No trust company the articles of which preclude or  
do not affirmatively provide for the acceptance of demand  
deposits, and no trust company which does not regularly  
accept demand deposits on September 28, 1977, shall accept  
demand deposits without a certificate issued by the director  
of finance authorizing the acceptance of demand deposits.  
The application for such certificate shall be treated as an  
application for a new charter and shall be granted or denied  
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.

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

4. **[**Notice of annual or special stockholders' meetings  
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

material. If such stockholders' meeting is cancelled by proxy, notice of such cancellation shall be sent to all stockholders at least five days prior to the date originally set for such stockholders' meeting. The corporate secretary shall reflect all proxy votes by subject and in chronological order in the board of directors' minute book. The notice for such stockholders' meeting shall state the effective date of any of the following: new directors' election, change in corporate structure and any other change requiring stockholder approval.

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

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

2. Such real estate, rights, or interests so purchased or acquired by any bank or trust company shall be sold by it within ten years of the date on which it shall have been acquired unless it shall be held or occupied in whole or in part by the bank or trust company under the authority of **paragraph (c) of subdivision (10) of subsection 1 of section 362.105**[, subsection 1, subdivision (9), paragraph (a) ]; provided, that if at any time a bank or trust company changes its location it may have ten years from the date of the change to sell the former location. The aggregate 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

shall be entitled only to the normal fiduciary fee but neither a bank, trust company nor affiliate shall be required to reduce or waive its compensation for services provided in connection with the investment and management of assets because the fiduciary invests, reinvests or retains assets in a mutual fund or privately offered investment fund. The provisions of this subsection apply to any trust, advisory, custody or other fiduciary relationship established before or after August 28, 1999, unless the governing instrument refers to this section and provides otherwise.

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

362.570. 1. The trust guaranty fund shall be absolutely pledged for the faithful performance by the bank or trust company of its duties and undertakings under the provisions of subsection **[2] 3** of section 362.105[, ] and shall be applied to make good any default in the performance[, and]. The pledge and liability shall not in any way relieve the stock and general funds of the bank or trust company, but creditors under the subdivisions shall have an equal claim with other creditors upon the capital and other property of the bank or trust company in addition to the security hereby given, and in addition to the deposit made with the finance director under the provisions of section 362.590.

2. No portion of the trust guaranty fund shall be transferred to the general capital while the bank or trust company has undertakings of the kinds mentioned in subsection **[2] 3** of section 362.105, for whose performance 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

banking and savings and loan board decision result in the approval of the agreement of merger, the board may impose such conditions and terms upon the merger as the board deems appropriate.

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

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

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

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

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the

contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs;

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

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

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

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

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

365.140. Notwithstanding the provisions of any retail installment contract to the contrary any buyer may prepay in full, whether by payment in cash, extension or renewal, at any time before maturity the debt of any retail installment contract and on so paying the debt shall receive a refund credit thereon for the anticipation of payment. The amount of the refund shall be calculated by the actuarial method. 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  
26 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] 2 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

installment date, the lender shall recompute the amount of interest earned to the date of prepayment in full on the basis of the rate of interest originally contracted for computed on the actual unpaid principal balances for the time actually outstanding.

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

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

(1) "Cash sale price" means the price stated in a retail time transaction for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of the retail time transaction, if such sale were for cash. The cash sale price may include the cost of taxes, official fees, if any, and charges for accessories and their installation and delivery, and for the servicing, repairing or improving of goods. If a retail time transaction involves the repair, modernization, alteration or rehabilitation of real property, the cash sale price may include reasonable fees and costs actually to be paid for construction permits and similar fees, the services of an attorney and any title search and title insurance relating to any mortgage, lien or other security interest 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  
8 during the preceding calendar year:

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

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

17 (3) A balance sheet showing the financial  
18 condition of the lender as of the end of the  
19 lender's previous fiscal year, including a  
20 statement of the total assets used and useful in  
21 conducting the business, both tangible and  
22 intangible. Where any item of assets or  
23 liabilities is involved both in the consumer  
loan business and in additional loan or other



business of the lender, the latter shall indicate on the balance sheet the proportion of each item properly attributable to the consumer loan business in accordance with formulae and regulations prescribed by the director. In the event the lender is a corporation, in addition to the statement of assets and liabilities normally included in balance sheets, a detailed statement of the lender's capitalization shall be given, including:

(a) Total of each class of securities authorized and outstanding;

(b) Capital or paid-in surplus;

(c) Earned surplus at beginning of period;

(d) Dividends paid during period;

(e) Earned surplus at end of period;

(4) A profit and loss statement covering operations of the supervised business during the previous fiscal year, including a statement of gross earnings, a detailed statement of expenses and the amount paid or reserved for federal, state and other taxes. Where any item of income or expenses arises in connection with both the consumer loan business and some additional loan or other business of the lender the latter shall indicate on the profit and loss statement the proportion of each item properly attributable to the consumer loan business, in accordance with formulae and regulations prescribed by the director;

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

(a)	\$ 1	—	\$ 100
(b)	\$ 100	—	\$ 200
(c)	\$ 200	—	\$ 400
(d)	\$ 400	—	\$ 600
(e)	\$ 600	—	\$ 1000
(f)	\$ 1000	—	or higher

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

(7) The number of security agreements foreclosed and the amount received from such 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.]

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