

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 725

AN ACT

To repeal sections 30.753, 303.039, 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, 408.500, 569.010, 569.100, 570.010, and 570.030, RSMo, and section 303.041 as enacted by senate bill no. 267, ninety-first general assembly, first regular session, and section 303.041 as enacted by house bill no. 2168, one hundred first general assembly, second regular session, and to enact in lieu thereof forty-seven new sections relating to financial services, with penalty provisions.

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

Section A. Sections 30.753, 303.039, 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, 408.500, 569.010, 569.100, 570.010, and 570.030, RSMo, and section 303.041 as enacted by senate bill no. 267, ninety-first general assembly, first regular session, and section 303.041 as enacted by house bill no. 2168, one hundred first general assembly, second regular session, are repealed and forty-seven new sections enacted in lieu thereof, to be known as sections 30.753, 303.039, 303.041, 303.420, 303.422, 303.425, 303.430, 303.440, 361.020, 361.098, 361.106, 361.160, 361.260, 361.262, 361.715, 362.034, 364.030, 364.105, 365.030, 367.140, 407.640, 408.145, 408.500, 436.550, 436.552, 436.554, 436.556, 436.558, 436.560, 436.562, 436.564, 436.566, 436.568, 436.570, 436.571, 436.572, 436.573, 436.574, 436.575,

436.577, 436.578, 436.579, 436.580, 569.010, 569.100, 570.010, and 570.030, to read as follows:

30.753. 1. The state treasurer may invest in linked deposits; however, the total amount so deposited at any one time shall not exceed, in the aggregate, ~~eight hundred million~~ one billion dollars. ~~No more than three hundred thirty million dollars of~~ The aggregate deposit shall be used for linked deposits to eligible farming operations, eligible locally owned businesses, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, ~~and~~ eligible facility borrowers, ~~no more than one hundred ninety million of the aggregate deposit shall be used for linked deposits to~~ and eligible small businesses~~[,]~~. No more than ~~twenty million dollars~~ five percent shall be used for linked deposits to eligible multitenant development enterprises, and no more than ~~twenty million dollars~~ five percent of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, and no more than ~~two hundred twenty million dollars~~ twenty percent of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses, and no more than ~~twenty million dollars~~ five percent of the aggregate deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible student borrowers, eligible alternative energy operations, eligible alternative energy consumers, and eligible governmental entities from the aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation, and funds initially allocated to another type are available and not in demand, the state treasurer may commingle allocations among the types of linked deposits.

2. The minimum deposit to be made by the state treasurer to an eligible lending institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked deposit loans for eligible job enhancement businesses may be made for the purposes of assisting with relocation expenses, working capital, interim construction, inventory, site development, machinery and equipment, or other expenses necessary to create or retain jobs in the recipient firm.

303.039. The repeal and reenactment of [sections] section 303.025 [and 303.041] shall take effect on January 1, 2024.

[303.041. 1. If the director determines that as a result of a verification sample or accident report that the owner of a motor vehicle has not maintained financial responsibility, or if the director determines as a result of an order of supervision that the operator of a motor vehicle has not maintained the financial responsibility as required in this chapter, the director shall thirty-three days after mailing notice, suspend the driving privilege of the owner or operator and/or the registration of the vehicle failing to meet such requirement. The notice of suspension shall be mailed to the person at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.

2. Neither the fact that subsequent to the date of verification or conviction, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle, shall have any bearing upon the director's decision to suspend. Until it is terminated, the suspension shall remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension also shall apply to any motor vehicle to which the owner transfers the

registration. Effective January 1, 2000, the department shall not extend any suspension for failure to pay a delinquent late surrender fee pursuant to this subsection.]

303.041. 1. Except as otherwise provided in subsection 7 of section 303.425, if the director determines that the owner or operator of a motor vehicle has not maintained the financial responsibility as required in this chapter, the director shall thirty-three days after mailing notice, suspend the driving privilege of the owner or operator and/or the registration of the vehicle failing to meet such requirement. The notice of suspension shall be mailed to the person at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.

2. Except as otherwise provided by law, neither the fact that subsequent to the date of verification or conviction, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle, shall have any bearing upon the director's decision to suspend. Until it is terminated, the suspension shall remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension also shall apply to any motor vehicle to which the owner transfers the registration. Effective January 1, 2000, the department shall not extend

any suspension for failure to pay a delinquent late surrender fee pursuant to this subsection.

303.420. As used in sections 303.420 to 303.440, unless the context requires otherwise, the following terms shall mean:

(1) "Program", the motor vehicle financial responsibility enforcement and compliance incentive program established under section 303.425;

(2) "Qualified agency", the department of revenue, the Missouri state highway patrol, the prosecuting attorney or sheriff's office of any county or city not within a county, the chiefs of police of any city or municipality, or any other authorized law enforcement agency recognized by the state;

(3) "System" or "verification system", the web-based resource established under section 303.430 for online verification of motor vehicle financial responsibility.

303.422. 1. There is hereby created in the state treasury the "Motor Vehicle Financial Responsibility Verification and Enforcement Fund", which shall consist of money received by the department of revenue under sections 303.420 to 303.440. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department of revenue for the administration of sections 303.420 to 303.440.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any

interest and moneys earned on such investments shall be credited to the fund.

303.425. 1. (1) There is hereby created within the department of revenue the motor vehicle financial responsibility enforcement and compliance incentive program. The department of revenue may enter into contractual agreements with third-party vendors to facilitate the necessary technology and equipment, maintenance thereof, and associated program management services, and may enter into contractual agreements with the Missouri office of prosecution services as provided in sections 303.420 to 303.440. Where sections 303.420 to 303.440 authorize the department of revenue to enter into contracts with a third-party vendor or the Missouri office of prosecution services at its option, the department of revenue shall contract with the Missouri office of prosecution services unless the Missouri office of prosecution services declines to enter into the contract.

(2) The department of revenue or a third-party vendor shall utilize technology to compare vehicle registration information with the financial responsibility information accessible through the system. The department of revenue shall utilize this information to identify motorists who are in violation of the motor vehicle financial responsibility law. The department of revenue may offer offenders under this program the option of pretrial diversion as an alternative to statutory fines or reinstatement fees prescribed under the motor vehicle financial responsibility law as a method of encouraging compliance and discouraging recidivism.

(3) All fees paid to or collected by third-party vendors or the Missouri office of prosecution services under sections 303.420 to 303.440 may come from violator diversion

fees generated by the pretrial diversion option established under this section. A contractual agreement between the department of revenue and the Missouri office of prosecution services under sections 303.420 to 303.440 may provide for retention by the Missouri office of prosecution services of part or all of the violator diversion fees as consideration for the contract.

2. The department of revenue may authorize law enforcement agencies or third-party vendors to use technology to collect data for the investigation, detection, analysis, and enforcement of the motor vehicle financial responsibility law.

3. The department of revenue may authorize traffic enforcement officers, third-party vendors, or the Missouri office of prosecution services to administer the processing and issuance of notices of violation, the collection of fees for a violation of the motor vehicle financial responsibility law, or the referral of cases for prosecution, under the program.

4. Access to the system shall be restricted to qualified agencies and the third-party vendors with which the department of revenue contracts for purposes of the program, provided that any third-party vendor with which a contract is executed to provide necessary technology, equipment, or maintenance for the program shall be authorized as necessary to collaborate for required updates and maintenance of system software.

5. For purposes of the program, any data collected and matched to a corresponding vehicle insurance record as verified through the system, and any Missouri vehicle registration database, may be used to identify violations of the motor vehicle financial responsibility law. Such

corresponding data shall constitute evidence of the violations.

6. Except as otherwise provided in this section, the department of revenue shall suspend, in accordance with section 303.041, the registration of any motor vehicle that is determined under the program to be in violation of the motor vehicle financial responsibility law.

7. The department of revenue shall send to an owner whose vehicle is identified under the program as being in violation of the motor vehicle financial responsibility law a notice that the vehicle's registration may be suspended unless the owner, within thirty days, provides proof of financial responsibility for the vehicle or proof, in a form specified by the department of revenue, that the owner has a pending criminal charge for a violation of the motor vehicle financial responsibility law. The notice shall include information on steps an individual may take to obtain proof of financial responsibility and a web address to a page on the department of revenue's website where information on obtaining proof of financial responsibility shall be provided. If proof of financial responsibility or a pending criminal charge is not provided within the time allotted, the department of revenue shall provide a notice of suspension and suspend the vehicle's registration in accordance with section 303.041, or shall send a notice of vehicle registration suspension, clearly specifying the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the vehicle owner to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made, as well as informing the owner that the matter will be referred for prosecution if a satisfactory response is not received in the time allotted, informing the owner

that the minimum penalty for the violation is three hundred dollars and four license points, and offering the owner participation in a pretrial diversion option to preclude referral for prosecution and registration suspension under sections 303.420 to 303.440. The notice of vehicle registration suspension shall give a period of thirty-three days from mailing for the vehicle owner to respond, and shall be deemed received three days after mailing. If no request for a hearing or agreement to participate in the diversion option is received by the department of revenue prior to the date provided on the notice of vehicle registration suspension, the director shall suspend the vehicle's registration, effective immediately, and refer the case to the appropriate prosecuting attorney. If an agreement by the vehicle owner to participate in the diversion option is received by the department of revenue prior to the effective date provided on the notice of vehicle registration suspension, then upon payment of a diversion participation fee not to exceed two hundred dollars, agreement to secure proof of financial responsibility within the time provided on the notice of suspension, and agreement that such financial responsibility shall be maintained for a minimum of two years, no points shall be assessed to the vehicle owner's driver's license under section 302.302 and the department of revenue shall not take further action against the vehicle owner under sections 303.420 to 303.440, subject to compliance with the terms of the pretrial diversion option. The department of revenue shall suspend the vehicle registration of, and shall refer the case to the appropriate prosecuting attorney for prosecution of, participating vehicle owners who violate the terms of the pretrial diversion option. If a request for hearing is received by the department of revenue prior to

the effective date provided on the notice of vehicle registration suspension, then for all purposes other than eligibility for participation in the diversion option, the effective date of the suspension shall be stayed until a final order is issued following the hearing. The department of revenue shall suspend the registration of vehicles determined under the final order to have violated the motor vehicle financial responsibility law, and shall refer the case to the appropriate prosecuting attorney for prosecution. Notices under this subsection shall be mailed to the vehicle owner at the last known address shown on the department of revenue's records. The department of revenue or its third-party vendor or the Missouri office of prosecution services shall issue receipts for the collection of diversion participation fees. Except as otherwise provided in subsection 1 of this section, all such fees shall be deposited into the motor vehicle financial responsibility verification and enforcement fund established in section 303.422. A vehicle owner whose registration has been suspended under sections 303.420 to 303.440 may obtain reinstatement of the registration upon providing proof of financial responsibility and payment to the department of revenue of a nonrefundable reinstatement fee equal to the fee that would be applicable under subsection 2 of section 303.042 if the registration had been suspended under section 303.041.

8. Data collected or retained under the program shall not be used by any entity for purposes other than enforcement of the motor vehicle financial responsibility law. Data collected and stored by law enforcement under the program shall be considered evidence if noncompliance with the motor vehicle financial responsibility law is confirmed. The evidence, and an affidavit stating that the

evidence and system have identified a particular vehicle as being in violation of the motor vehicle financial responsibility law, shall constitute probable cause for prosecution and shall be forwarded in accordance with subsection 7 of this section to the appropriate prosecuting attorney.

9. Owners of vehicles identified under the program as being in violation of the motor vehicle financial responsibility law shall be provided with options for disputing such claims which do not require appearance at any state or local court of law, or administrative facility. Any person who presents timely proof that he or she was in compliance with the motor vehicle financial responsibility law at the time of the alleged violation shall be entitled to dismissal of the charge with no assessment of fees or fines. Proof provided by a vehicle owner to the department of revenue that the vehicle was in compliance at the time of the suspected violation of the motor vehicle financial responsibility law shall be recorded in the system established by the department of revenue under section 303.430.

10. The collection of data or use of any technology pursuant to this section shall be done in a manner that prohibits any bias towards a specific community, race, gender, or socioeconomic status of vehicle owner.

11. Law enforcement agencies, third-party vendors, or other entities authorized to operate under the program shall not sell data collected or retained under the program for any purpose or share it for any purpose not expressly authorized in this section. All data shall be secured and any third-party vendor or other entity authorized to operate under the program may be liable for any data security breach.

12. The department of revenue shall not take action under sections 303.420 to 303.440 against vehicles registered as fleet vehicles under section 301.032, or against vehicles known to the department of revenue to be insured under a policy of commercial auto coverage, as such term is defined in subdivision (10) of subsection 2 of section 303.430.

13. Following one year after the implementation of the program, and every year thereafter, the department of revenue shall provide a report to the president pro tempore of the senate, the speaker of the house of representatives, the chairs of the house and senate committees with jurisdictions over insurance or transportation matters, and the chairs of the house budget and senate appropriations committees. The report shall include an evaluation of program operations, information as to the costs of the program incurred by the department of revenue, insurers, and the public, information as to the effectiveness of the program in reducing the number of uninsured motor vehicles, and anonymized demographic information including the race and zip code of vehicle owners identified under the program as being in violation of the motor vehicle financial responsibility law, and may include any additional information and recommendations for improvement of the program deemed appropriate by the department of revenue. The department of revenue may, by rule, require the state, counties, and municipalities to provide information in order to complete the report.

14. The Missouri office of prosecution services in consultation with the department of revenue may promulgate rules as necessary for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority

delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

303.430. 1. The department of revenue shall establish and maintain a web-based system for the verification of motor vehicle financial responsibility, shall provide access to insurance reporting data and vehicle registration and financial responsibility data, and shall require motor vehicle insurers to establish functionality for the verification system, as provided in sections 303.420 to 303.440. The verification system, including any exceptions as provided for in sections 303.420 to 303.440 or in the implementation guide developed to support the program, shall supersede any existing verification system, and shall be the sole system used for the purpose of verifying financial responsibility required under this chapter.

2. The system established pursuant to subsection 1 of this section shall be subject to the following:

(1) The verification system shall transmit requests to insurers for verification of motor vehicle insurance coverage via web services established by the insurers through the internet in compliance with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration, or "IICMVA". Insurance company systems shall respond to each request with a prescribed response upon evaluation of the data provided in the request. The system shall include appropriate protections

to secure its data against unauthorized access, and the department of revenue shall maintain a historical record of the system data for a period of no more than twelve months from the date of all requests and responses. The system shall be used for verification of the financial responsibility required under this chapter. The system shall be accessible to authorized personnel of the department of revenue, the courts, law enforcement personnel, and other entities authorized by the state as permitted by state or federal privacy laws, and it shall be interfaced, wherever appropriate, with existing state systems. The system shall include information enabling the department of revenue to submit inquiries to insurers regarding motor vehicle insurance which are consistent with insurance industry and IICMVA recommendations, specifications, and standards by using the following data elements for greater matching accuracy: insurer National Association of Insurance Commissioners, or "NAIC", company code; vehicle identification number; policy number; verification date; or as otherwise described in the specifications and standards of the IICMVA. The department of revenue shall promulgate rules to offer insurers who insure one thousand or fewer vehicles within this state an alternative method for verifying motor vehicle insurance coverage in lieu of web services, and to provide for the verification of financial responsibility when financial responsibility is proven to the department to be maintained by means other than a policy of motor vehicle insurance. Insurers shall not be required to verify insurance coverage for vehicles registered in other jurisdictions;

(2) The verification system shall respond to each request within a time period established by the department of revenue. An insurer's system shall respond within the

time period prescribed by the IICMVA's specifications and standards. Insurer systems shall be permitted reasonable system downtime for maintenance and other work with advance notice to the department of revenue. Insurers shall not be subject to enforcement fees or other sanctions under such circumstances, or when systems are not available because of emergency, outside attack, or other unexpected outages not planned by the insurer and reasonably outside its control;

(3) The system shall assist in identifying violations of the motor vehicle financial responsibility law in the most effective way possible. Responses to individual insurance verification requests shall have no bearing on whether insurance coverage is determined to be in force at the time of a claim. Claims shall be individually investigated to determine the existence of coverage. Nothing in sections 303.420 to 303.440 shall prohibit the department of revenue from contracting with a third-party vendor or vendors who have successfully implemented similar systems in other states to assist in establishing and maintaining this verification system;

(4) The department of revenue shall consult with representatives of the insurance industry and may consult with third-party vendors to determine the objectives, details, and deadlines related to the system by establishment of an advisory council. The advisory council shall consist of voting members comprised of:

(a) The director of the department of commerce and insurance, or his or her designee, who shall serve as chair;

(b) Two representatives of the department of revenue, to be appointed by the director of the department of revenue;

(c) One representative of the department of commerce and insurance, to be appointed by the director of the department of commerce and insurance;

(d) Three representatives of insurance companies, to be appointed by the director of the department of commerce and insurance;

(e) One representative from the Missouri Insurance Coalition;

(f) One representative chosen by the National Association of Mutual Insurance Companies;

(g) One representative chosen by the American Property and Casualty Insurance Association;

(h) One representative chosen by the Missouri Independent Agents Association; and

(i) Such other representatives as may be appointed by the director of the department of commerce and insurance;

(5) The department of revenue shall publish for comment, and then issue, a detailed implementation guide for its online verification system;

(6) The department of revenue and its third-party vendors, if any, shall each maintain a contact person for insurers during the establishment, implementation, and operation of the system;

(7) If the department of revenue has reason to believe a vehicle owner does not maintain financial responsibility as required under this chapter, it may also request an insurer to verify the existence of such financial responsibility in a form approved by the department of revenue. In addition, insurers shall cooperate with the department of revenue in establishing and maintaining the verification system established under this section, and shall provide motor vehicle insurance policy status information as provided in the rules promulgated by the department of revenue;

(8) Every property and casualty insurance company licensed to issue motor vehicle insurance or authorized to

do business in this state shall comply with sections 303.420 to 303.440, and corresponding rules promulgated by the department of revenue, for the verification of such insurance for every vehicle insured by that company in this state;

(9) Insurers shall maintain a historical record of insurance data for a minimum period of six months from the date of policy inception or policy change for the purpose of historical verification inquiries;

(10) For the purposes of this section, "commercial auto coverage" shall mean any coverage provided to an insured, regardless of number of vehicles or entities covered, under a commercial coverage form and rated from a commercial manual approved by the department of commerce and insurance. Sections 303.420 to 303.440 shall not apply to vehicles insured under commercial auto coverage; however, insurers of such vehicles may participate on a voluntary basis, and vehicle owners may provide proof at or subsequent to the time of vehicle registration that a vehicle is insured under commercial auto coverage, which the department of revenue shall record in the system;

(11) Insurers shall provide commercial or fleet automobile customers with evidence reflecting that the vehicle is insured under a commercial or fleet automobile liability policy. Sufficient evidence shall include an insurance identification card clearly marked with a suitable identifier such as "commercial auto insurance identification card", "fleet auto insurance identification card", or other clear identification that the vehicle is insured under a fleet or commercial policy;

(12) Notwithstanding any provision of sections 303.420 to 303.440, insurers shall be immune from civil and

administrative liability for good faith efforts to comply with the terms of sections 303.420 to 303.440;

(13) Nothing in this section shall prohibit an insurer from using the services of a third-party vendor for facilitating the verification system required under sections 303.420 to 303.440.

3. The department of revenue shall promulgate rules as necessary for the implementation of sections 303.420 to 303.440. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

303.440. The verification system established under section 303.430 shall be installed and fully operational on January 1, 2025, following an appropriate testing or pilot period of not less than nine months. Until the successful completion of the testing or pilot period in the judgment of the director of the department of revenue, no enforcement action shall be taken based on the system, including but not limited to action taken under the program established under section 303.425.

361.020. 1. The division of finance shall have charge of the execution of the laws relating to banks, trust companies, and the banking business of this state; [credit unions; and] of the laws relating to persons[,]

copartnerships and corporations] and entities engaged in the small loan or consumer credit business in this state; of the laws relating to persons and entities engaged in the mortgage loan business in this state; and of the laws relating to persons and entities engaged in any other financial services related business over which the division of finance is granted express authority.

2. The director of finance may institute, in the name of the state of Missouri, and defend suits in the courts of this state and the United States.

361.098. 1. The members of the state banking and savings and loan board shall receive as compensation for their services the sum of one hundred dollars per day while discharging their duties, and shall be entitled to receive their necessary traveling and other expenses incurred while actually engaged in the performance of their duties as such members, which shall be paid out of the division of finance fund.

2. [A majority of the members] Any three members of the board shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the board.

3. The board may meet and exercise its powers in any place in this state and shall meet at any time upon the call of its chairman or of the director of the division of finance or of any two members of the board.

4. The board shall have an official seal bearing the inscription, "State Banking and Savings and Loan Board of the State of Missouri", which shall be judicially noticed.

5. The division of finance may provide administrative services to the board to assist the board with fulfilling its statutory responsibilities.

361.106. 1. For purposes of this section, the following terms mean:

(1) "Bulletin", an informal written communication to inform or educate individuals or entities licensed, chartered, or regulated by the division of finance and the general public about a regulatory topic or issue. A bulletin is informational in nature and is not an evaluation of specific facts and circumstances;

(2) "Industry letter", a written communication from the director of finance in response to a specific individual or entity chartered, licensed, or regulated by the division of finance, and that provides the division of finance's position on a particular regulatory topic or issue with respect to a specific set of facts and circumstances.

2. Notwithstanding any other provision of law to the contrary, the director of finance may at his or her discretion issue bulletins addressing the business of the individuals and entities licensed, chartered, or regulated by the division in this state. Bulletins do not have the force or effect of law and shall not be considered statements of general applicability that would require promulgation by rule.

3. Notwithstanding any other provision of law to the contrary, the director of finance may at his or her discretion issue industry letters in response to a written request from an individual or entity licensed, chartered, or regulated by the division, and that seeks the division's position on an application of law. In addition to any materials or information requested by the division, the written request shall include:

(1) A brief summary of the applicable laws and rules that pertain to the request;

(2) A detailed factual representation concerning every relevant aspect of the proposed business activity or activities, transaction, event, or circumstance;

(3) A discussion of current statutes, rules, and legal principles relevant to the facts set forth;

(4) A statement by the person requesting the industry letter of the person's own opinion in the matter and the basis for such opinion; and

(5) A representation that the proposed business or transaction in question have not commenced or, if they have commenced, the present status of the proposed business or transaction.

4. With respect to the requesting party, an industry letter is binding on the division, and the requesting party shall not be subject to any administrative proceeding or penalty for any acts or omissions done in reliance on an industry letter, so long as there is no change in any material fact or law or the discovery of a material misrepresentation or omission made by the requesting party.

5. An industry letter request and response shall be confidential, but a resulting industry letter, if published by the director, may contain non-identifying facts and information derived from the request.

6. After redacting all identifying information, the director may publish industry letters for informational purposes. Because the division may have a different position in response to similar but non-identical facts and circumstances, published industry letters do not have the force or effect of law, are not binding on the division, and shall not be considered statements of general applicability that would require promulgation by rule.

7. Industry letters issued under this section are distinct from letters issued by the director under

subdivision (5) of section 362.106, which shall be governed by that section.

361.160. 1. The director of finance at least once each year, either personally or by a deputy or examiner appointed by the director, shall visit and examine every bank and trust company organized and doing business under the laws of this state, and every other corporation which is by law required to report to the director; except, for banks or trust companies receiving a Camel/MOECA 1 or Camel/MOECA 2 rating from the division of finance, the director of finance at least once each eighteen calendar months, or for a private trust company at least once each thirty-six months, either personally or by a deputy or examiner appointed by the director, shall visit and examine such bank or trust company, and the director of finance, at the director's discretion, may conduct the director's examination, or any part thereof, on the basis of information contained in examination reports of other states, the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits performed by certified public accountants. For purposes of this subsection, a private trust company is one that does not engage in trust company business with the general public or otherwise hold itself out as a trustee or fiduciary for hire by advertising, solicitation, or other means and instead operates for the primary benefit of a family, relative of same family, or single family lineage, regardless of whether compensation is received or anticipated. The director shall be afforded prompt and free access to any workpapers upon which a certified public accountant bases an audit. A certified public accountant shall retain workpapers for a minimum of three years after the date of issuance of the certified public accountant's report to the bank or trust

company. The director or the director's agent may concentrate the examinations on institutions which the director believes have safety or soundness concerns.

2. The director, or the deputy or examiners designated by the director for that purpose, shall have power to examine any such corporation whenever, in the director's judgment, it may be deemed necessary or expedient, and shall have power to examine every agency located in this state of any foreign banking corporation and every branch in this state of any out-of-state bank, for the purpose of ascertaining whether it has violated any law of this state, and for such other purposes and as to such other matters as the director may prescribe.

3. The director and the director's deputy and examiners shall have power to administer oaths to any person whose testimony may be required in such examination or investigation of any such corporation or agency, and to compel the appearance and attendance of any person for the purpose of any such examination or investigation.

4. On every such examination inquiry shall be made as to the condition and resources of such corporation, the mode of conducting and managing its affairs, the actions of its directors or trustees, the investment of its funds, the safety and prudence of its management, the security afforded to its creditors, and whether the requirements of its charter and of law have been complied with in the administration of its affairs, and as to such other matters as the director may prescribe.

5. The director may also make such special investigations as the director deems necessary to determine whether any individual or corporation has violated any of the provisions of this law.

6. Such examination may be made and such inquiry instituted or continued in the discretion of the director after the director has taken possession of the property and business of any such corporation, until it shall resume business or its affairs shall be finally liquidated in accordance with the provisions of this chapter.

7. The result of each examination shall be certified by the director or the examiner upon the records of the corporation examined [and the result of all examinations during the biennial period shall be embodied in the report to be made by the director of the department of commerce and insurance to the legislature].

8. The director may contract with regulators in other states to provide for the examination of Missouri branches of out-of-state banks and branches of banks whose home state is Missouri. The agreements may provide for the payment by the home state of the cost of examinations conducted by the host state at the request of the home state regulators.

361.260. 1. Whenever the director shall have reason to believe that the capital stock of any corporation subject to the provisions of this chapter is reduced by impairment or otherwise, below the amount required by law, or by its certificates or articles of agreement, [he] the director shall issue a notice of charges in respect thereof.

2. Whenever [it shall appear to the director,] the director has reason to believe from any examination or investigation made by [him] the director or his or her examiners, that any corporation subject to the provisions of this chapter, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation, or any foreign corporation licensed by the director to do business under this chapter or chapter 362 is engaging in [or], has engaged in, or [there is reasonable

cause to believe that the corporation or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation is about to engage in,] is about to engage in:

(1) An unsafe or unsound practice in conducting the business of such corporation [or is violating or has violated, or there is reasonable cause to believe that the corporation or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation is about to violate];

(2) A violation of law, rule, or director-imposed written condition [imposed, in writing, by the director in connection with the granting of any application or other request by the corporation or];

(3) A violation of any written agreement entered into with the director[,]; or

(4) A violation of the corporation's charter,

the director may issue and serve upon the corporation or such director, officer, employee, agent, or other person a notice of charges in respect thereof.

3. Whenever it shall appear to the director that any corporation subject to the provisions of this chapter does not keep its books and accounts in such manner as to enable him or her readily to ascertain its true condition or that wrong entries or unlawful uses of the funds of the corporation have been made, the director may issue and serve upon the corporation or any appropriate director, officer, employee, agent, or other person a notice of charges in respect thereof.

4. The notice of charges shall contain a statement of the facts constituting the deficiencies, [the] alleged violation or violations, improper use of funds, or [the] unsafe or unsound practice or practices, and shall fix a

time and place at which a contested hearing will be held to determine whether an order to cease and desist therefrom should [issue] be issued against the corporation or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation.

5. In the event the party or parties so served shall fail to appear at the hearing, or shall consent to the cease and desist order, or in the event the director shall find that the fact of any deficiency, violation, unsafe or unsound practice, inadequate recordkeeping, or improper use of funds specified has been established, the director may issue and serve upon the corporation or the director, officer, employee, agent, or other person participating in the conduct of the affairs of the corporation an order to cease and desist from the actions, violations, or practices charged.

6. The cease and desist order:

(1) May require the corporation or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such corporation to cease and desist from [same and,] such actions, violations, or practices;

(2) [Further,] May require the corporation or its directors, officers, employees, agents, or other persons participating in the conduct of the affairs of such corporation to take affirmative action to correct the conditions resulting from any such actions, violations, or practices[. If the director determines that the capital of the corporation is impaired,];

(3) [The order] Shall require that, if the director determines that the capital of the corporation is impaired,

the corporation make good the deficiency forthwith or within a time specified in the order[.];

(4) May, if the director determines that the corporation does not keep adequate records, [the order may] determine and prescribe such books of account as the director, in his discretion, shall require of the corporation for the purpose of keeping accurate and convenient records of the transactions and accounts[.]; and

(5) Shall, if the director [shall determine] determines that wrong entries or unlawful uses of the funds of the corporation have been made, [he shall] order that the entries shall be corrected, and the sums unlawfully paid out restored by the person or persons responsible for the wrongful or illegal payment thereof.

[6.] 7. If a notice of charges served under this section specifies, on the basis of particular facts and circumstances, that a corporation's books and records are so incomplete or inaccurate that the director is unable, through the normal supervisory process, to determine the financial condition of that corporation or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that corporation, the director may issue a temporary order requiring the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records, or affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under this section. Any temporary order issued under this subsection shall become effective upon service and, unless set aside, limited or suspended by a court, shall remain in effect and enforceable until the earlier of the completion of the proceedings initiated under this section or the date

on which the director determines by examination or otherwise that the corporation's books and records are accurate and reflect the financial condition of the corporation.

[7.] 8. Whenever it shall appear to the director that the violation or threatened violation or the unsafe or unsound practice or practices specified in the notice of charges served upon the corporation or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation pursuant to subsection 4 of this section, or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of the corporation, or is likely to weaken the condition of the corporation or otherwise prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to said subsection, the director may issue a temporary order, effective immediately, requiring the corporation or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the director shall dismiss the charges specified in such notice or if a cease and desist order is issued against the corporation or such director, officer, employee, agent, or other person, until the effective date of such order. The corporation, director, officer, employee, agent, or other person may, within ten days after having been served with a temporary cease and desist order, apply to the circuit court of Cole County for an order setting aside, limiting, or

suspending the enforcement, operation, or effectiveness of such order.

[8.] 9. If any corporation, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation shall fail or refuse to comply with any duly issued order provided for in this chapter and chapter 362, the corporation or such director, officer, employee, agent, or other person shall pay a civil penalty of not more than one thousand dollars per day for each day the failure or refusal shall continue. The penalty shall be assessed and collected by the director of the division. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the corporation or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require. In addition to the penalty, the director may, in his or her discretion, report the delinquency to the attorney general, with a request that [he] the attorney general proceed as provided in section 361.270, and in the event of such request, the attorney general shall proceed.

361.262. 1. Whenever it shall appear to the director, from any examination or investigation made by [him] the director or [his] the director's examiners, that:

(1) Any director, officer, or any other person participating in the conduct of the affairs of a corporation subject to this chapter has [committed any violation of]:

(a) Violated a law or regulation [or of];

(b) Violated a cease and desist order[, or has];

(c) Violated any director-imposed written condition [imposed in writing by the director] in connection with the

grant of any application or other request by such corporation **[or]**;

(d) Violated any written agreement between such corporation and the director**[, or has]**;

(e) Engaged or participated in any unsafe or unsound practice in connection with the corporation**[,]**; or **[has]**

(f) Committed or engaged in any act, omission, or practice **[which]** that constitutes a breach of his or her fiduciary duty to the corporation**[,]**; and

(2) The director determines that:

(a) The corporation has suffered or will probably suffer financial loss or other damage **[or that]**;

(b) The interests of its depositors, beneficiaries, or other customers could be prejudiced by reason of such violation or practice or breach of fiduciary duty**[,]**; or **[that]**

(c) The director or officer or other person has received financial gain by reason of such violation or practice or breach of fiduciary duty**[,]**; and

(3) The director determines that such violation or practice or breach of fiduciary duty is:

(a) One involving personal dishonesty on the part of such director, officer or other person**[,]**; or

(b) One **[which]** that demonstrates a willful or continuing disregard for the safety or soundness of the corporation**[,]**;

the director may serve upon such director, officer, or other person a written notice of **[his]** the director's intention to remove him or her from office.

2. When it shall appear from any examination or investigation to the director **[from any examination made by him or his examiners]** that any director or officer of a corporation subject to this chapter, by conduct or practice

with respect to another such corporation or any business
[institution which] that:

(1) Resulted in financial loss or other damage[, has];
(2) Evidenced either:
(a) His or her personal dishonesty; or
(b) A willful or continuing disregard for its safety
and soundness; and[, in addition, has]

(3) Evidenced his or her unfitness to continue as a
director or officer, [and whenever it shall appear to the
director that any other person participating in the conduct
of the affairs of a corporation subject to this chapter, by
conduct or practice with respect to such corporation or
other corporation or other business institution which
resulted in financial loss or other damage, has evidenced
either his personal dishonesty or willful or continuing
disregard for its safety and soundness and, in addition, has
evidenced his unfitness to participate in the conduct of the
affairs of such corporation,]

the director may serve upon such director[,] or officer[, or
other person] a written notice of intention to remove him or
her from office or to prohibit his or her further
participation in any manner in the conduct of the affairs of
the corporation or from any other banking, savings, or trust
institution supervised by the director.

3. When it shall appear from any examination or
investigation to the director that any person participating
in the conduct of the affairs of a corporation subject to
this chapter, by conduct or practice with respect to such
corporation or other corporation or other business
institution that:

(1) Resulted in financial loss or other damage, has
(2) Evidenced either:
(a) His or her personal dishonesty; or

(b) A willful or continuing disregard for its safety and soundness; and

(3) Evidenced his or her unfitness to participate in the conduct of the affairs of such corporation,

the director may serve upon such person a written notice of intention to remove him or her from office or to prohibit his or her further participation in any manner in the conduct of the affairs of the corporation or from any other banking, savings, or trust institution supervised by the director.

4. Whenever it shall appear to the director to be necessary for the protection of any corporation or its depositors, [he] beneficiaries, or other customers, the director may, by written notice to such effect served upon any director, officer, or other person referred to in [subsection 1 or 2] subsections 1 to 3 of this section, suspend him or her from office or prohibit him or her from further participation in any manner in the conduct of the affairs of the corporation. Such suspension or prohibition shall become effective upon service of such notice and shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under [subsection 1 or 2] subsections 1 to 3 of this section and until such time as the director shall dismiss the charges specified in such notice or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the corporation of which he or she is a director or officer or in the conduct of whose affairs he or she has participated.

[4.] 5. Except as provided in subsection [5] 6 of this section, any person who, pursuant to an order issued under this section, has been removed or suspended from office in a

corporation or prohibited from participating in the conduct of the affairs of a corporation may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in, the conduct of the affairs of any other corporation subject to the provisions of this chapter.

[5.] 6. If, on or after the date an order is issued under this section [which] that removes or suspends from office any person or prohibits such person from participating in the conduct of the affairs of a corporation, such party receives the written consent of the director, subsection [4] 5 of this section shall, to the extent of such consent, cease to apply to such person with respect to the [corporation] terms and conditions described in the written consent and the director shall publicly disclose such consent. Any violation of subsection [4] 5 of this section by any person who is subject to an order described in such subsection shall be treated as a violation of the order.

361.715. 1. Upon the filing of the application, the filing of a certified audit, the payment of the investigation fee and the approval by the director of the necessary bond, the director shall cause, investigate, and determine whether the character, responsibility, and general fitness of the principals of the applicant or any affiliates are such as to command confidence and warrant belief that the business of the applicant will be conducted honestly and efficiently and that the applicant is in compliance with all other applicable state and federal laws. If satisfied, the director shall issue to the applicant a license pursuant to the provisions of sections 361.700 to 361.727. In processing a renewal license, the director shall require the

same information and follow the same procedures described in this subsection.

2. Each licensee shall pay to the director before the issuance of the license, and annually thereafter on or before April fifteenth of each year, a license fee of ~~three~~ four hundred dollars.

3. The director may assess a reasonable charge, not to exceed ~~three~~ four hundred dollars, for any application to amend and reissue an existing license.

362.034. 1. Any entity that operates as a facility licensed or certified under Article XIV of the Constitution of Missouri may request in writing that a state or local licensing authority or agency, including, but not limited to, the department of health and senior services or department of revenue, share the entity's application, license, or other regulatory and financial information with a banking institution. A state or local licensing authority or agency may also share such information with the banking institution's state and federal supervisory agencies.

2. In order to ensure the state or local licensing authority or agency is properly maintaining the confidentiality of individualized data, information, or records, an entity shall include in the written request a waiver giving authorization for the transfer of the individualized data, information, or records and waiving any confidentiality or privilege that applies to that individualized data, information, or records.

3. This section shall only apply to the disclosure of information by a state or local licensing authority or agency reasonably necessary to facilitate the provision of financial services by a banking institution to the entity making a request pursuant to this section.

4. The recipient of any information pursuant to this section shall treat such information as confidential and use it only for the purposes described in this section.

5. Nothing in this section shall be construed to authorize the disclosure of confidential or privileged information, nor waive an entity's rights to assert confidentiality or privilege, except as reasonably necessary to facilitate the provision of financial services for the entity making the request.

6. An entity that has provided a waiver pursuant to this section may withdraw the waiver with thirty days' notice in writing.

7. Nothing in this section shall be construed to modify the requirements of chapter 610.

8. For purposes of this section, the following terms mean:

(1) "Banking institution", the same meaning as in Article IV, Section 15 of the Missouri Constitution;

(2) "Entity", the same meaning as in Article XIV of the Missouri Constitution.

364.030. 1. No person shall engage in the business of a financing institution in this state without a license therefor as provided in this chapter; except, however, that no bank, trust company, loan and investment company, licensed sales finance company, registrant under the provisions of sections 367.100 to 367.200, or person who makes only occasional purchases of retail time contracts or accounts under retail charge agreements and which purchases are not being made in the course of repeated or successive purchase of retail installment contracts from the same seller, shall be required to obtain a license under this chapter but shall comply with all the laws of this state

applicable to the conduct and operation of a financing institution.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of **[five]** six hundred dollars for each place of business of the licensee in this state which shall be paid into the general revenue fund. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed therein. In case the location is changed, the director shall either endorse the change of location of the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of an application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a financing institution under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No

licensee shall transact any business provided for by this chapter under any other name.

364.105. 1. No person shall engage in the business of a premium finance company in this state without first registering as a premium finance company with the director.

2. The annual registration fee shall be ~~five~~ six hundred dollars payable to the director as of the first day of July of each year. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

3. Registration shall be made on forms prepared by the director and shall contain the following information:

(1) Name, business address and telephone number of the premium finance company;

(2) Name and business address of corporate officers and directors or principals or partners;

(3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:

(a) The premium finance company is financially capable to engage in the business of insurance premium financing; and

(b) If a corporation, that the corporation is authorized to transact business in this state;

(4) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the director accompanied by an additional fee of three hundred dollars.

365.030. 1. No person shall engage in the business of a sales finance company in this state without a license as provided in this chapter; except, that no bank, trust company, savings and loan association, loan and investment company or registrant under the provisions of sections 367.100 to 367.200 authorized to do business in this state

is required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of **[five]** six hundred dollars for each place of business of the licensee in this state. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location is changed, the director shall either endorse the change of location on the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

367.140. 1. Every lender shall, at the time of filing application for certificate of registration as provided in section 367.120 hereof, pay the sum of ~~five~~ six hundred dollars as an annual registration fee for the period ending the thirtieth day of June next following the date of payment and in full payment of all expenses for investigations, examinations and for the administration of sections 367.100 to 367.200, except as provided in section 367.160, and thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a lender is supervised by the commissioner of finance under any other law, the charges for examination and supervision required to be paid under said law shall be in lieu of the annual fee for registration and examination required under this section. The fee shall be made payable to the director of revenue. If the initial registration fee for any certificate of registration is for a period of less than twelve months, the registration fee shall be prorated according to the number of months that said period shall run. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

2. Upon receipt of such fee and application for registration, and provided the bond, if required by the director, has been filed, the director shall issue to the lender a certificate containing the lender's name and address and reciting that such lender is duly and properly registered to conduct the supervised business. The lender shall keep this certificate of registration posted in a conspicuous place at the place of business recited in the registration certificate. Where the lender engages in the supervised business at or from more than one office or place

of business, such lender shall obtain a separate certificate of registration for each such office or place of business.

3. Certificates of registration shall not be assignable or transferable except that the lender named in any such certificate may obtain a change of address of the place of business therein set forth. Each certificate of registration shall remain in full force and effect until surrendered, revoked, or suspended as herein provided.

407.640. 1. A credit services organization shall file a registration statement with the director of finance before conducting business in this state. The registration statement must contain:

(1) The name and address of the credit services organization; and

(2) The name and address of any person who directly or indirectly owns or controls ten percent or more of the outstanding shares of stock in the credit services organization.

2. The registration statement must also contain either:

(1) A full and complete disclosure of any litigation or unresolved complaint filed by or with a governmental authority of this state relating to the operation of the credit services organization; or

(2) A notarized statement that states that there has been no litigation or unresolved complaint filed by or with a governmental authority of this state relating to the operation of the credit services organization.

3. The credit services organization shall update the statement not later than the ninetieth day after the date on which a change in the information required in the statement occurs.

4. Each credit services organization registering under this section shall maintain a copy of the registration

statement in the office of the credit services organization. The credit services organization shall allow a buyer to inspect the registration statement on request.

5. The director of finance may charge each credit services organization that files a registration statement with the director of finance a reasonable fee not to exceed ~~three~~ four hundred dollars to cover the cost of filing. The director of finance may not require a credit services organization to provide information other than that provided in the registration statement as part of the registration process.

408.145. 1. To encourage competitive equality, lenders issuing credit cards in this state pursuant to the authority of section 408.100 or 408.200, may ~~in addition to lawful interest, contract for, charge and collect fees for~~ issue such credit cards under such terms and conditions which any lender in any contiguous state is permitted to ~~charge~~ utilize for credit cards issued in such contiguous state by such state's statutes. State-chartered lenders ~~charging such fees~~ issuing credit cards in reliance on this subsection shall file a copy of the pertinent statutes of one contiguous state authorizing credit card ~~fees~~ terms and conditions with the director of finance or such lender's principal state regulator. The director of finance or other principal state regulator shall, within thirty days after receipt of the filing, approve or disapprove of such ~~fees~~ terms and conditions on the sole basis of whether the statutes of such contiguous state permit such ~~fees~~ terms and conditions, and without regard to the restrictions placed upon credit cards by subsection 2 of this section. When the lender is chartered by the federal government, or any agency thereunder, or is unregulated, such lender shall file with and be approved by the Missouri attorney general

under the same provision as provided a state-chartered lender.

2. "Credit card" as used in this section shall mean a credit device defined as such in the federal Consumer Credit Protection Act and regulations thereunder, except:

(1) The term shall be limited to credit devices which permit the holder to purchase goods and service upon presentation to third parties whether or not the credit card also permits the holder to obtain loans of any other type; and

(2) Such credit device shall only provide credit which is not secured by real or personal property.

3. "Lender" as used in this section shall mean any category of depository or nondepository creditor. Notwithstanding the provisions of [section 408.140] sections 408.100 to 408.190 to the contrary, the lender shall declare on each credit card contract whether the credit card [fees are governed by section 408.140, or by] is issued pursuant to this section.

408.500. 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of [five] six hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, nor to a check accepted and deposited or cashed by the payee business on

the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement:

NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans.

Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the first renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by not less than five percent of the original amount of the loan until such loan is paid in full. However, no loan may be renewed more than six times.

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to

consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

436.550. Sections 436.550 to 436.570 shall be known and may be cited as the "Consumer Legal Funding Act".

436.552. As used in sections 436.550 to 436.570, the following terms mean:

(1) "Advertise", publishing or disseminating any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed before the public, directly or indirectly, for the purpose of inducing a consumer to enter into a consumer legal funding contract;

(2) "Charges", the amount of moneys to be paid to the consumer legal funding company by or on behalf of the consumer above the funded amount provided by or on behalf of the company to a consumer under sections 436.550 to 436.570. Charges include all administrative, origination, underwriting, or other fees, no matter how denominated;

(3) "Consumer", a natural person who has a legal claim and resides or is domiciled in Missouri;

(4) "Consumer legal funding company" or "company", a person or entity that enters into a consumer legal funding contract with a consumer. The term shall not include:

(a) An immediate family member of the consumer;

(b) A bank, lender, financing entity, or other special purpose entity:

a. That provides financing to a consumer legal funding company; or

b. To which a consumer legal funding company grants a security interest or transfers any rights or interest in a consumer legal funding; or

(c) An attorney or accountant who provides services to a consumer;

(5) "Consumer legal funding contract", a nonrecourse contractual transaction in which a consumer legal funding company purchases and a consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award, or verdict obtained in the consumer's legal claim;

(6) "Director", the director of the division of finance within the department of commerce and insurance;

(7) "Division", the division of finance within the department of commerce and insurance;

(8) "Funded amount", the amount of moneys provided to or on behalf of the consumer in the consumer legal funding contract. "Funded amount" shall not include charges;

(9) "Funding date", the date on which the funded amount is transferred to the consumer by the consumer legal funding company either by personal delivery, via wire, automated clearing house transfer, or other electronic means, or by insured, certified, or registered United States mail;

(10) "Immediate family member", a parent; sibling; child by blood, adoption, or marriage; spouse; grandparent; or grandchild;

(11) "Legal claim", a bona fide civil claim or cause of action, any alternative dispute resolution proceeding, or any administrative proceeding before any agency or instrumentality of this state;

(12) "Medical provider", any person or business providing medical services of any kind to a consumer including, but not limited to, physicians, nurse practitioners, hospitals, physical therapists, chiropractors, or radiologists as well as any of their employees or contractors or any practice groups, partnerships, or incorporations of the same;

(13) "Resolution date", the date the amount funded to the consumer, plus the agreed-upon charges, is delivered to the consumer legal funding company.

436.554. 1. All consumer legal funding contracts shall meet the following requirements:

(1) The contract shall be completely filled in when presented to the consumer for signature;

(2) The contract shall contain, in bold and boxed type, a right of rescission allowing the consumer to cancel the contract without penalty or further obligation if, within five business days after the funding date, the consumer either:

(a) Returns the full amount of the disbursed funds to the consumer legal funding company by delivering the company's uncashed check to the company's office in person;
or

(b) Mails a notice of cancellation by insured, certified, or registered United States mail to the address specified in the contract and includes a return of the full

amount of disbursed funds in such mailing in the form of the company's uncashed check or a registered or certified check or money order;

(3) The contract shall contain the initials of the consumer on each page; and

(4) The contract shall require the consumer to give nonrevocable written direction to the consumer's attorney requiring the attorney to notify the consumer legal funding company when the legal claim has been resolved. Once the consumer legal funding company confirms in writing the amount due under the contract, the consumer's attorney shall pay, from the proceeds of the resolution of the legal claim, the consumer legal funding company the amount due within ten business days.

2. The consumer legal funding company shall provide the consumer's attorney with a written notification of the consumer legal funding contract provided to the consumer within three business days of the funding date by way of postal mail, courier service, facsimile, or other means of proof of delivery method.

3. A consumer legal funding contract shall be entered into only if the contract involves an existing legal claim in which the consumer is represented by an attorney.

436.556. No consumer legal funding company shall:

(1) Pay or offer to pay commissions, referral fees, or other forms of consideration to any attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees for referring a consumer to the company;

(2) Accept any commissions, referral fees, rebates, or other forms of consideration from an attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees;

(3) Intentionally advertise materially false or misleading information regarding its products or services;

(4) Refer, in furtherance of an initial legal funding, a customer or potential customer to a specific attorney, law firm, medical provider, chiropractor, or physical therapist or any of their employees. However, the company may refer the customer to a local or state bar association referral service if a customer needs legal representation;

(5) Fail to promptly supply a copy of the executed contract to the consumer's attorney;

(6) Knowingly provide funding to a consumer who has previously assigned or sold a portion of the right to proceeds from the consumer's legal claim unless the consumer legal funding company pays or purchases the entire unsatisfied funded amount and contracted charges from the prior consumer legal funding company or the two companies agree to a lesser amount in writing. However, multiple companies may agree to contemporaneously provide funding to a consumer, provided that the consumer and the consumer's attorney consent to the arrangement in writing;

(7) Receive any right to or make any decisions with respect to the conduct of the underlying legal claim or any settlement or resolution thereof. The right to make such decisions shall remain solely with the consumer and the attorney in the legal claim; or

(8) Knowingly pay or offer to pay for court costs, filing fees, or attorney's fees either during or after the resolution of the legal claim by using funds from the consumer legal funding contract. The consumer legal funding contract shall include a provision advising the consumer that the funding shall not be used for such costs or fees.

436.558. 1. The contracted amount to be paid to the consumer legal funding company shall be set as a

predetermined amount based upon intervals of time from the funding date to the resolution date and shall not be determined as a percentage of the recovery from the legal claim.

2. No consumer legal funding contract shall be valid if its terms exceed a period of forty-eight months. No consumer legal funding contract shall be automatically renewed.

436.560. All consumer legal funding contracts shall contain the disclosures specified in this section, which shall constitute material terms of the contract. Unless otherwise specified, the disclosures shall be typed in at least twelve-point bold-type font and be placed clearly and conspicuously within the contract, as follows:

(1) On the front page under appropriate headings, language specifying:

(a) The funded amount to be paid to the consumer by the consumer legal funding company;

(b) An itemization of one-time charges;

(c) The total amount to be assigned by the consumer to the company, including the funded amount and all charges; and

(d) A payment schedule to include the funded amount and charges, listing all dates and the amount due at the end of each six-month period from the funding date until the date the maximum amount due to the company by the consumer to satisfy the amount due pursuant to the contract;

(2) Within the body of the contract, in accordance with the provisions under subdivision (2) of subsection 1 of section 436.554: "Consumer's Right to Cancellation: You may cancel this contract without penalty or further obligation within five business days after the funding date if you either:

(a) Return the full amount of the disbursed funds to the consumer legal funding company by delivering the company's uncashed check to the company's office in person;
or

(b) Mail a notice of cancellation by insured, certified, or registered United States mail to the company at the address specified in the contract and include a return of the full amount of disbursed funds in such mailing in the form of the company's uncashed check or a registered or certified check or money order;

(3) Within the body of the contract, language specifying that the consumer legal funding company shall have no role in deciding whether, when, or for how much the legal claim is settled and that the consumer or the consumer's attorney shall notify the company of whether the outcome of the legal claim will be by settlement or by adjudication prior to the resolution date. The company may seek updated information about the status of the legal claim but in no event shall the company interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof;

(4) Within the body of the contract, in all capital letters and in at least twelve-point bold-type font contained within a box: "THE FUNDED AMOUNT AND AGREED-UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. IF THERE IS NO RECOVERY OF ANY DAMAGES FROM YOUR LEGAL CLAIM OR IF THERE IS NOT ENOUGH MONEY TO PAY BACK THE CONSUMER LEGAL FUNDING COMPANY IN FULL, YOU WILL NOT BE OBLIGATED TO PAY THE CONSUMER LEGAL FUNDING COMPANY ANYTHING IN EXCESS OF YOUR RECOVERY UNLESS YOU HAVE VIOLATED THIS CONTRACT. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY)

ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM
UNLESS YOU OR YOUR ATTORNEY HAVE VIOLATED ANY MATERIAL TERM
OF THIS CONTRACT OR UNLESS YOU HAVE COMMITTED FRAUD AGAINST
THE CONSUMER LEGAL FUNDING COMPANY."; and

(5) Located immediately above the place on the
contract where the consumer's signature is required, in
twelve-point font: "Do not sign this contract before you
read it completely or if it contains any blank spaces. You
are entitled to a completely filled-in copy of the
contract. Before you sign this contract, you should obtain
the advice of an attorney. Depending on the circumstances,
you may want to consult a tax, public or private benefits
planning, or financial professional. You acknowledge that
your attorney in the legal claim has provided no tax, public
or private benefit planning, or financial advice regarding
this transaction."

436.562. 1. Nothing in sections 436.550 to 436.570
shall be construed to restrict the exercise of powers or the
performance of the duties of the state attorney general that
he or she is authorized to exercise or perform by law.

2. If a court of competent jurisdiction determines
that a consumer legal funding company has intentionally
violated the provisions of sections 436.550 to 436.570 in a
consumer legal funding contract, the consumer legal funding
contract shall be voided.

436.564. 1. The contingent right to receive an amount
of the potential proceeds of a legal claim is assignable.

2. Nothing contained in sections 436.550 to 436.570
shall be construed to cause any consumer legal funding
contract conforming to sections 436.550 to 436.570 to be
deemed a loan or to be subject to any of the provisions
governing loans. A consumer legal funding contract that
complies with sections 436.550 to 436.570 is not subject to

any other statutory or regulatory provisions governing loans or investment contracts. To the extent that sections 436.550 to 436.570 conflict with any other law, such sections shall supersede the other law for the purposes of regulating consumer legal funding in this state.

3. Only attorney's liens related to the legal claim, Medicare, or other statutory liens related to the legal claim shall take priority over claims to proceeds from the consumer legal funding company. All other liens and claims shall take priority by normal operation of law.

4. No consumer legal funding company shall report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the company.

436.566. An attorney or law firm retained by the consumer in the legal claim shall not have a financial interest in the consumer legal funding company offering consumer legal funding to that consumer. Additionally, any practicing attorney who has referred the consumer to his or her retained attorney shall not have a financial interest in the consumer legal funding company offering consumer legal funding to that consumer.

436.568. No communication between the consumer's attorney in the legal claim and the consumer legal funding company as it pertains to the consumer legal funding contract shall limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and attorney-client privilege.

436.570. 1. A consumer legal funding company shall not engage in the business of consumer legal funding in this state, unless it has first obtained a license from the division of finance.

2. A consumer legal funding company's initial or renewal license application shall be in writing, made under oath, and on a form provided by the director.

3. Every consumer legal funding company, at the time of filing a license application, shall pay the sum of five hundred dollars for a period ending the thirtieth day of June next following the date of payment; and thereafter a like fee shall be paid on or before June thirtieth of each year and shall be credited to the division of finance fund.

4. A consumer legal funding license shall not be issued unless the division of finance, upon investigation, finds that the character and fitness of the applicant company, and of the officers and directors thereof, are such as to warrant belief that the business shall operate honestly and fairly within the purposes of sections 436.550 to 436.570.

5. Every applicant shall also, at the time of filing such application, file a bond satisfactory to the division of finance in an amount not to exceed fifty thousand dollars. The bond shall provide that the applicant shall faithfully conform to and abide by the provisions of sections 436.550 to 436.570, to all rules lawfully made by the director under sections 436.550 to 436.570, and to any such person or persons any and all amounts of moneys that may become due or owing to the state or to such person or persons from the applicant under and by virtue of sections 436.550 to 436.570, which shall cover any actions that occurred while the bond was in place for the applicable period of limitations under statute and so long as the bond is not exhausted by valid claims.

6. When an action is commenced on a licensee's bond, the director may require the filling of a new bond.

Immediately upon any recovery on the bond, the licensee shall file a new bond.

7. In order to ensure the effective supervision and enforcement of sections 436.550 to 436.570, the director may, after a contested hearing under chapter 536:

(1) Deny, suspend, revoke, condition, or decline to renew a license for a violation of sections 436.550 to 436.570, rules issued under sections 436.550 to 436.570, or order or directive entered under sections 436.550 to 436.570;

(2) Deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at any time meet the requirements of sections 436.550 to 436.570, or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) Order restitution against persons subject to sections 436.550 to 436.570 for violations of sections 436.550 to 436.570; and

(4) Order or direct such other affirmative action as the director deems necessary.

8. Any letter issued by the director and declaring grounds for denying or declining to grant or renew a license may be appealed to the circuit court of Cole County. All other matters presenting a contested case involving a licensee may be heard by the director under chapter 536.

9. Notwithstanding the prior approval requirement of subsection 1 of this section, a consumer legal funding company that has applied with the division of finance between the effective date of sections 436.550 to 436.570 and six months thereafter may engage in consumer legal funding while the license application of the company or an affiliate of the company is awaiting approval by the division of finance. All funding contracts in effect prior

to the effective date of sections 436.550 to 436.570 are not subject to the terms of sections 436.550 to 436.570.

10. Whenever it shall appear to the director that any consumer legal funding company is failing, refusing or neglecting to make a good faith effort to comply with the provisions of sections 436.550 to 436.570, or any laws or rules relating to consumer legal funding, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure, or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty of previous violations, and such other matters as justice may require.

11. In the event any consumer legal funding company fails, refuses, or neglects to comply with the provisions of sections 436.550 to 436.570, or of any laws or rules of the state of Missouri relating to consumer legal funding, its license may be suspended or revoked by order of the director after a hearing before said director on any order to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the particular consumer legal funding company at least ten days prior to the hearing. Any order made and entered by the director may be appealed to the circuit court of Cole County.

12. The division shall conduct an examination of each consumer funding company at least once every twenty-four months and such other times as the director may determine.

(1) In connection with any such investigation or examination, the director and his or her representatives shall have free and immediate access to the place or places

of business and the books and records, and shall have the authority to place under oath all persons whose testimony may be required relative to the affairs and business of the consumer legal funding company.

(2) The director may also make such special investigations or examination as the director deems necessary to determine whether any consumer legal funding company has violated any of the provisions of sections 436.550 to 436.570 or rules promulgated thereunder; and may assess the reasonable costs of any investigation or examination incurred by the division to the company.

13. The division of finance shall have the authority to promulgate rules to carry out the provisions of sections 436.550 to 436.570. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

436.571. Sections 436.571 to 436.580 shall be known and may be cited as the "Consumer Litigation Financing Act". As used in sections 436.571 to 436.580, the following terms mean:

(1) "Consumer", any natural person who resides, is present, or is domiciled in this state or who is or may become a plaintiff or complainant in a lawsuit or other legal dispute in this state;

(2) "Legal claim", a bona fide civil claim or cause of action, any alternative dispute resolution proceeding, or any administrative proceeding before any agency or instrumentality of this state;

(3) "Legal representative", an attorney, group of attorneys, law firm, or other party who may represent a person or persons in a legal dispute in this state;

(4) "Litigation activities", any legal work and advice directly related to the prosecution of a legal claim including filings, legal document preparation and drafting, appeals, creation of a litigation strategy, drafting testimony, and related litigation. Funds provided to a consumer for his or her personal needs and use are not litigation activities;

(5) "Litigation financier", a person, group of persons, or legal entity engaged in the business of litigation financing or any other mechanism created with the intent of so doing;

(6) "Litigation financing", the funding of litigation activities by entities other than the parties themselves, their counsel, or other entities with a preexisting contractual relationship with one of the parties, such as an indemnitor or a liability insurer;

(7) "Litigation financing transaction", a nonrecourse transaction in which financing is provided to a consumer in return for a consumer assigning to the litigation financier a contingent right to receive an amount of the potential proceeds of the consumer's judgment, award, settlement, or verdict obtained with respect to the consumer's legal claim or agreeing to pay the litigation financier interest or other fees for the financing provided. "Litigation financing" shall not include legal representation services provided to a consumer on a contingency fee basis, or legal costs

advanced by a legal representative, if such services or costs are provided to or on behalf of a consumer by an attorney representing the consumer in the dispute and in accordance with rule 4 of the rules of the supreme court;

(8) "Medical provider", any person or business providing medical services of any kind to a consumer including, but not limited to, physicians, nurse practitioners, hospitals, physical therapists, chiropractors, or radiologists as well as any of their employees or contractors or any practice groups, partnerships, or incorporations of the same.

436.572. 1. A litigation financier shall not engage in the business of litigation financing in this state, unless it has first obtained a license from the division of finance.

2. A litigation financier's initial or renewal license application shall be in writing, made under oath, and on a form provided by the director.

3. Every litigation financier at the time of filing a license application, shall pay the sum of five hundred fifty dollars for the period ending the thirtieth day of June next following the date of payment; and thereafter a like fee shall be paid on or before June thirtieth of each year and shall be credited to the division of finance fund.

4. A litigation financier license shall not be issued unless the division of finance, upon investigation, finds that the character and fitness of the applicant company, and of the officers and directors thereof, are such as to warrant belief that the business shall operate honestly and fairly within the purposes of sections 436.571 to 436.580.

5. Every applicant shall also, at the time of filing such application, file a bond satisfactory to the division of finance in an amount not to exceed fifty thousand dollars. The bond shall provide that the applicant shall

faithfully conform to and abide by the provisions of sections 436.571 to 436.580, to all rules lawfully made by the director under sections 436.571 to 436.580, and to any such person or persons any and all amounts of moneys that may become due or owing to the state or to such person or persons from the licensee under and by virtue of sections 436.571 to 436.580, which shall cover any actions that occurred while the bond was in place for the applicable period of limitations under statute and so long as the bond is not exhausted by valid claims.

6. When an action is commenced on a licensee's bond, the director may require the filing of a new bond. Immediately upon any recovery on the bond, the licensee shall file a new bond.

7. In order to ensure the effective supervision and enforcement of sections 436.571 to 436.580, the director may, after a contested hearing under chapter 536:

(1) Deny, suspend, revoke, condition, or decline to renew a license for a violation of sections 436.571 to 436.580, rules issued under sections 436.571 to 436.580, or order or directive entered under sections 436.571 to 436.580;

(2) Deny, suspend, revoke, condition, or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of sections 436.571 to 436.580, or withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) Order restitution against persons subject to sections 436.571 to 436.580 for violations of sections 436.571 to 436.580; and

(4) Order or direct such other affirmative action as the director deems necessary.

8. Any letter issued by the director and declaring grounds for denying or declining to grant or renew a license may be appealed to the circuit court of Cole County. All other matters presenting a contested case involving a licensee may be heard by the director under chapter 536.

9. Whenever it shall appear to the director that any litigation financier is, refusing or neglecting to make a good faith effort to comply with the provisions of sections 436.571 to 436.580, or any laws or rules relating to litigation financing, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure, or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

10. In the event any litigation financier fails, refuses, or neglects to comply with the provisions of sections 436.571 to 436.580, or of any laws or rules of the state of Missouri relating to litigation financing, its license may be suspended or revoked by order of the director after a hearing before said director on any order to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the particular litigation financier at least ten days prior to the hearing. Any order made and entered by the director may be appealed to the circuit court of Cole County.

11. The division shall conduct an examination of each litigation financier at least once every twenty-four months and such other times as the director may determine.

(1) In connection with any such investigation or examination, the director and his or her representatives shall have free and immediate access to the place or places of business and the books and records, and shall have the authority to place under oath all persons whose testimony may be required relative to the affairs and business of the litigation financier.

(2) The director may also make such special investigations or examination as the director deems necessary to determine whether any litigation financier has violated any of the provisions of sections 436.571 to 436.580 or rules promulgated thereunder; and may assess the reasonable costs of any investigation or examination incurred by the division to the company.

436.573. 1. A litigation financier shall not:

(1) Pay or offer commissions, referral fees, or other forms of consideration to any legal representative, medical provider, or any of their employees for referring a consumer to a litigation financier;

(2) Accept any commissions, referral fees, rebates, or other forms of consideration from a legal representative, medical provider, or any of their employees;

(3) Knowingly advertise false or misleading information regarding its products or services;

(4) Refer a consumer or potential consumer to a specific legal representative, medical provider, or any of their employees;

(5) Fail to promptly supply copies of any complete litigation financing contracts to the consumer and the consumer's legal representative;

(6) Attempt to secure a remedy or obtain a waiver of any remedy including, but not limited to, compensatory, statutory, or punitive damages, that the consumer might otherwise be or not be entitled to pursue;

(7) Attempt to effect arbitration or otherwise effect the waiver of a consumer's right to trial by jury;

(8) Offer or provide legal advice to the consumer regarding the litigation financing or the underlying dispute;

(9) Assign, which includes securitizing, a litigation financing contract in whole or part;

(10) Report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the litigation financier; or

(11) Receive or exercise any right to direct, nor make any decisions with respect to, the conduct of the consumer's legal claim or any settlement or resolution thereof. The right to make such decisions shall remain solely with the consumer and his or her legal representative.

2. A legal representative retained by a consumer, a medical provider for such consumer, or any employee thereof shall not have a financial interest in litigation financing and shall not receive a referral fee or other consideration from any litigation financier, its employees, its owners, or its affiliates.

436.574. 1. The terms of the litigation financing agreement shall be set forth in a written contract that is completely filled in. There shall be no incomplete sections when the contract is offered or presented to the consumer.

2. Litigation financing contracts shall contain the disclosures specified in this section, which shall constitute material terms of the litigation financing contract.

3. The disclosures shall be typed in at least fourteen-point bold font and be placed clearly and conspicuously immediately above the consumer's signature line in the litigation financing contract and shall be in substantially the following form:

Consumer's Right to Cancellation: You may cancel this contract without penalty or further obligation within five (5) business days from the date you signed this contract or received financing from [insert name of the litigation financier] by either returning the funds to [insert name, office address and office hours of the litigation financier] or by U.S. mail, [insert name and mailing address of litigation financier]. For return by U.S. mail, the postmark date on the returned funds or, if mailed by registered or certified mail, the date of the return receipt requested shall be the date of return.

The fees charged pursuant to this agreement shall not exceed [litigation financier to insert annual interest percentage rate, percentage of award or settlement proceeds, or dollar amount].

The litigation financier agrees that it has no right to and will not make any decisions about the conduct of your lawsuit or dispute and that the right to make those decisions remains solely with you and your legal representative.

If there is no recovery of any money from your legal claim or if there is not enough money to satisfy the portion assigned to [insert name of the litigation financier] in full, you will not owe anything in excess of your recovery.

Do not sign this contract before you read it completely. If this contract contains any incomplete sections, you are entitled to a completely filled-in copy of the contract prior to signing it. Before you sign this contract, you should obtain the advice of an attorney. Depending on the circumstances you may want to consult a tax advisor, a financial professional, or an accountant.

4. If the consumer is represented by a legal representative in the dispute that is the subject of the litigation financing contract, the legal representative shall acknowledge in the contract that the legal representative or its employer or employees have neither received nor paid a referral fee or any other consideration from or to the litigation financier, nor will in the future do so.

5. If the consumer's legal representative is a party to a litigation financing agreement related to the consumer's legal proceeding, the legal representative shall share with the consumer the agreement between the legal representative and the litigation financier. The agreement shall be accompanied by the disclosure required by this section, and the consumer shall sign both an acknowledgment that the agreement has been read and the required disclosure.

436.575. 1. Except as otherwise stipulated or ordered by the court, a consumer or the consumer's legal representative shall, without awaiting a discovery request, provide to all parties to the litigation, including the consumer's insurer if prior to litigation, any litigation financing contract.

2. The existence of litigation financing and all participants in such financing arrangements are permissible subjects of discovery in all personal injury litigation or matters arising out of personal injuries.

436.577. Sections 436.571 to 436.580 shall apply to any class action. Putative class members and the court shall be advised that the proposed class attorney has a legal or financial relationship with a litigation financier.

436.578. Sections 436.571 to 436.580 shall not apply to litigation financing provided to commercial enterprises in support of litigation strictly between commercial

enterprises. This exemption does not apply to any personal injury claim, situations arising from a personal injury claim, or an aggregation of personal injury claims, whether by subrogation, assignment, or any other basis.

436.579. The practice of litigation financing shall be regulated by the division of finance. The commissioner of the division of finance may promulgate all necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

436.580. Any violation of the provisions of sections 436.571 to 436.580 shall make the litigation financing contract unenforceable by the litigation financier, the consumer, or any successor-in-interest to the litigation financing contract.

569.010. As used in this chapter the following terms mean:

(1) "Cave or cavern", any naturally occurring subterranean cavity enterable by a person including, without limitation, a pit, pothole, natural well, grotto, and tunnel, whether or not the opening has a natural entrance;

(2) "Enter unlawfully or remain unlawfully", a person enters or remains in or upon premises when he or she is not licensed or privileged to do so. A person who, regardless

of his or her purpose, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he or she defies a lawful order not to enter or remain, personally communicated to him or her by the owner of such premises or by other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public;

(3) "Nuclear power plant", a power generating facility that produces electricity by means of a nuclear reactor owned by a utility or a consortium utility. Nuclear power plant shall be limited to property within the structure or fenced yard, as defined in section 563.011;

(4) "Teller machine", an automated teller machine (ATM) or interactive teller machine (ITM) that is a remote computer terminal or other device owned or controlled by a financial institution or a private business that allows individuals to obtain financial services, including obtaining cash, transferring or transmitting moneys or digital currencies, payment of bills, or loading moneys or digital currency to a payment card, without physical in-person assistance from another person. "Teller machine" does not include personally owned electronic devices used to access financial services;

(5) "To tamper", to interfere with something improperly, to meddle with it, displace it, make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or possessor of that thing;

[(5)] (6) "Utility", an enterprise which provides gas, electric, steam, water, sewage disposal, or communication, video, internet, or voice over internet protocol services,

and any common carrier. It may be either publicly or privately owned or operated.

569.100. 1. A person commits the offense of property damage in the first degree if such person:

(1) Knowingly damages property of another to an extent exceeding seven hundred fifty dollars; or

(2) Damages property to an extent exceeding seven hundred fifty dollars for the purpose of defrauding an insurer; **[or]**

(3) Knowingly damages a motor vehicle of another and the damage occurs while such person is making entry into the motor vehicle for the purpose of committing the crime of stealing therein or the damage occurs while such person is committing the crime of stealing within the motor vehicle; or

(4) Knowingly damages, modifies, or destroys a teller machine or otherwise makes it inoperable.

2. The offense of property damage in the first degree committed under subdivision (1) or (2) of subsection 1 of this section is a class E felony, unless the offense of property damage in the first degree was committed under subdivision (1) of subsection 1 of this section and the victim was intentionally targeted as a law enforcement officer, as defined in section 556.061, or the victim is targeted because he or she is a relative within the second degree of consanguinity or affinity to a law enforcement officer, in which case it is a class D felony. The offense of property damage in the first degree committed under subdivision (3) of subsection 1 of this section is a class D felony unless committed as a second or subsequent violation of subdivision (3) of subsection 1 of this section in which case it is a class B felony. The offense of property damage in the first degree committed under subdivision (4) of subsection 1 of this section is a class D felony unless

committed for the purpose of executing any scheme or artifice to defraud or obtain any property, the value of which exceeds seven hundred fifty dollars or the damage to the teller machine exceeds seven hundred fifty dollars in which case it is a class C felony; except that, if the offense of property damage in the first degree committed under subdivision (4) of subsection 1 of this section is committed to obtain the personal financial credentials of another person or committed as a second or subsequent violation of subdivision (4) of subsection 1 of this section, the offense of property damage in the first degree is a class B felony.

570.010. As used in this chapter, the following terms mean:

(1) "Adulterated", varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate", to take, obtain, use, transfer, conceal, retain or dispose;

(3) "Check", a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money;

(4) "Coercion", a threat, however communicated:

(a) To commit any offense; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any offense; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business reputation of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is justified and not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(5) "Credit device", a writing, card, code, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(6) "Dealer", a person in the business of buying and selling goods;

(7) "Debit device", a writing, card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

(8) "Deceit or deceive", making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind, or concealing a material fact as to the terms of a contract or agreement. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform

a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

(9) "Deprive":

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(10) "Electronic benefits card" or "EBT card", a debit card used to access food stamps or cash benefits issued by the department of social services;

(11) "Financial institution", a bank, trust company, savings and loan association, or credit union;

(12) "Food stamps", the nutrition assistance program in Missouri that provides food and aid to low-income individuals who are in need of benefits to purchase food operated by the United States Department of Agriculture (USDA) in conjunction with the department of social services;

(13) "Forcibly steals", a person, in the course of stealing, uses or threatens the immediate use of physical force upon another person for the purpose of:

(a) Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or

(b) Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the theft;

(14) "Internet service", an interactive computer service or system or an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, and includes, but is not limited to, an information service, system, or access software provider that provides access to a network

system commonly known as the internet, or any comparable system or service and also includes, but is not limited to, a world wide web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other online service;

(15) "Means of identification", anything used by a person as a means to uniquely distinguish himself or herself;

(16) "Merchant", a person who deals in goods of the kind or otherwise by his or her occupation holds oneself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds oneself out as having such knowledge or skill;

(17) "Mislabeled", varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

(18) "Pharmacy", any building, warehouse, physician's office, hospital, pharmaceutical house or other structure used in whole or in part for the sale, storage, or dispensing of any controlled substance as defined in chapter 195;

(19) "Property", anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

(20) "Public assistance benefits", anything of value, including money, food, EBT cards, food stamps, commodities,

clothing, utilities, utilities payments, shelter, drugs and medicine, materials, goods, and any service including institutional care, medical care, dental care, child care, psychiatric and psychological service, rehabilitation instruction, training, transitional assistance, or counseling, received by or paid on behalf of any person under chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or administered by the Missouri department of social services or any of its divisions;

(21) "Services" includes transportation, telephone, electricity, gas, water, or other public service, cable television service, video service, voice over internet protocol service, or internet service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

(22) "Stealing-related offense", federal and state violations of criminal statutes against stealing, robbery, or buying or receiving stolen property and shall also include municipal ordinances against the same if the offender was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings;

(23) "Teller machine", an automated teller machine (ATM) or interactive teller machine (ITM) that is a remote computer terminal or other device owned or controlled by a financial institution or a private business that allows individuals to obtain financial services, including obtaining cash, transferring or transmitting moneys or digital currencies, payment of bills, or loading moneys or digital currency to a payment card, without physical in-person assistance from another person. "Teller machine"

does not include personally owned electronic devices used to access financial services;

(24) "Video service", the provision of video programming provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including internet protocol technology whether provided as part of a tier, on demand, or a per-channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider as "commercial mobile service" is defined in 47 U.S.C. Section 332(d), or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or other services offered over the public internet, and includes microwave television transmission, from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment;

[(24)] (25) "Voice over internet protocol service", a service that:

(a) Enables real-time, two-way voice communication;

(b) Requires a broadband connection from the user's location;

(c) Requires internet protocol-compatible customer premises equipment; and

(d) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network;

[(25)] (26) "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges,

trademarks and any other symbols of value, right, privilege or identification.

570.030. 1. A person commits the offense of stealing if he or she:

(1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion;

(2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

(3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. The offense of stealing is a class A felony if the property appropriated consists of any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer, rail tank car, bulk storage tank, field nurse, field tank or field applicator.

3. The offense of stealing is a class B felony if:

(1) The property appropriated or attempted to be appropriated consists of any amount of anhydrous ammonia or liquid nitrogen;

(2) The property consists of any animal considered livestock as the term livestock is defined in section 144.010, or any captive wildlife held under permit issued by the conservation commission, and the value of the animal or animals appropriated exceeds three thousand dollars and that person has previously been found guilty of appropriating any animal considered livestock or captive wildlife held under permit issued by the conservation commission.

Notwithstanding any provision of law to the contrary, such

person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections;

(3) A person appropriates property consisting of a motor vehicle, watercraft, or aircraft, and that person has previously been found guilty of two stealing-related offenses committed on two separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense;

(4) The property appropriated or attempted to be appropriated consists of any animal considered livestock as the term is defined in section 144.010 if the value of the livestock exceeds ten thousand dollars; or

(5) The property appropriated or attempted to be appropriated is owned by or in the custody of a financial institution and the property is taken or attempted to be taken physically from an individual person to deprive the owner or custodian of the property.

4. The offense of stealing is a class C felony if the value of the property or services appropriated is twenty-five thousand dollars or more or the property is a teller machine or the contents of a teller machine, including cash, regardless of the value or amount.

5. The offense of stealing is a class D felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more;

(2) The offender physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft;

(b) Any will or unrecorded deed affecting real property;

- (c) Any credit device, debit device or letter of credit;
- (d) Any firearms;
- (e) Any explosive weapon as defined in section 571.010;
- (f) Any United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open;
- (g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri;
- (h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States;
- (i) Any book of registration or list of voters required by chapter 115;
- (j) Any animal considered livestock as that term is defined in section 144.010;
- (k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;
- (l) Any captive wildlife held under permit issued by the conservation commission;
- (m) Any controlled substance as defined by section 195.010;
- (n) Ammonium nitrate;
- (o) Any wire, electrical transformer, or metallic wire associated with transmitting telecommunications, video, internet, or voice over internet protocol service, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels; or
- (p) Any material appropriated with the intent to use such material to manufacture, compound, produce, prepare,

test or analyze amphetamine or methamphetamine or any of their analogues.

6. The offense of stealing is a class E felony if:

- (1) The property appropriated is an animal;
- (2) The property is a catalytic converter; or

(3) A person has previously been found guilty of three stealing-related offenses committed on three separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense.

7. The offense of stealing is a class D misdemeanor if the property is not of a type listed in subsection 2, 3, 5, or 6 of this section, the property appropriated has a value of less than one hundred fifty dollars, and the person has no previous findings of guilt for a stealing-related offense.

8. The offense of stealing is a class A misdemeanor if no other penalty is specified in this section.

9. If a violation of this section is subject to enhanced punishment based on prior findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

10. The appropriation of any property or services of a type listed in subsection 2, 3, 5, or 6 of this section or of a value of seven hundred fifty dollars or more may be considered a separate felony and may be charged in separate counts.

11. The value of property or services appropriated pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times, constitutes a single criminal episode and may be aggregated in determining the grade of the offense, except as set forth in subsection 10 of this section.