SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED**]**

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 852 & 913

89TH GENERAL ASSEMBLY

1998

L3601.05T

AN ACT

To repeal sections 30.753, 301.640, 361.080, 362.044, 362.245, 362.250, 376.1075, 402.200, 408.653 and 448.3-116, RSMo 1994, and sections 319.100, 319.131, 402.215 and 475.093, RSMo Supp. 1997, and to enact in lieu thereof sixteen new sections relating to banking, with an effective date.

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

Section A. Sections 30.753, 301.640, 361.080, 362.044, 362.245, 362.250, 376.1075, 402.200, 408.653 and 448.3-116, RSMo 1994, and sections 319.100, 319.131, 402.215 and 475.093, RSMo Supp. 1997, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 30.753, 301.640, 319.100, 319.131, 361.080, 362.044, 362.245, 362.250, 376.1075, 402.200, 402.215, 408.145, 408.653, 448.3-116, 475.093 and 1, 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, three hundred fifty million dollars. No more than one hundred sixty-five million dollars of the aggregate deposit shall be used for linked deposits to eligible farming operations, eligible agribusinesses, eligible beginning farmers and eligible livestock operations, no more than fifty-five million of the aggregate deposit shall be used for linked deposits to small businesses, no more than ten million dollars of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, no more than one hundred ten million dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses and no more than

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

ten million dollars 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 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. The amount reallocated under this commingling provision shall not exceed **[**ten**]** **fifty** percent of the initial allocation.

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.

301.640. 1. Upon the satisfaction of **[**a**]** **any** lien or encumbrance of a motor vehicle or trailer for which the certificate of ownership is in possession of the lienholder, he shall, within ten **business** days **[**after demand and, in any event, within thirty days,**]** release his lien or encumbrance on the certificate, and mail or deliver the certificate to the next lienholder named therein, or, if none, to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate. The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. **A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, RSMo.**

2. Upon the satisfaction of **[**a**]** **any** lien or encumbrance in a motor vehicle or trailer for which a certificate is in possession of a prior lienholder, the lienholder whose lien or encumbrance is satisfied shall within ten **business** days **[**after demand and, in any event, within thirty days,**]** release the lien or encumbrance on the certificate and deliver the certificate to the owner or any person who delivers to the lienholder an authorization from the owner to receive it. The lienholder in possession of the certificate shall at the request of the owner and upon surrender of the certificate of title by the owner and receipt of the required fee, either mail or deliver the certificate of ownership to the director of revenue, or deliver the certificate to the owner, or the person authorized by him, for delivery to the director of revenue, who shall issue a new certificate.

3. If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future

advances".

4. Any lienholder who fails to comply with subsection 1 or 2 of this section shall pay to the person or persons satisfying the lien or encumbrance twenty-five dollars for the first ten business days after expiration of the time period prescribed in subsection 1 or 2 of this section, and such payment shall double for each ten days thereafter in which there is continued noncompliance, up to a maximum of five hundred dollars for each lien. If delivery of the certificate is made by mail, the delivery date is the date of the postmark for purposes of this subsection.

319.100. As used in sections 319.100 to 319.137, the following terms mean:

(1) "Aboveground storage tank", any one or a combination of tanks, including pipes connected thereto, used to contain an accumulation of petroleum and the volume of which, including the volume of the aboveground pipes connected thereto, is ninety percent or more above the surface of the ground, and is utilized for the sale of products regulated by chapter 414, RSMo. The term does not include those tanks described in paragraphs (a) to (k) of subdivision (16) of this section or aboveground storage tanks at petroleum pipeline terminals;

(2) "Board", the board of trustees of the petroleum storage tank insurance fund;

(3) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(4) "Department", the department of natural resources;

(5) "Fund", the petroleum storage tank insurance fund established pursuant to section 319.129;

(6) "Guarantor", any person, other than the owner or the operator, who provides evidence of financial responsibility;

(7) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(8) "Operator", any person in control of, or having responsibility for, the daily operation of the tank;

(9) "Owner", shall include any person who owned an underground storage tank immediately before the discontinuation of its use if not in use on August 28, 1989, or any person who owns an underground storage tank in use on or after August 28, 1989, and any person who owned an aboveground storage tank that was utilized for the sale of products regulated by chapter

414, RSMo, immediately before the discontinuation of its use if not in use on August 28, 1996, and any person who owns an aboveground storage tank utilized for the sale of products regulated by chapter 414, RSMo, in use on or after August 28, 1996. The term does not include any person who, without participating in the management of an **aboveground storage tank or** underground storage tank **or both types of tanks,** and otherwise not primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect a security interest in or lien on the tank or the property where the tank is located;

(10) "Participating in management" does not include monitoring the operator's business, acquiring title in lieu of a foreclosure or other agreement in settlement of the operator's or property owner's debt;

(11) "Person", any individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, the state and its political subdivisions, or any interstate body. "Person" also includes any consortium, joint venture, commercial entity, and the government of the United States;

(12) "Petroleum" shall mean gasoline, kerosene, diesel, lubricants and fuel oil;

(13) "Petroleum storage tank", an aboveground storage tank or an underground storage tank used to contain an accumulation of petroleum. The term does not include those tanks described in paragraphs (a) to (k) of subdivision (16) of this section;

(14) "Regulated substance" includes:

(a) Any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (P.L. 96-510), as amended, but not including any substance regulated as a hazardous waste under subtitle C of the federal Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended; and

(b) Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure, sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute, respectively; and

(c) Any substance adopted by rule in accordance with federal laws referenced by section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (P.L. 96-510);

(15) "Release" includes, but is not limited to, any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into ground water, surface water, or subsurface soils;

(16) "Underground storage tank", any one or combination of tanks, including pipes connected thereto, used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The department shall adopt, delete or modify exemptions established in this subdivision to any modifications, additions or deletions made by the

Environmental Protection Agency. Exemptions from this definition and regulations promulgated under the provisions of sections 319.100 to 319.137 include:

(a) Farm or residential tank of eleven hundred gallons or less used for storing motor fuel for noncommercial purposes;

(b) Tanks used for storing heating oil for consumptive use on the premises where stored;

(c) Septic tanks;

(d) Pipeline facilities, including gathering lines, regulated under:

a. The federal Natural Gas Pipeline Safety Act of 1968 (P.L. 90-481), as amended; or

b. The federal Hazardous Liquid Pipeline Act of 1979 (P.L. 96-129), as amended;

(e) Pipeline facilities regulated under state laws comparable to the provisions of law referred to in paragraph (d) of this subdivision;

(f) Surface impoundments, pits, ponds, or lagoons;

(g) Storm water or wastewater collection systems;

(h) Flow-through process tanks;

(i) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; and

(j) Storage tanks situated in an underground area, such as a basement, cellar, mineworking, drift, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; and

(k) Transformers, circuit breakers or other electrical equipment.

319.131. 1. Any owner or operator of one or more petroleum storage tanks may elect to participate in the petroleum storage tank insurance fund to partially meet the financial responsibility requirements of sections 319.100 to 319.137. Current or former refinery sites or petroleum pipeline terminals are not eligible for participation in the fund.

2. The board shall establish an advisory committee which shall be composed of insurers and owners and operators of petroleum storage tanks. The advisory committee established pursuant to this subsection shall report to the board. The committee shall monitor the fund and recommend statutory and administrative changes as may be necessary to assure efficient operation of the fund. The committee, in consultation with the board and the department of insurance, shall annually report to the general assembly on the availability and affordability of the private insurance market as a viable method of meeting the financial responsibilities required by state and federal law in lieu of the petroleum storage tank insurance fund.

3. (1) Except as otherwise provided by this section, any person seeking to participate in the insurance fund shall submit an application to the board of trustees and shall certify that the petroleum tanks meet or exceed and are in compliance with all technical standards established by the United States Environmental Protection Agency, rules established by the Missouri department of natural resources and the Missouri department of agriculture. The applicant shall

submit proof that he has a reasonable assurance of the tank's integrity. Proof of tank integrity may include but not be limited to any one of the following: tank tightness test, electronic leak detection, monitoring wells, daily inventory reconciliation, vapor test or any other test that may be approved by the director of the department of natural resources or the director of the department of agriculture. The applicant shall submit evidence that he can meet all applicable financial responsibility requirements of this section.

(2) A creditor, specifically a person who, without participating in and not otherwise primarily engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily for the purpose of, or in connection with, securing payment or performance of a loan or to protect a security interest in or lien on the tank or the property where the tank is located, or serves as trustee or fiduciary upon transfer or receipt of the property, may be a successor in interest to a debtor under this section, provided that the creditor gives notice of the interest to the insurance fund by certified mail, return receipt requested. Part of said notice shall include a copy of the lien, including but not limited to a security agreement or a deed of trust as appropriate to the property. The term "successor in interest" under this section means a creditor to the debtor who had qualified real property in the insurance fund prior to the transfer of title to the creditor, and the term is limited to access to the insurance fund. The creditor may cure any of the debtor's defaults in payments required by the insurance fund, provided the specific real property originally qualified under this section. The creditor, or the creditor's subsidiary or affiliate, who forecloses or otherwise obtains legal title to such specific real property held as collateral for loans, guarantees or other credit, and which includes the debtor's **aboveground storage tanks or** underground storage tanks, **or both such tanks** must provide notice to the fund of any transfer of creditor to subsidiary or affiliate. Liability under sections 319.100 to 319.137 shall be confined to such creditor or such creditor's subsidiary or affiliate. A creditor must apply for a transfer of coverage and must present evidence indicating, a lien, contractual right, or operation of law permitting such transfer, and may utilize the creditor's affiliate or subsidiary to hold legal title to the specific real property taken in satisfaction of debts. Creditors may be listed as insured or additional insured on the insurance fund, and not merely as mortgagees, and may assign or otherwise transfer the debtor's rights in the insurance fund to the creditor's affiliate or subsidiary, notwithstanding any limitations in the insurance fund on assignments or transfer of the debtor's rights.

(3) Any person participating in the fund shall annually submit an amount established pursuant to subsection 1 of section 319.133 which shall be deposited to the credit of the petroleum storage tank insurance fund.

4. The owner or operator making a claim pursuant to this section and sections 319.129 and 319.133 shall be liable for the first ten thousand dollars of the cost of cleanup associated with a release from a petroleum storage tank without reimbursement from the fund. The petroleum

storage tank insurance fund shall assume all costs, except as provided in subsection 5 of this section, which are greater than ten thousand dollars but less than one million dollars per occurrence or two million dollars aggregate per year. The liability of the petroleum storage tank insurance fund is not the liability of the state of Missouri. The provisions of sections 319.100 to 319.137 shall not be construed to broaden the liability of the state of Missouri beyond the provisions of sections 537.600 to 537.610, RSMo, nor to abolish or waive any defense which might otherwise be available to the state or to any person. The presence of existing contamination at a site where a person is seeking insurance in accordance with this section shall not affect that person's ability to participate in this program, provided the person meets all other requirements of this section. Any person who qualifies under sections 319.100 to 319.137 and who has requested approval of a project for remediation from the fund, which request has not yet been decided upon shall annually be sent a status report including an estimate of when the project may expect to be funded and other pertinent information regarding the request.

5. The fund shall provide coverage for third-party claims involving property damage or bodily injury caused by leaking petroleum storage tanks whose owner or operator is participating in the fund. Coverage for third-party bodily injury shall not exceed one million dollars per occurrence. Coverage for third-party property damage shall not exceed one million dollars per occurrence. The fund shall not compensate an owner or operator for repair of damages to property beyond that required to contain and clean up a release of a regulated substance or compensate an owner or operator or any third party for loss or damage to other property owned or belonging to the owner or operator, or for any loss or damage of an intangible nature, including, but not limited to, loss or interruption of business, pain and suffering of any person, lost income, mental distress, loss of use of any benefit, or punitive damages.

6. The fund shall, within limits specified in this section, assume costs of third-party claims and cleanup of contamination caused by releases from petroleum storage tanks. The attorney general shall, upon request, bring an action against such owner or operator to recover any costs or expenses owed to the fund plus reasonable attorney's fees.

7. Nothing contained in sections 319.100 to 319.137 shall be construed to abrogate or limit any right, remedy, causes of action, or claim by any person sustaining personal injury or property damage as a result of any release from any type of petroleum storage tank, nor shall anything contained in sections 319.100 to 319.137 be construed to abrogate or limit any liability of any person in any way responsible for any release from a petroleum storage tank or any damages for personal injury or property damages caused by such a release.

8. The fund shall provide moneys for cleanup of contamination caused by releases from petroleum storage tanks, the owner or operator of which is participating in the fund or the owner or operator of which has made application for participation in the fund by December 31, 1997, regardless of when such release occurred, provided that those persons who have made application

are ultimately accepted into the fund. In no case shall owners or operators of aboveground storage tanks make application for participation in the fund prior to July 1, 1997. Applicants shall not be eligible for fund benefits until they are accepted into the fund. This section shall not preclude the owner or operator of petroleum storage tanks coming into service after December 31, 1997, from making application to and participating in the petroleum storage tank insurance fund.

9. (1) The fund shall provide moneys for cleanup of contamination caused by releases from underground storage tanks which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to August 28, 1995. Nothing in sections 319.100 to 319.137 shall affect the validity of any underground storage tank fund insurance policy in effect on August 28, 1996.

(2) An owner or operator who submits a request as provided in this subsection is not required to bid the costs and expenses associated with professional environmental engineering services. The department may disapprove all or part of the costs and expenses associated with the environmental engineering services if the costs are excessive based upon comparable service costs or current market value of similar services. The owner or operator shall solicit bids for actual remediation and clean-up work as provided by rules of the department. The department may, by rule, establish minimum qualifications for bidders of remediation and clean-up work. The environmental engineer retained by the owner or operator shall provide to the department, prior to the acceptance of bids for remediation or clean up, estimates of reasonable anticipated costs of remediation or clean-up work. Bids for any remediation or clean-up work must be submitted to the department prior to commencement of remediation work and unless disapproved by the department, the contract for remediation or clean-up work shall be awarded to the lowest responsive responsible bidder. The department shall have the right to reject any or all bids for failure to meet minimum qualifications or for submitting a bid in excess of reasonable cost estimates for the project. If hidden or changed conditions are encountered during remediation or clean-up work, which were not stated in the environmental engineer's estimate of costs submitted to the department, the owner or operator shall submit a statement of such additional cost to the department for approval, if reimbursement is requested from the fund.

10. The fund shall provide moneys for cleanup of contamination caused by releases from aboveground storage tanks utilized for the sale of products regulated by chapter 414, RSMo, which have been taken out of use prior to December 31, 1997, provided such sites have been documented by or reported to the department of natural resources prior to December 31, 1997, and provided further that the fund shall make no reimbursements for expenses incurred prior to July 1, 1997.

361.080. 1. **To ensure the integrity of the bank examination process,** the director of finance, his deputies, clerks, stenographers, each examiner and every employee shall be bound, under oath, to keep secret all facts and information obtained in the course of all examinations,

except so far as the public duty of such officer requires him to report upon or take special action regarding the affairs of any bank, trust company or small loan business, and except when he is called as a witness in any proceeding in a court of justice**[.] relating to such financial institution's safety and soundness or in any criminal proceeding.**

2. In all other circumstances, facts and information obtained by the division of finance in the course of examinations or investigations of a bank or trust company shall be held in confidence and not disclosed absent a court's finding of compelling reasons for disclosure. Such finding shall demonstrate that the need for the information sought outweighs the public interest in free and open communications during the bank examination process. In no event shall a bank, trust company, or any director, officer, employee, or agent thereof be held liable for libel, slander or defamation of character for any good faith communications by such bank, trust company or any director, officer, employee, or agent thereof to the director of finance or his deputies, examiners, or employees. Provided, however, that nothing in this section shall prohibit the disclosure of examination or investigation reports and work papers to a bank or trust company when a dispute arises concerning the examination or investigation of such bank or trust company.

[2.**] 3.** If any director of finance, deputy, clerk, stenographer or examiner shall disclose the name of any debtor of any bank, trust company or small loan business, or anything relative to the private accounts, affairs or transactions of the bank, trust company or small loan business, or shall disclose any facts obtained in the course of his or their examination of any bank, trust company or small loan business, except as herein provided, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a forfeiture of his office and the payment of a fine of not more than one thousand dollars; provided, however, that the director of finance, his deputies, and each examiner may exchange information with the Federal Reserve Board, the federal reserve banks, or with examiners duly appointed by the Federal Reserve Board, or by the federal reserve banks, the Comptroller of Currency of the United States, or with examiners duly appointed by him, the Federal Deposit Insurance Corporation or the examiners duly appointed by it, or any other agency which regulates financial institutions under the laws of the federal government or of this state or any other state when the director of finance determines that the sharing of such information is necessary for the proper performance of the bank examination, supervisory or regulatory duties of such agencies and examiners, that such information will receive protection from disclosure comparable to that accorded by section 361.070 and this section, and such agencies and examiners routinely share such information with the division of finance; and provided, further, that reports shall be made of the condition of the affairs of a bank or trust company ascertained from the examination to the officers and directors of the bank or trust company examined, and to the finance director, and to any holding company owning control of such bank

or trust company if authorized by the board of directors of the bank or trust company.

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

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

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

4. Notice of annual or special stockholders' meetings shall state the place, day and hour of the meeting, and shall be published at least ten days prior to the meeting and once a week after the first publication with the last publication being not more than seven days before the day fixed for such meeting, in some daily or weekly newspaper printed and published in the city or town in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in the county in which the bank or trust company is located, and if there be none, then in some newspaper printed and published in an adjoining county. A written or printed copy of the notice shall be delivered personally or mailed to each stockholder at least ten but not more than fifty days prior to the day fixed for the meeting, and shall state, in addition to the place, day and hour, the purpose of any special meeting or an annual meeting at which the stockholders will consider a change in the par value of the corporation stock, the issuance of preferred shares, a change in the number of directors, an increase or reduction of the capital stock of the bank or trust company, a change in the length of the corporate life, an extension or change of its business, a change in its articles to avail itself of the privileges and provisions of this chapter, or any other change in its articles in any way not inconsistent with the provisions of this chapter. Any stockholder may waive notice by causing to be delivered to the secretary during, prior or after the meeting a written, signed waiver of notice, or by attending such meeting except where a stockholder attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Unless otherwise provided in the articles of incorporation, a majority of the outstanding shares entitled to vote at any meeting represented in person or by proxy shall constitute a quorum at a meeting of stockholders; provided, that in no event shall a quorum consist of less than a majority of the outstanding shares entitled to vote, but less than a quorum shall have the right successively to adjourn the meeting to a specified date no longer than ninety days after the adjournment, and no notice need be given of the adjournment to shareholders not present at the meeting. Every decision of a majority of the quorum shall be valid as a corporate act of the bank or trust company unless a larger vote is required by this chapter.

6. (1) The stockholders of the bank or trust company may approve business by

proxy and cancel any stockholders' meeting, provided:

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

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

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

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

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

362.245. 1. The affairs and business of the corporation shall be managed by a board of directors, consisting of not less than five nor more than thirty-five stockholders who shall be elected annually; except, that trust companies in existence on October 13, 1967, may continue to divide the directors into three classes of equal number, as near as may be, and to elect one class each year for three-year terms. **Notwithstanding any provision of this chapter to the contrary, a director who is not a stockholder shall have all the rights, privileges, and duties of a director who is a stockholder.**

2. Each director shall be a citizen of the United States, and at least a majority of the directors must be residents of this state at the time of their election and during their continuance in office; provided, however, that if a director actually resides within a radius of one hundred miles of the banking house of said bank or trust company, even though his residence be in another state adjoining and contiguous to the state of Missouri, he shall for the purposes of this section be considered as a resident of this state and in event such director shall be a nonresident of the state of Missouri he shall upon his election as a director file with the president of the banking house written consent to service of legal process upon him in his capacity as a director by service of the legal process upon the president as though the same were personally served upon the director in Missouri.

3. If at a time when not more than a majority of the directors are residents of this state, any director shall cease to be a resident of this state or adjoining state as defined in subsection 2 of this section, he shall forthwith cease to be a director of the bank or trust company and his office shall be vacant.

4. **[**Every director of a trust company, and every director of a bank shall be a stockholder

of the bank or trust company or of the bank holding company as defined in section 362.910 which controls it; and every person elected to be a director who, after the election, shall hypothecate, pledge or cease to be the owner in his own right of the director's qualifying shares, shall cease to be a director of the bank or trust company and his office shall be vacant, and he shall not be eligible for reelection as a director for a period of one year from the date of the next succeeding annual meeting, and**]** No person shall be a director in any bank or trust company against whom such bank or trust company shall hold a judgment.

5. Cumulative voting shall only be permitted at any meeting of the members or stockholders in electing directors when it is provided for in the articles of incorporation or bylaws.

362.250. 1. Every person elected director of a bank or trust company shall, within thirty days after election, qualify himself as director by filing with the officers of the bank or trust company an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of the bank or trust company, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to the bank or trust company**[**, and that he is the owner in good faith and in his own right, of shares of stock, subscribed by him or standing in his name on the books of the bank or trust company or of the bank holding company as defined in section 362.910 which controls it and that these shares are not hypothecated or in any way pledged as security for any loan or debt, and, in case of reelection or reappointment, that the stock was not hypothecated or in any way pledged as security for any loan or debt during his previous term**]**.

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

3. The oath, subscribed by the director making it, and certified by the officer before whom it is taken, shall be immediately transmitted to the director of finance and shall be filed and preserved in his office.

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

376.1075. As used in sections 376.1075 to 376.1095, the following terms mean:

(1) "Administrator", "third-party administrator" or "TPA", a person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this state, or residents of another state from offices in this state, in connection with life or health insurance coverage, annuities, or workers' compensation except any of the following:

(a) An employer on behalf of its employees or the employees of one or more subsidiary or affiliated corporations of such employer;

(b) A union on behalf of its members;

(c) An insurance company which is either licensed in this state pursuant to the requirements of this chapter or chapter 379, RSMo;

(d) An insurer authorized to do insurance business in another state pursuant to similar laws, with respect to a policy lawfully issued and delivered in a state other than this state, when engaged in transacting the business of insurance as defined by this chapter and chapter 379, RSMo;

(e) A health service corporation, health maintenance organization or prepaid dental plan operating pursuant to the requirements of chapter 354, RSMo, when engaged in its duties of providing health care or dental services and indemnifying its members;

(f) A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance;

(g) A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(h) A trust, its trustees, agents and employees acting thereunder, established in conformity with 29 U.S.C. 186;

(i) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, and employees acting thereunder;

(j) A custodian, its agents and employees acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code;

(k) A bank, credit union or other financial institution which is subject to supervision or examination by federal or state banking authorities;

(l) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims;

(m) A person who adjusts or settles claims in the normal course of his **or her** practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities;

(n) An adjuster **[**licensed by this state**]** whose activities are limited to adjustment of claims **and who is either licensed by this state or working on behalf of a licensed workers' compensation insurer**;

(o) A person licensed as an insurance agent in this state, whose activities are limited exclusively to the activities of a managing general agent;

(2) "Affiliate" or "affiliated", any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified

entity or person;

(3) "Control", as defined in chapter 382, RSMo;

(4) "Director", the director of the department of insurance;

(5) "Insurance" or "insurance coverage", any coverage offered or provided by an insurer;

(6) "Insurer", any person undertaking to provide life or health insurance coverage, annuities or workers' compensation coverage in this state. For the purposes of sections 376.1075 to 376.1095, insurer includes a licensed insurance company, a prepaid hospital or medical care plan, a health maintenance organization, a multiple employer self-insured health plan, a self-insured multiple employer welfare arrangement, or any other person providing a plan of insurance subject to state insurance regulation. Insurer does not include a bona fide employee benefit plan established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974;

(7) "Underwrites" or "underwriting" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer, the overall planning and coordinating of an insurance program, and the ability to procure bonds and excess insurance.

402.200. As used in sections 402.199 to 402.220, the following terms mean:

(1) "Board of trustees", the Missouri family trust board of trustees;

(2) "Charitable trust", the trust established to provide benefits for individuals, as set forth in section 402.215;

(3) "Department", the department of mental health;

(4) "Handicap", a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(5) "Life beneficiary", a designated beneficiary of the Missouri family trust fund;

(6) "Net income", the earnings received on investments less administrative expenses and fees;

(7) **[**"Original contribution", the then principal balance of all contributions made to a particular account, but not including any appreciation in value of investments or accretions thereto resulting from any source, such as dividends, interest and capital gains. In no event shall "original contribution" mean more than the total of all contributions made to a particular account;**]** "**Principal balance**", **the fair market value of all contributions made to a particular account, less distributions, determined as of the end of the calendar month immediately preceding the occurrence giving rise to any determination of principal balance;**

(8) "Requesting party", the party desiring arbitration;

(9) "Responding party", the other party in arbitration of a dispute regarding benefits to

be provided by the trust;

(10) "Successor trust", the trust established upon distribution by the board of trustees pursuant to notice of withdrawal or termination and administered as set forth in section 402.215;

(11) "Trust", the Missouri family trust fund established pursuant to sections 402.200 to 402.220;

(12) "Trustee", a member of the Missouri family trust board of trustees.

402.215. 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust. The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not for profit corporation created pursuant to chapter 355, RSMo, and to qualify as an organization pursuant to section 501(c)(3) of the United States Internal Revenue Code.

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust fund shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians **[**under**]** **pursuant to** chapter 404, RSMo, and other fiduciaries, other than directly from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a handicap or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned, after deducting administrative expenses, shall be credited to the accounts of the respective life beneficiaries in proportion to the **[**amount of the contribution made**]** **principal balance in the account** for each such life beneficiary, **[**reduced from time to time by any distributions or encroachments,**]** to the total **[**contributions, reduced from time to time by any distributions or encroachments, made**]** **principal balances in the accounts** for all life beneficiaries.

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee; provided, however, that court approval of the specific person designated as life beneficiary and as cotrustee or successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.

(3) The trust, with the consent of the cotrustee, shall annually agree on the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. In the event that the trust and the donor, serving as the cotrustee,

shall be unable to agree either on the amount of income or principal or income and principal to be used for or the benefits to be provided, then none of the income or principal shall be used. In the event that the trust and the cotrustee, other than the donor, shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties.

(4) Any donor, during his **or her** lifetime, except for a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his **or her** gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the **[**original contribution**] principal balance** shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his **or her** gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the **[**original contribution, reduced by any distributions or encroachments of principal previously made,**] principal balance** shall be returned to the donor. The balance of the **[**original contribution, as reduced,**] principal balance** together with all undistributed net income, shall be distributed to the charitable trust.

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the **[**original contribution, reduced by any distributions or encroachments of principal previously made**] principal balance**. In such event, the applicable portion, as set forth below, of the **[**original contribution, as reduced by distributions

or encroachments previously made for the benefit of the life beneficiary,**] principal balance** shall then be distributed to the successor trust and the balance of the **[**original contribution, as reduced,**] principal balance** together with any undistributed net income, shall be distributed to the charitable trust.

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust fund, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, shall move from the state of Missouri or otherwise cease to be eligible for services provided by the department of mental health and neither the donor nor the then acting cotrustee shall revoke or withdraw all of the **[**original contribution**] principal balance**, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth herein, of the **[**original contribution**] principal balance**, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision **[**(9)**] (10)** of this subsection.

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have received any benefits provided by the use of the trust income or principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the **[**original contribution, reduced by any distributions or encroachments of principal previously made,**] principal balance** shall be distributed to the successor trust, and the balance of the **[**original contribution, as reduced,**] principal balance** together with all undistributed net income, shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the **[**original contribution, reduced by any distributions or encroachments of principal previously made,**] principal balance** shall be distributed to the successor trust, and the balance of the **[**original contribution, as reduced,**] principal balance** together with all undistributed net income, shall be distributed to the charitable trust.

(8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the **[**original contribution**] principal balance** shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or

income and principal, then, in such event, an amount equal to seventy-five percent of the **[**original contribution, reduced by any distributions or encroachments of principal previously made,**]** **principal balance** shall be distributed to such person or persons as the donor designated, and the balance of the **[**original contribution, as reduced**]** **principal balance**, together with all undistributed net income, shall be distributed to the charitable trust.

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the **[**original contribution**]** **principal balance** shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance, if any, of the **[**original contribution**]** **principal balance**, together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the **[**original contribution, reduced by any distributions or encroachments of principal previously made,**]** **principal balance** shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the **[**original contribution**]** **principal balance**, together with all undistributed income shall be distributed to the charitable trust.

(10) In the event the trust is created as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the trust, an amount equal to one hundred percent of the **[**original contribution**]** **principal balance** shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance, if any, of the **[**original contribution**]** **principal balance**, together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the trust, an amount equal to seventy-five percent of the **[**original contribution, reduced by any distributions or encroachments or principal previously made,**]** **principal balance** shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the **[**original contribution**]** **principal balance**, together with all undistributed income, shall be distributed to the charitable trust.

(11) Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the **[**original contribution, reduced by any distributions or encroachments of principal previously made for the benefit of the beneficiary**] principal balance**; provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo. The designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing **[**him**] the beneficiary** with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his **or her** eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his **or her** discretion, may make payments from time to time for a person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated.

(12) The charitable trust shall be administered as part of the family trust fund, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a handicap or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding. As used in this section, the term "immediate family" includes

parents, children and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time. The trustees and the department shall annually agree on the amount of charitable trust income to be used to provide benefits and the nature and type of benefits to be provided by or through the department for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually.

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 such credit cards which any lender in any contiguous state is permitted to charge for credit cards issued in such contiguous state by such state's statutes. State chartered lenders charging such fees in reliance on this subsection shall file a copy of the pertinent statutes of one contiguous state authorizing credit card fees 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 on the sole basis of whether the statutes of such contiguous state permit such fees, 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, the lender shall declare on each credit card contract whether the credit card fees are governed by section 408.140, or by this section.

408.653. 1. A depository institution including any state or federally chartered bank, credit union, savings and loan association or any similar institution may charge no more than fifteen dollars as an overdraft charge or as a charge for a check, draft or similar sight order returned for insufficient or uncollected funds.

2. Any person to whom a check, draft, order or like instrument is tendered may, if such instrument is dishonored or returned unpaid for any reason, charge and collect from the maker

or drawer, or the person for whose benefit such instrument was given, the amount of **[**fifteen**]** **twenty** dollars plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument. No such charge will be considered interest, finance charge, time price differential or anything of a similar nature for purposes of any statute in this state.

448.3-116. 1. The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The association's lien may be foreclosed in like manner as a mortgage on real estate or a power of sale **[**under**]** **pursuant to** chapter 443, RSMo. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to subdivisions (10), (11), and (12) of subsection 1 of section 448.3-102 are enforceable as assessments **[**under**]** **pursuant to** this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien **[**under**]** **pursuant to** this section is prior to all other liens and encumbrances on a unit except:

(1) Liens and encumbrances recorded before the recordation of the declaration;

(2) A mortgage and deed of trust for the purchase of a unit recorded before the date on which the assessment sought to be enforced became delinquent; **[**and**]**

(3) Liens for real estate taxes and other governmental assessments or charges against the unit**[**.**];**

(4) Except for delinquent assessments or fines, up to a maximum of six months' assessments or fines, which are due prior to any subsequent refinancing of a unit or for any subsequent second mortgage interest.

This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association. The lien **[**under**]** **pursuant to** this section is not subject to the provisions of section 513.475, RSMo.

3. Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment **[**under**]** **pursuant to** this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due.

6. This section shall not prohibit actions to recover sums for which subsection 1 of this section creates a lien, or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought **[**under**]** **pursuant to** this section shall include costs and reasonable attorney's fees for the prevailing party.

8. The association shall furnish to a unit owner, upon written request, a recordable statement setting forth the amount of unpaid assessments against **[**his**]** **the unit owner's** unit. The statement shall be furnished within ten business days after receipt of the request and is binding on the association, the executive board, and every unit owner.

475.093. 1. The court may authorize the establishment of a trust for the benefit of a protectee if it finds that the protectee qualifies as a life beneficiary pursuant to section 402.205, RSMo, and that the establishment of such a trust would be in the protectee's best interest.

2. A trust may be established in the best interest of the protectee pursuant to sections 402.199 to 402.225, RSMo, notwithstanding the fact that a sum not exceeding twenty-five percent of the **[**original contribution**]** **principal balance** as defined in subdivision (7) of section 402.200, RSMo, will be distributed to the charitable trust as prescribed by section 402.215, RSMo.

Section 1. 1. For the purposes of this section, the term "credit card" shall mean a credit device defined as such in the federal Consumer Credit Protection Act.

2. Any entity that issues credit cards in this state, delivers credit cards in this state or causes credit cards to be delivered in this state shall not make any derogatory report to a credit reporting agency on any credit card holder solely because such credit card holder has paid the entire outstanding balance on such credit card by the payment date.

3. Nothing herein shall authorize or prohibit an entity from suspending credit card privileges or recalling the issued credit card for any purpose.

Section B. Section A of this act shall become effective on January 1, 1999.

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