

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 97

AN ACT

To repeal sections 362.020, 362.247, 362.275, 362.295, 362.490, and 447.200, RSMo, and to enact in lieu thereof seven new sections relating to financial institutions, with penalty provisions.

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

Section A. Sections 362.020, 362.247, 362.275, 362.295, 362.490, and 447.200, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 362.020, 362.247, 362.275, 362.295, 362.424, 362.490, and 370.245, to read as follows:

362.020. 1. The articles of agreement mentioned in this chapter shall set out:

(1) The corporate name of the proposed corporation. The corporate name shall not be a name, or an imitation of a name, used within the preceding fifty years as a corporate title of a bank or trust company incorporated in this state;

(2) The name of the city or town and county in this state in which the corporation is to be located;

(3) The amount of the capital stock of the corporation, the number of shares into which it is divided, and the par value thereof; that the same has been subscribed in good faith and all thereof actually paid up in lawful money of the United States and is in the custody of the persons named as the first board of directors or managers;

(4) The names and places of residences of the several shareholders and number of shares subscribed by each;

(5) The number and the names of the first directors;

(6) The purposes for which the corporation is formed;

(7) Any provisions relating to the preemptive rights of a shareholder as provided in section 351.305.

2. The articles of agreement may provide for the issuance of additional shares of capital stock or other classes of stock pursuant to the same procedures and conditions as provided under section 351.180, provided that such terms and procedures are acceptable to the director of finance and provided that any notice or other approval required to be given or obtained from the state of Missouri shall be given or obtained from the director of the division of finance.

3. The articles of agreement may designate the number of directors necessary to constitute a quorum, and may provide for the number of years the corporation is to continue, or may provide that the existence of the corporation shall continue until the corporation shall be dissolved by consent of the stockholders or by proceedings instituted by the state under any statute now in force or hereafter enacted.

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

2. Unless otherwise prohibited by statute or **[regulation]** an order or memorandum of understanding entered into with the director of finance related to bank safety and soundness, directors may attend board meetings by telephonic conference call or video conferencing, and the bank or trust company may include in a quorum directors who are not

physically present but are allowed to vote[, provided the bank or trust company has a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System of the Federal Financial Institution Examination Counsel (FFIEC)].

3. Any director remotely attending a board meeting via telephone or video conferencing may be counted toward a quorum for such meeting and, if the director is not otherwise prohibited, may vote on matters before the bank or trust company's board so long as the meeting minutes identify the director appearing remotely and reflect that the remote director:

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

(2) Received the board meeting information required for each board of director's meeting as provided by section 362.275;

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

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

4. The director of the division of finance may promulgate additional regulations, reasonable in scope, to provide for the integrity of the board of directors' operations when directors attend board meetings remotely, the safety and soundness of the bank or trust company's operation, and the bank or trust company's interest in minimizing the cost of compliance with such regulation.

362.275. 1. The board of directors of every bank and trust company organized or doing business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon application to and acceptance by the

director of finance, at such other times, not less frequently than once each calendar quarter as the director of finance shall approve, which approval may be rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership, corporation or person whose liability to the bank or trust company has been created, extended, renewed or increased since the cut-off date prior to the regular meeting by more than an amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars; a second list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds five times such minimum amount, except the aggregate indebtedness shall in no case be less than fifty thousand dollars; a third list showing all paper past due thirty days or more or alternatively, the third list shall report the total past-due ratio for loans thirty days or more past due, nonaccrual loans divided by total loans, and a listing of past-due loans in excess of the minimum amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars[; and a fourth list showing the aggregate of the then-existing indebtedness and liability to the bank or trust company of each of the directors, officers, and employees thereof]. The information called for in the second[,] and third[, and fourth] lists shall be submitted as of the date of the regular meeting or as of a reasonable date prior thereto. No bills payable shall be made, and no bills shall be rediscounted by the bank or trust company except with the

consent or ratification of the board of directors; provided, however, that if the bank or trust company is a member of the federal reserve system, rediscounts may be made to it by the officers in accordance with its rules, a list of all rediscounts to be submitted to the next regular meeting of the board. The director of finance may require, by order, that the board of directors of a bank or trust company approve or disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or other advance including every overdraft over an amount to be specified in the director's order and may also require that the board of directors review, at each monthly meeting, a list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an amount to be specified in the director's order. The minutes of the meeting shall indicate the compliance with the requirements of this section. Furthermore, the debtor's identity on the information required in this subsection may be masked by code to conceal the actual debtor's identity only for information mailed to or otherwise provided directors who are not physically present at the board meeting. The code used shall be revealed to all directors at the beginning of each board meeting for which this procedure is used.

2. For any issue in need of immediate action, the board of directors or the executive committee of the board as defined in section 362.253 may enter into a unanimous consent agreement as permitted by subsection 2 of section 351.340. Such consent may be communicated by facsimile transmission or by other authenticated record, separately by each director, provided each consent is signed by the director and the bank has no indication such signature is not the director's valid consent. When the bank or trust company has received unanimous consent from the board or

executive committee, the action voted on shall be considered approved.

362.295. 1. Within ten days after service upon it of the notice provided for by section 361.130, every bank and trust company shall make a written report to the director, which report shall be in the form and shall contain the matters prescribed by the director and shall specifically state the items of capital, deposits, specie and cash items, public securities and private securities, real estate and real estate securities, and such other items as may be necessary to inform the public as to the financial condition and solvency of the bank or trust company, or which the director may deem proper to include therein. In lieu of requiring direct filing of reports of condition, the director may accept reports of condition or their equivalent as filed with federal regulatory agencies and may require verification and the filing of supplemental information as the director deems necessary.

2. Every report shall be verified by the oaths of the president or vice president and cashier or secretary or assistant cashier or assistant secretary, and the verification shall state that the report is true and correct in all respects to the best of the knowledge and belief of the persons verifying it, and the report shall be attested by three directors, and shall be a report of the actual condition of the bank or trust company at the close of business on the day designated and which day shall be prior to the call. If the director of finance obtains the data pursuant to subsection 3 of section 361.130, the director may rely on the verification provided to the federal regulatory agency.

3. [Every report, exclusive of the verification, shall, within thirty days after it shall have been filed

with the director, be published by the bank or trust company in one newspaper of the place where its place of business is located, or if no newspaper is published there, in a newspaper of general circulation in the town and community in which the bank or trust company is located; the newspaper to be designated by the board of directors and a copy of the publication, with the affidavit of the publisher thereto, shall be attached to the report; provided, if the bank or trust company is located in a town or city having a population exceeding ten thousand inhabitants, then the publication must be in a daily newspaper, if published in that city; but if the bank or trust company is located in a town or city having a population of ten thousand inhabitants or less, then the publication may be in either a daily or weekly newspaper published in the town or city as aforesaid; and in all cases a copy of the statement shall be posted in the banking house accessible to all.

4.] The bank and trust company shall also make such other special reports to the director as he may from time to time require, in such form and at such date as may be prescribed by him, and the report shall, if required by him, be verified in such manner as he may prescribe.

[5.] 4. If the bank or trust company shall fail to make any report required by this section on or before the day designated for the making thereof, or shall fail to include therein any matter required by the director, the bank or trust company shall forfeit to the state the sum of one hundred dollars for every day that the report shall be delayed or withheld, and for every day that it shall fail to report any omitted matter, unless the time therefor shall have been extended by the director. Should any president, cashier or secretary of the bank or trust company or any director thereof fail to make the statement so required of

him or them, or willfully and corruptly make a false statement, he or they, and each of them, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, upon information, punished by a fine for each offense not exceeding five hundred dollars and not less than one hundred dollars, or by imprisonment not less than one or more than twelve months in the city or county jail, or by both such fine and imprisonment.

[6.] 5. A bank or trust company [may provide each written] shall provide a paper or electronic copy of any regular periodic report required to be [published free of charge to the public; and when each bank or trust company notifies their customers that such information is available; and when one copy of such information is available to each person that requests it, the newspaper publication provisions of this section shall not be enforced against such bank or trust company] filed under section 361.130 to each customer that requests it.

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

(1) "Bank", includes any state or federally chartered bank, savings bank, or savings and loan association providing banking services to Missouri customers;

(2) "Trusted contact", any adult person designated by a bank customer that a bank may contact in the event of an emergency or loss of contact with the customer, or in the event of suspected third-party fraud or financial exploitation targeting the customer.

2. Notwithstanding any other provision of law to the contrary, any bank may report suspected fraudulent activity or financial exploitation targeting any of its customers to a federal, state, county, or municipal law enforcement

agency or any appropriate public protective agency and shall be immune from civil liability in doing so.

3. Notwithstanding any other provision of law to the contrary, any bank, on a voluntary basis, may offer a trusted contact program to customers who may designate one or more trusted contacts for the bank to contact in the event a customer is not responsive to bank communications, the bank is presented with an urgent matter or emergency involving the customer and the bank is unable to locate the customer, or the bank suspects fraudulent activity or financial exploitation targeting the customer or the account has been deemed dormant and the bank is attempting to verify the status and location of the customer. The bank may establish such procedures, requirements, and forms as it deems appropriate and necessary should the bank decide to implement a trusted contact program.

4. Notwithstanding any other provision of law to the contrary, any bank may voluntarily offer customers an account with convenience and security features that set transaction limits and permit limited access to view account activity for one or more trusted contacts designated by the customer.

5. No bank shall be liable for the actions of a trusted contact.

6. No bank shall be liable for declining to interact with a trusted contact when the bank, in good faith and exercising reasonable care, determines that a trusted contact is not acting in the best interests of the customer.

7. A person designated by a customer as a trusted contact who acts in good faith and exercises reasonable care shall be immune from liability.

8. A customer may withdraw any appointment of a person as trusted contact at any time and any trusted contact may

withdraw from status as a trusted contract at any time. The bank may require such documentation or verification as it deems necessary to establish the withdrawal or termination of a trusted contact.

9. No bank shall be civilly liable for implementing or not implementing a trusted contact program or for actions or omissions related to providing or administering a trusted contact program.

362.490. 1. Notwithstanding any provision of law of this state or of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of an act of congress creating and establishing the Federal Deposit Insurance Corporation or similar agency created and established by the Congress of the United States.

2. (1) As an alternative to the requirements for direct pledging of security for deposit of public funds in excess of the amount that is federally insured or guaranteed pursuant to sections 110.010, 110.020, and 110.060, a banking institution authorized as legal depositary for public funds may secure the deposits of any governmental entity by granting a security interest in a single pool of securities to secure the repayment of all public funds deposited in the banking institution by such governmental entities and not otherwise federally insured or secured pursuant to law.

(2) A banking institution may secure the deposit of public funds using the direct method as provided in chapter 110, or the single bank pooled method provided in this section, or may elect to offer government entities the

choice of either method to secure the deposit of public funds.

(3) Under the direct method a banking institution may secure the deposit of public funds of each government entity separately by furnishing securities pursuant to sections 110.010, 110.020, and 110.060.

(4) Under the single bank pooled method a banking institution may secure the deposit of public funds of one or more government entities through a pool of eligible securities held in custody and safekeeping with one or more other banking institutions or safe depositories, to be held subject to the order of the director of the division of finance or the administrator appointed pursuant to subsection 3 of this section for the benefit of the government entities having public funds deposited with such banking institution as set forth in this section.

3. (1) The director of the division of finance shall have exclusive authority to appoint a bank, trust company, or association for Missouri banks which is chartered or incorporated in Missouri, to serve as the administrator with respect to a single bank pooled method. The administrator shall act as an agent for banking institutions and as the nominee of the government entities for purposes of administering the pool of securities pledged to secure uninsured public fund deposits. The fees and expenses of such administrator shall be paid by the banking institutions utilizing the single bank pooled method. The single bank pooled method shall not be utilized by any banking institution unless an administrator has been appointed by the director pursuant to this section and is acting as the administrator. The director may require the administrator to post a surety bond or security to the director in an

amount up to one hundred thousand dollars to assure the faithful performance of the duties of the administrator.

(2) At all times the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted shall be at least equal to one hundred two percent of the amount on deposit which is in excess of the amount so insured.

(3) Each banking institution shall carry on its accounting records at all times a general ledger or other appropriate account of the total amount of all public funds to be secured by the pool of securities as determined at the opening of business each day, and the aggregate market value of the pool of securities pledged, or in which a security interest is granted to secure such public funds.

(4) If a banking institution elects to secure the deposit of public funds through the use of the single bank pooled method, such banking institution shall notify the administrator in writing that it has elected to utilize the single bank pooled method and the proposed effective date thereof and enter such agreement as the administrator may require.

(5) A banking institution may not retain any deposit of public funds which is required to be secured unless it has secured the deposits for the benefit of the government entities having public funds with such banking institution pursuant to this section.

(6) Only the securities and collateral described or listed pursuant to section 30.270 for the safekeeping and payment of deposits by the state treasurer may be provided and accepted as security for the deposit of public funds and shall be eligible as collateral. The administrator shall not accept any securities which are not described or listed pursuant to section 30.270.

(7) The administrator may establish such procedures and reporting requirements as necessary for depository banking institutions and their safekeeping banks or depositories to confirm the amount of insured public fund deposits, the pledge of securities to the administrator to secure the deposit of public funds, as agent for each participating banking institution, and to monitor the market value of pledged securities as reported by the custody agents, and to add, substitute, or remove securities held in the single bank pool as directed by the depository banking institution.

(8) In the event of the failure and insolvency of a banking institution using the single bank pooled method, subject to any order of the director pursuant to powers vested under chapter 361, the administrator shall direct the safekeeping banks or depositories to sell the pledged securities and direct proceeds to the payment of the uninsured public fund deposits or to transfer the pledged securities to that banking institution's primary supervisory agency or the duly appointed receiver for the banking institution to be liquidated to pay out the uninsured public fund deposits.

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

(1) "Credit union", any state or federally chartered credit union providing financial services to members;

(2) "Trusted contact", any adult person designated by a credit union member that a credit union may contact in the event of an emergency or loss of contact with the member, or suspected third party fraud or financial exploitation targeting the member.

2. Notwithstanding any other provision of law to the contrary, any credit union may report suspected fraudulent

activity or financial exploitation targeting any of its members to a federal, state, county, or municipal law enforcement agency or any appropriate public protective agency and shall be immune from civil liability in doing so.

3. Notwithstanding any other provision of law to the contrary, any credit union, on a voluntary basis, may offer a trusted contact program to members who may designate one or more trusted contacts for the credit union to contact in the event a member is not responsive to credit union communications, the credit union is presented with an urgent matter or emergency involving the member and the credit union is unable to locate the member, or the credit union suspects fraudulent activity or financial exploitation targeting the member or the account has been deemed dormant and the credit union is attempting to verify the status and location of the member. The credit union may establish such procedures, requirements, and forms as it deems appropriate and necessary should the credit union opt to implement a trusted contact program.

4. Notwithstanding any other provision of law to the contrary, any credit union may voluntarily offer members an account with convenience and security features that set transaction limits and permit limited access to view account activity for one or more trusted contacts designated by the member.

5. No credit union shall be liable for the actions of a trusted contact.

6. No credit union shall be liable for declining to interact with a trusted contact when the credit union, in good faith and exercising reasonable care, determines that a trusted contact is not acting in the best interests of the member.

7. A person designated by a member as a trusted contact who acts in good faith and exercises reasonable care shall be immune from liability.

8. A member may withdraw any appointment of a person as a trusted contact at any time and any trusted contact may withdraw from status as a trusted contact at any time. The credit union may require such documentation or verification as it deems necessary to establish the withdrawal or termination of a trusted contact.

9. No credit union shall be civilly liable for implementing or not implementing or for actions or omissions related to providing or administering a trusted contact program.

[447.200. 1. If any consumer deposit account with a banking organization or financial organization, as such terms are defined in and under section 447.503, is determined to be or to have been inactive for a period of twelve or more months and if inactivity fees apply to such account, such banking organization, bank or financial organization shall notify the person or depositor named on such inactive account of such inactivity. Notice may be delivered by first class mail, with postage prepaid, and marked "Address Correction Requested", or alternatively, the notice may be sent or delivered electronically if the consumer has consented to receiving electronic disclosures in accordance with the federal Truth in Savings Act, 12 U.S.C. Sections 4301 to 4313, and the regulations promulgated pursuant thereto.

2. Notwithstanding any provision of law to the contrary, for any consumer deposit account with a banking organization, bank or financial organization that is or that has been inactive for twelve months or more, such bank or financial organization shall issue annual statements to the person or depositor named on the account. The organization or a bank may charge a service fee of up to five dollars for any statement issued under this subsection,

provided that such fee shall be withdrawn from the inactive account.

3. If any consumer deposit account with a banking organization, bank or financial organization is determined to be or to have been inactive for a period of five years, the funds from such account shall be remitted to the abandoned fund account established under section 447.543.

4. For purposes of this section, the word "inactive" means a prescribed period during which there is no activity or contact initiated by the person or depositor named on the account, which results in an inactivity fee or fees being charged to the account.】