

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

CONFERENCE COMMITTEE SUBSTITUTE FOR

HOUSE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 896

90TH GENERAL ASSEMBLY

2000

2777S.13T

AN ACT

To repeal sections 140.160, 143.331, 351.055, 351.300, 351.355, 351.690, 359.091, 359.481, 361.230, 361.250, 361.390, 361.440, 361.470, 361.520, 361.540, 361.600, 362.025, 362.035, 362.042, 362.060, 362.115, 362.116, 362.172, 362.235, 362.325, 362.440, 362.450, 362.700, 362.710, 362.730, 362.740, 362.750, 369.219, 375.017, 375.126, 376.350, 379.105, 408.052, 408.234, 525.080, 525.230, 525.233, 525.240 and 525.250, RSMo 1994, and sections 140.110, 148.064, 301.600, 306.400, 306.410, 306.420, 347.137, 347.141, 351.025, 351.245, 351.482, 354.065, 359.451, 362.105, 362.119, 362.170, 362.245, 362.464, 362.600, 362.680, 365.020, 375.022, 400.3-312 and 443.415, RSMo Supp. 1999, and section 136.055 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19 of the first regular session of the ninetieth general assembly and section 136.055 as enacted by house committee substitute for house bill no. 459 of the first regular session of the eighty-ninth general assembly, relating to business organizations, and to enact in lieu thereof seventy-eight new sections relating to the same subject, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 140.160, 143.331, 351.055, 351.300, 351.355, 351.690, 359.091, 359.481, 361.230, 361.250, 361.390, 361.440, 361.470, 361.520, 361.540, 361.600, 362.025, 362.035, 362.042, 362.060, 362.115, 362.116, 362.172, 362.235, 362.325, 362.440, 362.450, 362.700, 362.710, 362.730, 362.740, 362.750, 369.219, 375.017, 375.126, 376.350, 379.105, 408.052, 408.234, 525.080, 525.230, 525.233, 525.240 and 525.250, RSMo 1994, and sections 140.110, 148.064, 301.600, 306.400, 306.410, 306.420, 347.137, 347.141, 351.025, 351.245, 351.482, 354.065, 359.451, 362.105, 362.119, 362.170, 362.245, 362.464, 362.600, 362.680, 365.020, 375.022, 400.3-312 and 443.415, RSMo Supp. 1999, and section 136.055 as enacted by conference committee substitute for house substitute for senate substitute for senate

committee substitute for senate bill no. 19 of the first regular session of the ninetieth general assembly and section 136.055 as enacted by house committee substitute for house bill no. 459 of the first regular session of the eighty-ninth general assembly, are repealed and seventy-eight new sections enacted in lieu thereof, to be known as sections 21.650, 136.055, 140.110, 140.160, 143.331, 144.815, 148.064, 301.600, 306.400, 306.410, 306.420, 347.137, 347.141, 351.025, 351.055, 351.245, 351.300, 351.355, 351.482, 351.690, 354.065, 359.091, 359.451, 359.481, 361.230, 361.250, 361.390, 361.440, 361.470, 361.520, 361.540, 361.600, 362.025, 362.035, 362.042, 362.060, 362.105, 362.115, 362.116, 362.119, 362.170, 362.172, 362.235, 362.245, 362.325, 362.440, 362.450, 362.464, 362.600, 362.680, 362.700, 362.710, 362.730, 362.740, 362.750, 365.020, 369.219, 369.371, 375.017, 375.022, 375.065, 375.347, 376.350, 379.105, 400.3-312, 407.125, 407.2000, 407.2015, 407.2021, 408.052, 408.234, 443.415, 525.080, 525.230, 525.233, 525.240, 525.250 and 1, to read as follows:

21.650. On or before January 1, 2001, a state organization which is related to a national organization by some common membership, which focuses on issues involving banking and represents a cross section of the Missouri banking community, shall be designated by the speaker of the house of representatives and president pro tem of the senate to report to the general assembly its recommendations for the removal and/or replacement of a corporate trustee in cases where the original corporate trustee has been replaced by a subsequent corporate trustee as a result of, but not limited to, cases involving corporate merger, acquisition, or a cessation of business by the original corporate trustee.

136.055. 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

- (1) For each motor vehicle or trailer license sold, renewed or transferred--[two dollars from August 28, 1997, until January 1, 1998; and] two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000, for those licenses biennially renewed pursuant to section 301.147, RSMo;
- (2) For each application or transfer of title--[two dollars from August 28, 1997, until January 1, 1998; and] two dollars and fifty cents beginning January 1, 1998;
- (3) For each chauffeur's, operator's or driver's license, two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000, for six-year licenses issued or renewed;
- (4) For each notice of lien processed--two dollars and fifty cents beginning August 28, 2000;**
- (5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.**

2. This section shall not apply to agents appointed by the state director of revenue in any city, other than a city not within a county, where the department of revenue maintains an office. All fees charged shall not exceed those in this section.

3. Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

4. The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the Missouri

Legislature and charged by this fee office

were requested by the fee agents.

[136.055. 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred--two dollars from August 28, 1997, until January 1, 1998; and two dollars and fifty cents beginning January 1, 1998;

(2) For each application or transfer of title--two dollars from August 28, 1997, until January 1, 1998; and two dollars and fifty cents beginning January 1, 1998;

(3) For each chauffeur's, operator's or driver's license--two dollars until January 1, 1998; and two dollars and fifty cents beginning January 1, 1998;

(4) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception--two dollars.

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140.110. 1. The collectors of the respective counties shall collect the taxes contained in the back tax book. Any person interested in or the owner of any tract of land or lot contained in the back tax book may redeem the tract of land or town lot, or any part thereof, from the state's lien thereon, by paying to the proper collector the amount of the original taxes, as charged against the tract of land or town lot described

in the back tax book together with interest from the day upon which the tax first became delinquent at the rate specified in section 140.100.

2. Any payment for personal [or real] property taxes received by the county collector shall first be applied to any back delinquent personal taxes [and to each individual parcel of real estate] on the back tax book before a county collector accepts any payment for all or any part of [real or] personal property taxes due and assessed on the current tax book.

3. Any payment for real property taxes received by the county collector shall first be applied to back delinquent taxes on the same individual parcel of real estate on the back tax book before a county collector accepts payment for real property taxes due and assessed on the current tax book.

4. Subsection 3 of this section shall not apply to payment for real property taxes by financial institutions, as defined in section 381.410, RSMo, who pay tax obligations which they service from escrow accounts, as defined in Title 24, Part 3500, Section 17, Code of Federal Regulations.

140.160. 1. No proceedings for the sale of land and lots for delinquent taxes [under the provisions of] **pursuant to** this chapter, relating to the collection of delinquent and back taxes and providing for foreclosure sale and redemption of land and lots therefor, shall be valid unless initial proceedings therefor shall be commenced within three years after delinquency of such taxes, and any sale held pursuant to initial proceedings commenced within such period of three years shall be deemed to have been in compliance with the provisions of said law insofar as the time at which such sales are to be had is specified therein; provided further, that in suits or actions to collect delinquent drainage and/or levee assessments on real estate such suits or actions shall be commenced within three years after delinquency, otherwise no suit or action therefor shall be commenced, had or maintained, **except that the three-year limitation described in this subsection shall not be applicable if any written instrument conveys any real estate having a tax-exempt status, if such instrument causes such real estate to again become taxable real property and if such instrument has not been recorded in the office of the recorder in the county in which the real estate has been situated. Such three-year limitation shall only be applicable once the recording of the title has occurred.**

2. In order to enable county and city collectors to be able to collect delinquent and back taxes, the county auditor in all counties having a county auditor shall annually audit and list all delinquent and back taxes and provide a copy of such audit and list to the county collector and to the governing body of the county. A copy of the audit and list may be provided to city collectors within the county at the discretion of the county collector.

143.331. A "resident estate or trust" means:

(1) The estate of a decedent who at his **or her** death was domiciled in this state;

(2) A trust **that:**

(a) Was created by will of a decedent who at his **or her** death was domiciled in this state; **and**

(b) Has at least one income beneficiary who, on the last day of the taxable year, was a resident of this state; or

(3) A trust **that:**

(a) Was created by, or consisting of property of, a person domiciled in this state on the date the trust or portion of the trust became irrevocable; **and**

(b) Has at least one income beneficiary who, on the last day of the taxable year, was a resident of this state.

144.815. In addition to the exemptions granted pursuant to the provisions of section 144.030, there shall also be specifically exempted from the provisions of sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, and from the computation of the tax levied, assessed or payable pursuant to sections 66.600 to 66.635, RSMo, sections 67.500 to 67.545, 67.547, 67.581, 67.582, 67.671 to 67.685, 67.700 to 67.729, 67.730 to 67.739, 67.782, RSMo, sections 92.400 to 92.420, RSMo, sections 94.500 to 94.570, 94.600 to 94.655, 94.700 to 94.755, RSMo, and sections 144.010 to 144.510 and 144.600 to 144.745, purchases of bullion and investment coins. For purposes of this section, the following terms shall mean:

- (1) "Bullion", gold, silver, platinum or palladium in a bulk state, where its value depends on its content rather than its form, with a purity of not less than nine hundred parts per one thousand; and**
- (2) "Investment coins", numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium or metals with a fair market value greater than the face value of the coins.**

148.064. 1. Notwithstanding any law to the contrary, this section shall determine the ordering and limit reductions for certain taxes and tax credits which may be used as credits against various taxes paid or payable by banking institutions. Except as adjusted in subsections 2 [and 3], **3 and 6 of this section**, such credits shall be applied in the following order until used against:

- (1) The tax on banks determined under subdivision (2) of subsection 2 of section 148.030;
 - (2) The tax on banks determined under subdivision (1) of subsection 2 of section 148.030;
 - (3) The state income tax in section 143.071, RSMo.
2. The tax credits permitted against taxes payable pursuant to subdivision (2) of subsection 2 of section 148.030 shall be utilized first and include taxes referenced in subdivisions (2) and (3) of subsection 1 of this section, which shall be determined without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such taxes. Where a banking institution subject to this section joins in the filing of a consolidated state income tax return under chapter 143, RSMo, the credit allowed under this section for state income taxes payable under chapter 143, RSMo, shall be determined based upon the consolidated state income tax liability of the group and allocated to a banking institution, without reduction for any tax credits identified in subsection 5 of this section which are used to reduce such consolidated taxes as provided in chapter 143, RSMo.
3. The taxes referenced in subdivisions (2) and (3) of subsection 1 of this section may be reduced by the tax credits in subsection 5 of this section without regard to any adjustments in subsection 2 of this section.
4. To the extent that certain tax credits which the taxpayer is entitled to claim are transferable, such transferability may include transfers among such taxpayers who are members of a single consolidated income tax return, and this subsection shall not impact other tax credit transferability.
5. For the purpose of this section, the tax credits referred to in subsections 2 and 3 shall include tax credits available for economic development, low-income housing and neighborhood assistance which the taxpayer is entitled to claim for the year, including by way of example and not of limitation, tax credits pursuant to

the following sections: section 32.115, RSMo, section 100.286, RSMo, and sections 135.110, 135.225, 135.352, and 135.403, RSMo.

6. For tax returns filed on or after January 1, 2001, including returns based on income in the year 2000, and after, a banking institution shall be entitled to an annual tax credit equal to one-sixtieth of one percent of its outstanding shares and surplus employed in this state if the outstanding shares and surplus exceed one million dollars, determined in the same manner as in section 147.010, RSMo. This tax credit shall be taken as a dollar-for-dollar credit against the bank tax provided for in subdivision (2) of subsection 2 of section 148.030; if such bank tax was already reduced to zero by other credits, then against the corporate income tax provided for in chapter 143, RSMo.

301.600. 1. Unless excepted by section 301.650, a lien or encumbrance on a motor vehicle or trailer, as defined by section 301.010, is not valid against subsequent transferees or lienholders of the motor vehicle or trailer who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 301.600 to 301.660.

2. A lien or encumbrance on a motor vehicle or trailer is perfected by the delivery to the director of revenue of a notice of a lien in a format as prescribed by the director of revenue. [It] **The notice of lien** is perfected as of the time of its creation if the delivery of [the aforesaid] **such notice** to the director of revenue is completed within thirty days thereafter, otherwise as of the time of the delivery. **A notice of lien shall contain the name and address of the owner of the motor vehicle or trailer and the secured party, a description of the motor vehicle or trailer, including the vehicle identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.**

3. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the **future advance** lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances" [in the second lienholder's portion of the title application] **on the notice of lien** and noted on the certificate of ownership if the motor vehicle or trailer is subject to only one [lien] **notice of lien. To secure future advances when an existing lien on a motor vehicle or trailer does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is received for by the department of revenue, and returned to the lienholder.**

[3.] **4.** If a motor vehicle or trailer is subject to a lien or encumbrance when brought into this state, the validity and effect of the lien or encumbrance is determined by the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrance attached that the motor vehicle or trailer would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state is determined by the law of this state;

(2) If the lien or encumbrance was perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by that jurisdiction, the lien or encumbrance continues perfected in this state three months after a first certificate of ownership of the motor vehicle or trailer is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period; in that case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the law of the jurisdiction where the motor vehicle or trailer was when the lien or encumbrance attached, it may be perfected in this state; in that case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection either as provided in subsection 2 **or 3 of this section** or by the lienholder delivering to the director of revenue a notice of lien or encumbrance in the form the director of revenue prescribes and the required fee.

[4.] **5.** By rules and regulations, the director of revenue shall establish a security procedure for the purpose of verifying that an electronic notice of lien or notice of satisfaction of a lien on a motor vehicle or trailer given as permitted in sections 301.600 to 301.640 is that of the lienholder, verifying that an electronic notice of confirmation of ownership and perfection of a lien given as required in section 301.610 is that of the director of revenue, and detecting error in the transmission or the content of any such notice. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, call back procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself be a security procedure.

306.400. 1. As used in sections 306.400 to 306.440, the terms "motorboat", "vessel", and "watercraft" shall have the same meanings given them in section 306.010, and the term "outboard motor" shall include outboard motors governed by section 306.530.

2. Unless excepted by section 306.425, a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft shall not be valid against subsequent transferees or lienholders of the outboard motor, motorboat, vessel or watercraft, who took without knowledge of the lien or encumbrance unless the lien or encumbrance is perfected as provided in sections 306.400 to 306.430.

3. A lien or encumbrance on an outboard motor, motorboat, vessel or watercraft is perfected by the delivery to the director of revenue of a notice of lien in a format as prescribed by the director. Such lien or encumbrance shall be perfected as of the time of its creation if the delivery of the items required in this subsection to the director of revenue is completed within thirty days thereafter, otherwise such lien or encumbrance shall be perfected as of the time of the delivery. **A notice of lien shall contain the name and address of the owner of the outboard motor, motorboat, vessel or watercraft and the secured party, a description of the outboard motor, motorboat, vessel or watercraft motor, including any identification number, and such other information as the department of revenue may prescribe. A notice of lien substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.**

4. Liens may secure future advances. The future advances may be evidenced by one or more notes or other documents evidencing indebtedness and shall not be required to be executed or delivered prior to the date of the future advance lien securing them. The fact that a lien may secure future advances shall be clearly stated on the security agreement and noted as "subject to future advances"

in the second lienholder's portion of the notice of lien. To secure future advances when an existing lien on an outboard motor, motorboat, vessel or watercraft does not secure future advances, the lienholder shall file a notice of lien reflecting the lien to secure future advances. A lien to secure future advances is perfected in the same time and manner as any other lien, except as follows. Proof of the lien for future advances is maintained by the department of revenue; however, there shall be additional proof of such lien when the notice of lien reflects such lien for future advances, is accepted for by the department of revenue, and returned to the lienholder.

[4.] **5.** Whether an outboard motor, motorboat, vessel, or watercraft is subject to a lien or encumbrance shall be determined by the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, subject to the following:

(1) If the parties understood at the time the lien or encumbrances attached that the outboard motor, motorboat, vessel, or watercraft would be kept in this state and it is brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity and effect of the lien or encumbrance in this state shall be determined by the laws of this state;

(2) If the lien or encumbrance was perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, the following rules apply:

(a) If the name of the lienholder is shown on an existing certificate of title or ownership issued by that jurisdiction, his or her lien or encumbrance continues perfected in this state;

(b) If the name of the lienholder is not shown on an existing certificate of title or ownership issued by the jurisdiction, the lien or encumbrance continues perfected in this state for three months after the first certificate of title of the outboard motor, motorboat, vessel, or watercraft is issued in this state, and also thereafter if, within the three-month period, it is perfected in this state. The lien or encumbrance may also be perfected in this state after the expiration of the three-month period, in which case perfection dates from the time of perfection in this state;

(3) If the lien or encumbrance was not perfected pursuant to the laws of the jurisdiction where the outboard motor, motorboat, vessel, or watercraft was when the lien or encumbrance attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state;

(4) A lien or encumbrance may be perfected pursuant to paragraph (b) of subdivision (2) or subdivision (3) of this subsection in the same manner as provided in subsection 3 of this section.

[5.] **6.** The director of revenue shall by rules and regulations establish a security procedure to verify that an electronic notice or lien or notice of satisfaction of a lien on an outboard motor, motorboat, vessel or watercraft given pursuant to sections 306.400 to 306.440 is that of the lienholder, to verify that an electronic notice of confirmation of ownership and perfection of a lien given pursuant to section 306.410 is that of the director of revenue and to detect error in the transmission or the content of any such notice. Such a security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a communication with an authorized specimen signature shall not by itself constitute a security procedure.

306.410. If an owner creates a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft:

(1) The owner shall immediately execute the application, either in the space provided therefor on the certificate of title or on a separate form the director of revenue prescribes, to name the lienholder on the

certificate of title, showing the name and address of the lienholder and the date of his or her security agreement, and shall cause the certificate of title, the application and the required fee to be mailed or delivered to the director of revenue. Failure of the owner to do so is a class A misdemeanor;

(2) The lienholder or an authorized agent licensed pursuant to sections 301.112 to 301.119, RSMo, shall deliver to the director of revenue a notice of lien as prescribed by the director accompanied by all other necessary documentation to perfect a lien pursuant to section 306.400;

(3) Upon request of the owner or subordinate lienholder, a lienholder in possession of the certificate of title who receives the owner's application and required fee shall mail or deliver the certificate of title, application, and fee to the director of revenue, **unless such certificate of title secures future advance liens**. The delivery of the certificate of title to the director of revenue shall not affect the rights of the first lienholder under his or her security agreement;

(4) Upon receipt of the certificate of title, application and the required fee, the director of revenue shall issue a new certificate of title containing the name and address of the new lienholder, and mail the certificate of title to the first lienholder named in it or if a lienholder has elected to have the director of revenue retain possession of an electronic certificate of title, the lienholder shall either mail or deliver to the director a notice of authorization for the director to add a subordinate lienholder to the existing certificate. Upon receipt of such authorization and a notice of lien from a subordinate lienholder, the director shall add the subordinate lienholder to the certificate of title being electronically retained by the director and provide confirmation of the addition to both lienholders.

306.420. 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft for which the certificate of title is in the possession of the lienholder **and provided the owner waives any rights to future advances subject to a lien in this chapter**, the lienholder shall, within ten days after demand and, in any event, within thirty days, execute a release of his or her lien or encumbrance, and mail or deliver the certificate and release to the next lienholder named therein, or, if no other lienholder is so named, 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 of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. Upon the satisfaction of a second or third lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft for which the certificate of title is in the possession of the first lienholder, the lienholder whose lien or encumbrance is satisfied shall, within ten days after demand, and, in any event, within thirty days, execute a release and deliver the release 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 of title shall, at the request of the owner and upon receipt of the release and the required fee, either mail or deliver the certificate, the release, and the required fee to the director of revenue, or deliver the certificate of title to the owner, or the person authorized by him or her, for delivery of the certificate, the release and required fee to the director of revenue, who shall release the subordinate lienholder's rights on the certificate of title and issue a new certificate of title.

3. If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

347.137. 1. A domestic limited liability company shall be dissolved upon the occurrence of any of the following:

(1) [At the time or] Upon the happening of the events specified in the operating agreement or in the articles of organization;

(2) Upon the written consent of all members;

(3) Except as otherwise provided in the operating agreement, an event of withdrawal of a member, if a majority, by number, of the remaining members agree within ninety days after the occurrence of the event of withdrawal to dissolve the limited liability company;

(4) An event of withdrawal with respect to the sole remaining member;

(5) Entry of a decree of dissolution under section 347.143; or

(6) When the limited liability company is not the surviving entity in a merger or consolidation.

2. As soon as possible following the occurrence of any of the events specified in subdivisions (1) to (4) of subsection 1 of this section effecting the dissolution of the limited liability company, the limited liability company shall file a notice of winding up with the secretary which discloses the dissolution of the limited liability company and the commencement of winding up of its business and affairs.

347.141. 1. A dissolved limited liability company may dispose of the known claims against it in accordance with subsections 1 and 2 of this section. The dissolved limited liability company shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must do all of the following:

(1) Describe information that must be included in a claim;

(2) Provide a mailing address where a claim may be sent;

(3) State the deadline, which may not be fewer than ninety days from the effective date of the written notice, by which the dissolved limited liability company must receive the claim; and

(4) State that the claim will be barred if not received by the deadline.

2. Notwithstanding other provisions of law, including laws regarding permissibility of third-party claims, to the contrary, a claim against a limited liability company dissolved without fraudulent intent is barred if either of the following occurs:

(1) A claimant who was given written notice under subsection 1 of this section does not deliver the claim to the dissolved limited liability company by the deadline; or

(2) A claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within one hundred and twenty days from the effective date of the rejection notice. For purposes of this subsection, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

3. A dissolved limited liability company may dispose of the unknown claims against it by filing a notice of winding up in accordance with subsections 3 and 4 of this section. The notice of winding up shall meet all of the following requirements:

(1) Be published one time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office, or if not in this state, its registered office, is or was located;

(2) Be published one time in a publication of statewide circulation whose audience is primarily persons engaged in the practice of law in this state and which is published not less than four times per year;

(3) **Be published one time in the Missouri Register;**

(4) Contain a request that persons with claims against the limited liability company present them in accordance with the notice of winding up;

[(4)] (5) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

[(5)] (6) State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the notice.

4. Notwithstanding other provisions of law, including laws regarding permissibility of third-party claims, to the contrary, if a limited liability company dissolved without fraudulent intent files a notice of winding up in accordance with subsection 2 of section 347.137 and publishes such notice in accordance with subsection 3 of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company within three years after the date the notice of winding up is filed or published, whichever occurs later:

(1) A claimant who did not receive written notice under subsection 1 of this section;

(2) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on; or

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

5. A claim may be enforced under this section in either of the following ways:

(1) Against the dissolved limited liability company, to the extent of its undistributed assets; or

(2) If the assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the limited liability company assets distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section shall not exceed the total amount of assets distributed to the member in liquidation.

6. For purposes of this section, "fraudulent intent" shall be established if it is shown that the sole or primary purpose of the dissolution was to defraud members, creditors or others.

7. Notwithstanding any other provision of this chapter to the contrary, except as provided in subsection 8 of this section, a claim against a limited liability company dissolved pursuant to this chapter for which claim the limited liability company has a contract of insurance which will indemnify the limited liability company for any adverse result from such claim:

(1) Is not subject to the provisions of subsections 1 to 6 of this section and may not be barred by compliance with subsections 1 to 6 of this section;

- (2) May be asserted at any time within the statutory period otherwise provided by law for such claims;
 - (3) May be asserted against, and service of process had upon, the dissolved limited liability company for whom the court, at the request of the party bringing the suit, shall appoint a defendant ad litem.
8. Judgments obtained in suits filed and prosecuted pursuant to subsection 7 of this section shall only be enforceable against one or more contracts of insurance issued to the limited liability company, its officers, directors, agents, servants or employees, indemnifying them, or any of them, against such claims.

351.025. 1. Any existing corporation heretofore organized for profit under any special law of this state may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares.

2. Any health services corporation organized as a not for profit corporation pursuant to chapter 354, RSMo, that has complied with the provisions of section 354.065, RSMo, may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares, if any.

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, [2000] **2001**.

351.055. The articles of incorporation shall set forth:

- (1) The name of the corporation;
- (2) The address, including street and number, if any, of its initial registered office in this state, and the name of its initial registered agent at such address;
- (3) The aggregate number of shares which the corporation shall have the authority to issue, and the number of shares of each class, if any, that are to have a par value and the par value of each share of each such class, and the number of shares of each class, if any, that are to be without par value and also a statement of the preferences, qualifications, limitations, restrictions, and the special or relative rights including convertible rights, if any, in respect of the shares of each class;
- (4) The extent, if any, to which the preemptive right of a shareholder to acquire additional shares is limited or denied;
- (5) The name and place of residence of each incorporator;
- (6) Either (a) the number of directors to constitute the first board of directors and a statement to the effect that thereafter the number of directors shall be fixed by, or in the manner provided in, the bylaws of the corporation, and that any changes shall be reported to the secretary of state within thirty calendar days of such change, or (b) the number of directors to constitute the board of directors, except that the number of directors to constitute the board of directors must be stated in the articles of incorporation if the corporation is to have less than three directors. The persons to constitute the first board of directors may, but need not, be named;

(7) The number of years the corporation is to continue, which may be any number or perpetual;

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

(9) If the incorporators, the directors pursuant to subsection 1 of section 351.090 or the shareholders pursuant to subsection 2 of section 351.090 choose to do so, a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director (a) for any breach of the director's duty of loyalty to the corporation or its shareholders, (b) for acts or omissions not in subjective good faith or which involve intentional misconduct or a knowing violation of law, (c) pursuant to section 351.345 or (d) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. All references in this subdivision to a director shall also be deemed to refer (e) to a member of the governing body of a corporation which is not authorized to issue capital stock and (f) to such other person or persons, if any, who, pursuant to a provision of the articles of incorporation in accordance with this chapter, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this chapter;

(10) Any other provisions, not inconsistent with law, which the incorporators, the directors pursuant to subsection 1 of section 351.090 or the shareholders pursuant to subsection 2 of section 351.090 may choose to insert.

351.245. 1. Unless otherwise provided in the articles of incorporation, each outstanding share entitled to vote under the provisions of the articles of incorporation shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders. If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this chapter to a vote by a majority or other proportion of stock shall refer to such majority or other proportion of the votes of such stock.

2. No person shall vote any shares which at that time belong to the corporation which issued such shares, or which at that time belong to an entity controlled by such corporation. For this purpose, the corporation controls any entity as to which such corporation either:

(1) Directly or indirectly owns a majority, measured by voting power, of the outstanding stock or other equity interests entitled to vote for the directors or managers of such entity; or

(2) In the case of a partnership or a member-managed limited liability company, directly or indirectly owns a majority of the equity interests and also is a member or a general partner.

In addition, no such shares shall be counted as outstanding for quorum purposes. Nothing in this subsection shall be construed as denying or limiting the right of any corporation or entity to vote shares of stock held by it in a fiduciary capacity.

3. Unless the articles of incorporation or bylaws provide otherwise, each shareholder in electing directors shall have the right to cast as many votes in the aggregate as shall equal the number of votes held by the shareholder in the corporation, multiplied by the number of directors to be elected at the election, and each shareholder may cast the whole number of votes, either in person or by proxy, for one candidate, or distribute them among two or more candidates.

[3.] 4. A shareholder may vote either in person or by proxy. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Any proxy delivered for or in connection with the shareholder authorization of a control share acquisition pursuant to section 351.407 is

valid only if it provides that it is revocable and if it is solicited, appointed, and received both (a) in accordance with all applicable legal requirements and (b) separate and apart from the sale or purchase, contract or tender for sale or purchase, or request or invitation for tender for sale or purchase, of shares of the issuing public corporation. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only so long as, it is coupled with an interest sufficient in law to support an irrevocable power of attorney; except that, as provided in this subsection proxies appointed for or in connection with the shareholder authorization of a control share acquisition pursuant to section 351.407 shall be revocable at all times prior to the obtaining of such shareholder authorization, whether or not coupled with an interest. The interest with which it is coupled need not be an interest in the shares themselves, but it may be such an interest or an interest in the corporation generally.

[4.] 5. Without limiting the manner in which a shareholder may authorize a person to act for the shareholder as proxy pursuant to this section, the following shall constitute a valid means by which a shareholder may grant such authority:

- (1) A shareholder or the shareholder's duly authorized attorney in fact may execute a writing authorizing another person to act for the shareholder as proxy. Execution may be accomplished by the shareholder or duly authorized attorney in fact signing such writing or causing the shareholder's signature to be affixed to such writing by any reasonable means, including, but not limited to, facsimile signature;
- (2) A shareholder may authorize another person to act for the shareholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram, facsimile or other means of electronic transmission, or by telephone, to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telegram, cablegram, facsimile or other means of electronic transmission, or telephonic transmission shall either set forth or be submitted with information from which it can be determined that the telegram, cablegram, facsimile or other electronic transmission, or telephonic transmission was authorized by the shareholder. If it is determined that such telegrams, cablegrams, facsimiles or other electronic transmissions, or telephonic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making such determination shall specify the information upon which they relied. "Electronic transmission" shall mean any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

351.300. A corporation may issue fractions of a share and it may issue a certificate for a fractional share, or, by action of its board of directors, may [issue] in lieu thereof **pay cash equal to the value of such fractional share, or issue** scrip or other evidence of ownership which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip or other evidence of ownership aggregating a full share. A certificate for a fractional share shall (but scrip or other evidence of ownership shall not, unless otherwise provided by resolution of the board of directors) entitle the holder to all of the rights of a shareholder, including without limitation the right to exercise any voting right, or to receive dividends thereon or to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip or evidence of ownership (other than a certificate for a fractional share) to be issued subject to the condition that it shall become void if not exchanged for share certificates before a specified date, or subject to the condition that the shares for which such scrip or evidence of ownership is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of such scrip or evidence of ownership, or subject to any other conditions which the board of directors may deem advisable.

351.355. 1. A corporation created under the laws of this state may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right

of the corporation, by reason of the fact that he **or she** is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding if he **or she** acted in good faith and in a manner he **or she** reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his **or her** conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he **or she** reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his **or her** conduct was unlawful.

2. The corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he **or she** is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, and amounts paid in settlement actually and reasonably incurred by him in connection with the defense or settlement of the action or suit if he **or she** acted in good faith and in a manner he **or she** reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his **or her** duty to the corporation unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication of liability and in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

3. **Except as otherwise provided in the articles of incorporation or the bylaws**, to the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, he **or she** shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the action, suit, or proceeding.

4. Any indemnification under subsections 1 and 2 of this section, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he **or she** has met the applicable standard of conduct set forth in this section. The determination shall be made by the board of directors by a majority vote of a quorum consisting of directors who were not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by the shareholders.

5. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of the action, suit, or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he **or she** is entitled to be indemnified by the corporation as authorized in this section.

6. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the articles of incorporation or bylaws or any agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his **or her** official capacity and as to action in another capacity while holding such office, and shall continue as to a

person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

7. A corporation created under the laws of this state shall have the power to give any further indemnity, in addition to the indemnity authorized or contemplated under other subsections of this section, including subsection 6, to any person who is or was a director, officer, employee or agent, or to any person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, provided such further indemnity is either (i) authorized, directed, or provided for in the articles of incorporation of the corporation or any duly adopted amendment thereof or (ii) is authorized, directed, or provided for in any bylaw or agreement of the corporation which has been adopted by a vote of the shareholders of the corporation, and provided further that no such indemnity shall indemnify any person from or on account of such person's conduct which was finally adjudged to have been knowingly fraudulent, deliberately dishonest or willful misconduct. Nothing in this subsection shall be deemed to limit the power of the corporation under subsection 6 of this section to enact bylaws or to enter into agreements without shareholder adoption of the same.

8. The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his **or her** status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

9. Any provision of this chapter to the contrary notwithstanding, the provisions of this section shall apply to all existing and new domestic corporations, including but not limited to banks, trust companies, insurance companies, building and loan associations, savings bank and safe deposit companies, mortgage loan companies, corporations formed for benevolent, religious, scientific or educational purposes and nonprofit corporations.

10. For the purpose of this section, references to "the corporation" include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he **or she** would if he **or she** had served the resulting or surviving corporation in the same capacity.

11. For purposes of this section, the term "other enterprise" shall include employee benefit plans; the term "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and the term "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he **or she** reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this section.

351.482. 1. After dissolution is authorized, a corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

2. The notice shall:

(1) Be published one time in a newspaper of general circulation in the county where the corporation's principal office, or, if none in this state, its registered office, is or was last located;

(2) Be published one time in a publication of statewide circulation whose audience is primarily persons engaged in the practice of law in this state and which is published not less than four times per year;

(3) **At the request of the corporation, be published by the secretary of state in an electronic format accessible to the public;**

(4) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

[4] (5) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

3. Other rules of law, including rules on the permissibility of third-party claims, to the contrary notwithstanding, if a corporation dissolved without fraudulent intent publishes notices in accordance with subsection 2 of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two years after the publication date of whichever of the notices was published last:

(1) A claimant who did not receive written notice pursuant to section 351.478;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced pursuant to this section only:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) If the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims pursuant to this section may not exceed the total amount of assets distributed to the shareholder.

5. For purposes of this section, "fraudulent intent" shall be established if it is shown that the sole or primary purpose of the authorization for dissolution or the dissolution was to defraud shareholders, creditors or others.

351.690. The provisions of this chapter shall be applicable to existing corporations and corporations not formed pursuant to this chapter as follows:

(1) Those provisions of this [law] **chapter** requiring reports, registration statements and the payment of taxes and fees, shall be applicable, to the same extent and with the same effect, to all existing corporations, domestic and foreign, which were required to make such reports and registration statements and to pay such taxes and fees, prior to November 21, 1943;

(2) [No] **The provisions of this [law, other than those] chapter shall be applicable to banks, trust companies and safe deposit companies when such provisions relating to the internal affairs of a**

corporation supplement the existing provisions of chapter 362, RSMo, or when the provisions of chapter 362, RSMo, do not deal with a matter involving the internal affairs of a corporation organized pursuant to the provisions of chapter 362, RSMo, as well as those provisions mentioned in subdivision (1) of this section, to the extent applicable. For the purposes of this chapter, the "internal affairs of a corporation" shall include, but not be limited to, matters of corporate governance, director and officer liability, and financial structure;

(3) No provisions of this chapter, other than those mentioned in subdivision (1) of this section, and then only to the extent required by the statutes [under] pursuant to which they are incorporated, or other than the provisions of section 351.347, or section 351.355, shall be applicable to [banks, trust companies,] insurance companies, savings and loan associations, [safe deposit companies,] corporations formed for benevolent, religious, scientific or educational purposes, and nonprofit corporations;

[(3)] (4) Only those provisions of this [law] chapter which supplement the existing laws applicable to railroad corporations, union stations, cooperative companies for profit, credit unions, street railroads, telegraph and telephone companies, boating and rafting companies, urban redevelopment corporations, professional corporations, development finance corporations, and loan and investment companies, and which are not inconsistent with, or in conflict with the purposes of, or are not in derogation or limitation of, such existing laws, shall be applicable to the type of corporations mentioned above in this subdivision; and without limiting the generality of the foregoing, those provisions of this chapter which permit the issuance of shares without par value and the amendment of articles of incorporation for such purpose shall be applicable to railroad corporations, union stations, street railroads, telegraph and telephone companies, and boating and rafting companies, professional corporations, development finance corporations, and loan and investment companies, and those provisions of this [law] chapter mentioned in subdivisions (1) and (2) of this section will apply to all corporations mentioned in this subdivision; except that, the annual report and fee of a professional corporation [under] pursuant to section 356.211, RSMo, shall suffice in lieu of the annual registration and fee required of a business corporation;

[(4)] (5) All of the provisions of this [law] chapter to the extent provided shall apply to all other corporations existing [under] pursuant to general laws of this state enacted prior to November 21, 1943, and not specifically mentioned in subdivisions (1), (2) and (3) of this section.

354.065. 1. A corporation may amend its articles of incorporation from time to time in the manner provided in chapter 355, RSMo, and shall file a duly certified copy of its certificate of amendment with the director of insurance within twenty days after the issuance of the certificate of amendment by the secretary of state. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

2. A health services corporation organized as a not for profit corporation pursuant to this chapter may amend its articles in the manner provided in chapter 355, RSMo, to change its status to that of a for profit business corporation and accept the provisions of chapter 351, RSMo, by:

(1) Adopting a resolution amending its articles of incorporation or articles of agreement so as:

(a) To eliminate any purpose, power or other provision thereof not authorized to be set forth in the articles of incorporation of corporations organized pursuant to chapter 351, RSMo;

(b) To set forth any provision authorized pursuant to chapter 351, RSMo, to be inserted in the articles of incorporation of corporations organized pursuant to chapter 351, RSMo, which the corporation chooses to insert therein and the material and information required to be set forth pursuant to chapter 351, RSMo, in the original articles of incorporation of corporations organized pursuant to chapter 351, RSMo;

- (2) Adopting a resolution accepting all of the provisions of chapter 351, RSMo, and providing that such corporation shall for all purposes be thenceforth deemed to be a corporation organized pursuant to chapter 351, RSMo;
 - (3) By filing with the secretary of state a certificate of acceptance of chapter 351, RSMo;
 - (4) By complying with the provisions of sections 355.616 and 355.621, RSMo, to the extent those sections would apply if such health services corporation were merging with a domestic business corporation with the proposed amended articles of incorporation serving as the proposed plan of merger.
3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, [2000] **2001**.

359.091. 1. In order to form a limited partnership, a certificate of limited partnership shall be executed and filed in the office of the secretary of state. The certificate shall set forth:

- (1) The name of the limited partnership;
- (2) The address of the registered office and the name of the registered agent at such office;
- (3) The name and the mailing address of each general partner;
- (4) The [latest date upon] **events, if any on** which the limited partnership is to dissolve **or the number of years the limited partnership is to continue, which may be any number or perpetual;**
- (5) Any other matters the general partners determine to include therein.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any other time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

359.451. A limited partnership is dissolved and its affairs shall be wound up upon the first to occur of the following:

- (1) [At the time] **Upon the happening of events** specified in the certificate of limited partnership;
- (2) Upon the happening of events specified in writing in the partnership agreement;
- (3) Written consent of all partners;
- (4) An event of withdrawal of a general partner unless:
 - (a) There remains at least one other general partner and the written provisions of the partnership agreement permit the business of the limited partnership to be carried on by the remaining general partner, alone or together with one or more new general partners, and that partner or those partners do so; or
 - (b) Within ninety days after the withdrawal, partners owning a majority of the profits interests and a majority of the capital interests held by all partners agree in writing to continue the business of the limited partnership and, if there is no remaining general partner, to the appointment of one or more additional general partners if necessary or desired; or

(5) Entry of a decree of judicial dissolution under section 359.461.

359.481. 1. Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under section 359.321 or 359.351;

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 359.321 or 359.351; and

(3) Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

2. A dissolved limited partnership may dispose of the unknown claims against it by filing a notice of winding up in accordance with this subsection. The notice of winding up shall meet all of the following requirements:

(1) Be published one time in a newspaper of general circulation in the county where the corporation's principal office, or, if none in this state, its registered office, is or was last located;

(2) Be published one time in the Missouri Register;

(3) Be published one time in a publication of statewide circulation whose audience is primarily persons engaged in the practice of law in this state and which is published not less than four times per year;

(4) Contain a request that persons with claims against the partnership present them in accordance with the notice of winding up;

(5) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(6) State that a claim against the partnership will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of the notice.

361.230. 1. Upon receipt by the director of a written application for leave to open a branch office from a corporation authorized by law to open branch offices, he **or she** shall make such investigation as he **or she** may deem necessary to ascertain whether the public convenience and advantage will be promoted by the opening of the branch office and whether the corporation has the amount of actually paid in capital required by law.

2. If satisfied that the granting of the application is expedient and desirable, he **or she** shall make a certificate in [triplicate] **duplicate** under his **or her** hand and official seal authorizing the opening and occupation of the branch office and specifying the date on or after which and the condition under which it may be opened and the place where it shall be located, and shall file one [triplicate in his own office, one in the office of the recorder of the county or city wherein the principal place of business of the corporation is located,] **duplicate in the public records of the division of finance** and shall transmit the other to the applicant.

3. If the director shall be satisfied that the opening of the branch office is undesirable or inexpedient or that the corporation has not the requisite amount of capital actually paid in, he **or she** shall refuse the application and notify the corporation of his **or her** determination; provided, that this section shall not be construed to empower the director to grant a certificate for any bank or trust company organized under the laws of this state to maintain in this state any branch bank or branch trust company.

361.250. For satisfactory cause to him shown, the director of finance may grant extensions of time to corporations to which this chapter is applicable, as follows:

(1) He **or she** may extend for not more than one year the time within which any such corporation may commence business. Such extension shall only be made by an order under his **or her** hand and official seal which shall be executed in [triplicate] **duplicate** and one copy thereof shall be filed in [the director's office, one in the office of the recorder of the county or city in which the articles of agreement of such corporation have been filed,] **the public records of the division of finance** and the [third] **second** shall be transmitted to such corporation.

(2) He **or she** may extend, for not exceeding twenty days, the time within which any such corporation is required to make and file any report to the director.

(3) In all other cases where, by any provision of this chapter, he **or she** is given power to grant extensions of time, it shall be within his **or her** sound discretion to grant such extension, which shall be in writing, and a copy thereof shall be filed in the office of the director.

361.390. 1. The director may, by certificate, under his **or her** hand and official seal, appoint one or more special deputy directors as agent or agents to assist him in liquidating the business and affairs of any corporation in his **or her** possession.

2. The director shall file such certificate in [his office and shall cause a certified copy thereof to be filed in the office of the recorder of the county or city in which the principal office of such corporation is located] **the public records of the division of finance**.

3. He **or she** may, from time to time, delegate such special deputy director to perform such duties connected with such liquidation as he **or she** may deem proper. He **or she** may employ such expert assistants and counsel and may retain such of the officers or employees of such corporation as he **or she** may deem necessary in the liquidation and distribution of the assets of such corporation.

4. He **or she** shall require such security as he **or she** may deem proper from his **or her** agents and assistants appointed pursuant to the provisions of this section.

5. The director may appoint a bank or trust company as such special deputy director and any bank or trust company receiving and accepting any such appointment shall be fully authorized and empowered to do any and all acts and things which the director may deem necessary and advisable in liquidating the business and affairs of the corporation in his **or her** possession; provided, however, that no salaries or attorney fees shall be paid unless approved by the circuit court **in Cole County**, which circuit court may refuse to approve any salaries or attorney fees that it may deem exorbitant, and set a less fee or salary, which less fee or salary shall be amount paid.

361.440. After the director shall have taken possession of the property and business of such corporation, he **or she** shall make in duplicate an inventory of the assets of such corporation. When the director shall have decided that he **or she** will not permit the corporation to resume business pursuant to the provisions of section 361.370, he **or she** shall file one copy of such inventory in [his office and shall cause one copy

to be filed in the office of the recorder of the county or city in which the principal office of such corporation is located] **the public records of the division of finance.**

361.470. The director is authorized, upon taking possession of the property and business of such corporation, to liquidate the affairs thereof and to do all acts and to make such expenditures as in his **or her** judgment are necessary to conserve its assets and business. He **or she** shall proceed to collect the debts due. He **or she** may, upon an order of the circuit court **of Cole County**, sell or compound all bad or doubtful debts held by, and compromise claims against such corporation, other than deposit claims and, upon such terms as the court shall direct, may sell or otherwise dispose of all or any of the real and personal property of such corporation. [In case any of the real property so sold is located in a county or city other than the county or city in which the application to the court for leave to sell the same is made, the director shall cause a certified copy of said order and the application therefor to be filed in the office of the recorder of the county or city in which such real property is located.]

361.520. 1. The director shall make in duplicate a complete list of all claims duly presented, and shall specify therein the name of the claimant, the nature of the claim, and the amount thereof.

2. Within ten days after the last date fixed in said notice to creditors to present and make proof of claims, the director shall file one copy of said list in his **or her** office, and cause one copy to be filed in the [office of the recorder of the county or city in which the principal office of such corporation is located] **public records of the division of finance.**

361.540. 1. The director shall, not later than thirty days after the time has expired to file objections to claims duly presented, approve or reject every duly filed claim except claims as to which objections are still pending undetermined by the court or judge.

2. Every claim approved by him, he **or she** shall endorse "approved" and file so endorsed in his **or her** office.

3. If he **or she** doubts the justice or validity of any claim, he **or she** shall reject such claim and shall endorse the same "rejected" and file said claim so endorsed in his **or her** office. He **or she** shall cause notice of such rejection to be served upon the claimant either personally or by mail.

4. The director shall not determine priorities, in approving or rejecting claims; but approved claims shall be presented to the circuit court **of Cole County** pursuant to section 361.570 for determination as to their priority of payment.

5. Within thirty days after the director has approved or rejected all claims duly filed, he **or she** shall list all claims approved and all rejected by him and file one copy of said list in [his office and one copy in the office of the recorder of the county or city in which the principal office of such corporation is located] **the public records of the division of finance.**

361.600. 1. In case the stockholders shall determine to appoint an agent or agents to continue such liquidation, they shall thereupon select by ballot such agent or agents. A majority of the stock present and voting in person or by proxy shall be necessary to determine such question.

2. If such agent or agents shall be duly elected by the stockholders, the director may require such agent or agents to execute and deliver to him a bond to the state, in such amount, with such sureties, and in such form as shall be approved by him, conditioned upon the performance of all the duties of his **or her** or their trust; and thereupon the director shall transfer and deliver to such agent or agents all the assets of such corporation then remaining in his **or her** hands.

3. Upon such transfer and delivery, the director shall be discharged from any and all further liability to such corporation and its creditors.

4. Upon the transfer and delivery of said assets by the director, he **or she** shall file a certified copy of the proceedings of said meeting in [his office and cause a certified copy to be filed in the office of the recorder of the county or city in which the principal office of such corporation was located] **the public records of the division of finance**.

5. No powers specially set out in its articles of association shall be exercised by such corporation after the director has filed such certified copy in his **or her** office.

362.025. The articles of agreement shall be signed and acknowledged by the parties thereto, and three copies thereof shall be filed with the director of finance. If the director finds the articles to be improperly drawn, he **or she** shall immediately return them to the parties indicating the corrections to be made. If the director finds the articles to be in proper form, he **or she** shall return [two copies] **one copy** to the parties with an indication that they are approved as to form, and [the parties shall immediately have one copy of the articles recorded in the office of the recorder of deeds in the county or city in which the corporation is to be located and return the recorder's certificate of recording to the director] **shall file one copy in the public records of the division of finance which shall be a permanent record**.

362.035. 1. In case the director shall find all the provisions of the law have been complied with and shall have satisfied himself **or herself** by such investigation as to the facts as above provided, he **or she** shall grant a certificate setting forth that such corporation has been duly organized and the amount of its capital subscribed and paid up in full. [As to] All certificates granted by the director [subsequent to August 29, 1959, the same] shall designate the address and location in the city and town at which the corporation shall be authorized to conduct its business **as its main banking house** until such time as said address or location is changed after the approval of the director of finance has first been obtained.

2. **A certified copy of** such certificate shall be [recorded in the office of the recorder of deeds of the county or city in which the corporation is to be located] **filed in the public records of the division of finance**, and **a copy of** such certificate, so [recorded] **filed**, or certified copies thereof, shall be taken in all the courts of this state as evidence of such incorporation; and the existence of such corporation shall continue for the period limited in its articles of agreement, if there fixed, and if not there fixed, then until the corporation is dissolved by consent of its stockholders or until its corporate existence ends pursuant to the laws of this state.

362.042. Any bank or trust company may at any time restate its articles of agreement as theretofore amended, in the following manner:

(1) The directors may adopt a resolution setting forth the proposed restated articles of agreement and directing that they be submitted to a vote at a meeting of stockholders, which may be either an annual or a special meeting, except that the proposed restated articles of agreement need not be adopted by the directors and may be submitted directly to an annual or special meeting of stockholders.

(2) Notice shall be given as provided in section 362.044.

(3) At the meeting a vote of the stockholders entitled to vote thereon shall be taken on the proposed restated articles. The proposed restated articles shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote.

(4) Upon such approval, restated articles of agreement shall be executed in duplicate by the bank or trust company by its president or a vice president and by its cashier or secretary or an assistant cashier or

secretary, and verified by one of the officers signing the articles. The restated articles shall contain a statement that the restated articles correctly set forth without change the corresponding provisions of the articles of agreement as heretofore amended, and that the restated articles of agreement supersede the original articles of agreement and all amendments thereto.

(5) Duplicate originals of the restated articles of agreement shall be delivered to the director of finance. If the director finds that the restated articles conform to law, and that all required fees have been paid, he **or she** shall file the same, and one of such copies shall be retained by the director [as a permanent record] **in the public records of the division of finance.**

(6) The director thereupon shall issue a restated certificate of incorporation setting forth the name of the bank or trust company, the amount of its capital subscribed and paid up in full, the period of its existence, and the address and location in the city or town at which the corporation is authorized to conduct its business. A certified copy of the restated articles shall be attached to the restated certificate of incorporation and delivered to the bank or trust company. [The certificate and the restated articles shall be recorded in the office of the recorder of deeds of the county or city in which the bank or trust company is located.]

(7) Upon the issuance of the restated certificate of incorporation by the director of finance, the restated articles shall supersede the original articles of agreement and all amendments thereto.

362.060. 1. The par value of the shares of the corporation may be changed by the stockholders at either a special or annual meeting of the stockholders.

2. Notice of the proposed change shall be given as provided in section 362.044.

3. If the holders of a majority of the stock of the corporation at any meeting shall vote in favor of a resolution authorizing a change in the par value of its shares the resolution shall thereupon be adopted, and, upon the filing with the director of the resolution, certified by the secretary of the corporation to be a true and correct copy thereof adopted by the holders of a majority of the stock of the corporation at a meeting duly called and held in accordance with the provisions hereof, the change in par value of the shares shall thereupon become effective.

4. The director shall issue a certificate of filing and certify [one] **two** of the copies, [and the certificate] and **one of** the certified [copy] **copies** shall be filed by the **division of finance in its public records and the certificate provided to the** corporation [in the office of the recorder of the county or city in which the corporation is located].

362.105. 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not

exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

(3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act" and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any member by the Federal Reserve Act and any amendments thereto. The member bank or trust company and its directors, officers and stockholders shall continue to be subject, however, to all liabilities and duties imposed upon them by any law of this state and to all the provisions of this chapter relating to banks or trust companies;

(4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation and to make such payments to and to make such deposits with the Federal Deposit Insurance Corporation and to pay such assessments made by such corporation as will enable the bank or trust company to obtain the benefits of the insurance of deposits under the act of Congress known as "The Banking Act of 1933" and any amendments thereto;

(5) Invest in a bank service corporation as defined by the act of Congress known as the "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same extent as provided by that act or any amendment thereto;

(6) Receive upon deposit for safekeeping personal property of every description, and to own or control a safety vault and rent the boxes therein;

(7) Purchase and hold the stock of one safe deposit company organized and existing under the laws of the state of Missouri and doing a safe deposit business on premises owned or leased by the bank or trust company at the main banking house and any branch operated by the bank or trust company; provided, that the purchasing and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the safe deposit company shall be purchased and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales or transfers or pledges in violation hereof to be void;

(8) Act as the fiscal or transfer agent of the United States, of any state, municipality, body politic or corporation and in such capacity to receive and disburse money, to transfer, register and countersign certificates of stock, bonds and other evidences of indebtedness;

(9) Purchase, lease, hold or convey real property for the following purposes:

(a) With the approval of the director, plots whereon there is or may be erected a building or buildings suitable for the convenient conduct of its functions or business or for customer or employee parking even though a revenue may be derived from portions not required for its own use, and as otherwise permitted by law;

(b) Real property conveyed to it in satisfaction or part satisfaction of debts previously contracted in the course of its business;

(c) Real property purchased at sales under judgment, decrees or liens held by it;

(10) Purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for use of a customer; and, in addition, leases that neither anticipate full purchase price repayment on the leased asset, nor require the lease to cover the physical life of the asset, other than those for motor vehicles which will not be used by bank or trust company personnel, and may incur such additional obligations as may be incident to becoming an owner and lessor of the property, subject to the following limitations:

(a) Lease transactions do not result in loans for the purpose of section 362.170, but the total amount disbursed under leasing obligations or rentals by any bank to any person, partnership, association, or corporation shall at no time exceed the legal loan limit permitted by statute except upon the written approval of the director of finance;

(b) Lease payments are in the nature of rent rather than interest, and the provisions of chapter 408, RSMo, are not applicable;

(11) Contract with another bank or trust company, bank service corporation or other partnership, corporation, association or person, within or without the state, to render or receive services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial counseling, or similar services, or the storage, transmitting or processing of any information or data; except that, the contract shall provide, to the satisfaction of the director of finance, that the party providing such services to a bank or trust company will be subject to regulation and examination to the same extent as if the services were being performed by the bank or trust company on its own premises. This subdivision shall not be deemed to authorize a bank or trust company to provide any customer services through any system of electronic funds transfer at places other than bank premises;

(12) Purchase and hold stock in a corporation whose only purpose is to purchase, lease, hold or convey real property of a character which the bank or trust company holding stock in the corporation could itself purchase, lease, hold or convey pursuant to the provisions of paragraph (a) of subdivision (9) of this subsection; provided, the purchase and holding of the stock is first duly authorized by resolution of the board of directors of the bank or trust company and by the written approval of the director, and that all of the shares of the corporation shall be purchased and held by the bank or trust company and shall not be sold or transferred except as a whole;

(13) Purchase and sell investment securities, without recourse, solely upon order and for the account of customers; and establish and maintain one or more mutual funds and offer to the public shares or participations therein. Any bank which engages in such activity shall comply with all provisions of chapter 409, RSMo, regarding the licensing and registration of sales personnel for mutual funds so offered, provided that such banks shall register as a broker-dealer with the office of the commissioner of securities and shall consent to supervision and inspection by that office and shall be subject to the continuing jurisdiction of that office;

(14) Make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all such corporations and in all such projects does not exceed five percent of the unimpaired capital of the bank, and provided that this limitation shall not apply to loans made under the authority of other provisions of law, and other provisions of law shall not limit this subdivision;

(15) Offer through one or more subsidiaries any products and services which a national bank may offer through its financial subsidiaries, subject to the limitations that are applicable to national bank financial subsidiaries, and provided such bank or trust company meets the division of finance safety

and soundness considerations. This subdivision is enacted to provide in part competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999, Public Law 106-102.

2. In addition to the power and authorities granted in subsection 1 of this section, and notwithstanding any limitations therein, a bank or trust company may invest up to its legal loan limit in a building or buildings suitable for the convenient conduct of its business, including, but not limited to, a building or buildings suitable for the convenient conduct of its functions, parking for bank, trust company and leasehold employees and customers and real property for landscaping. Revenue may be derived from renting or leasing a portion of the building or buildings and the contiguous real estate; provided that, such bank or trust company has assets of at least two hundred million dollars.

3. In addition to the powers and authorities granted in subsection 1 of this section, every trust company created under the laws of this state shall be authorized and empowered to:

(1) Receive money in trust and to accumulate the same at such rate of interest as may be obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

(2) Accept and execute all such trusts and perform such duties of every description as may be committed to it by any person or persons whatsoever, or any corporation, and act as assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform such duties of every description as may be committed or transferred to it by order, judgment or decree of any courts of record of this state or other states, or of the United States;

(3) Take, accept and hold, by the order, judgment or decree of any court of this state, or of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or bequest of any person or corporation, any real or personal property in trust, and to execute and perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions, limitations and restrictions which may be declared, imposed, established or agreed upon in and by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

(4) Buy, invest in and sell all kinds of stocks or other investment securities;

(5) Execute, as principal or surety, any bond or bonds required by law to be given in any proceeding, in law or equity, in any of the courts of this state or other states, or of the United States;

(6) Act as trustee, personal representative, or conservator or in any other like fiduciary capacity;

(7) Act as attorney in fact or agent of any person or corporation, foreign or domestic, in the management and control of real or personal property, the sale or conveyance of same, the investment of money, and for any other lawful purpose.

4. **(1)** In addition to the powers and authorities granted in this section, the director of finance may, from time to time, with the approval of the state banking board, issue orders granting such other powers and authorities as have been granted to financial institutions subject to the supervision of the federal government [and] **to:**

(a) State chartered banks and trust companies which are necessary to enable **such** banks and trust companies to compete[. The powers and authorities contained in such orders may include the power to];

(b) State chartered banks and trust companies to establish branches to the same extent that federal law permits national banks to establish branches [in this state.];

(c) Subsidiaries of state chartered banks and trust companies to the same extent powers are granted to national bank subsidiaries to enable such banks and trust companies to compete;

(d) State chartered banks and trust companies to establish trust representative offices to the same extent national banks are permitted such offices.

(2) The orders shall be promulgated as provided in section 361.105, RSMo, and shall not be inconsistent with the constitution and the laws of this state.

5. As used in this section, the term "subsidiary" shall include one or more business entities of which the bank or trust company is the owner, provided the owner's liability is limited by the investment in and loans to the subsidiary as otherwise provided for by law.

362.115. 1. Any bank organized under the laws of this state having a paid-up capital of at least fifty thousand dollars in any unincorporated or incorporated village or city having a population of less than ten thousand inhabitants; a capital of at least one hundred thousand dollars in any city having a population of at least ten thousand and not more than fifty thousand inhabitants; and having a capital of two hundred thousand dollars in any city that exceeds fifty thousand inhabitants, shall have and may exercise any part or all of the fiduciary powers now or hereafter granted under the laws of this state to trust companies, subject, however, to all conditions, restrictions and limitations which now exist or may hereafter be adopted applicable to trust companies.

2. Any bank desiring to exercise the fiduciary powers granted to trust companies shall make application therefor in writing to the finance director, stating under oath that a meeting of its stockholders duly and regularly called in accordance with the provisions of law, a majority of the stockholders present and voting, voted to have the appropriate officers of the bank make application to the finance director for the exercise of fiduciary powers above referred to.

3. Upon the making of the application the finance director shall examine or cause an examination to be made of the bank in order to ascertain whether or not the requirements of the law have been complied with, and to determine:

(1) The needs of the community for fiduciary services and the probable volume of such fiduciary business available to the bank;

(2) The general condition of the bank, including the adequacy of its capital and surplus in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the exercise of fiduciary powers;

(3) The general character and ability of the management of the bank;

(4) The nature of the supervision to be given to the fiduciary activities, including the qualifications, experience and character of the proposed officer or officers of the trust department;

(5) Whether the bank has available legal counsel to advise and pass upon fiduciary matters wherever necessary.

4. In case the director shall find that all of the provisions of the law have been complied with and that on the basis of the above factors the bank is qualified for and should be given fiduciary powers, he **or she** shall grant a certificate setting forth that the bank is entitled to exercise all or any part of the fiduciary powers granted to trust companies, [which] **and one certified copy** shall be [recorded in the office of the

recorder of deeds for the county or city in which the bank is located] **filed in the public records of the division of finance and the original certificate sent to the bank or trust company.**

5. Before any such bank shall exercise any of the powers above referred to in this section, it shall organize a separate trust department for the exercise of its fiduciary powers, which department shall be in charge of a trust officer. Upon the granting of the certificate the bank may use the words "trust company" as a part of its corporate name.

362.116. 1. Any bank or trust company may, with the approval of the director of the division of finance, originate trust accounts which will be administered, pursuant to contract, by a bank or trust company having full fiduciary powers and located in this state. The bank or trust company originating such accounts shall be known as the originating trustee and the institution with which it contracts shall be referred to as the contracting trustee.

2. The application for authority to act as originating trustee shall designate the contracting trustee and shall be accompanied by a certified copy of the contract between the originating and contracting trustees.

3. The director of the division of finance shall approve any application by a bank or trust company seeking to act as originating trustee if he **or she** determines that the nature of the supervision to be given to the fiduciary activities, and the circumstances under which the agency relationship shall be terminated warrant belief that the customers will be protected. He **or she** shall issue a certificate approving the application [which] **and one certified copy** shall be [recorded in the office of the recorder of deeds for the county or city in which the originating bank is located] **filed in the public records of the division of finance with the original certificate sent to the bank or trust company.**

4. The originating trustee shall function as an agent of the contracting trustee, and such relationship shall be disclosed to the customers. The originating trustee may provide the administrative, advertising and safekeeping services incident to the trust business but the contracting trustee shall perform any and all fiduciary services in connection with trust relationships accepted under this section.

5. The contracting trustee shall assume any and all fiduciary liability the originating trustee may have or incur with no right of contribution or recovery from the originating trustee, except for liability resulting from negligence in the performance of duties actually performed by the originating trustee.

6. Any trust or estate administered under this section shall be subject to the provisions of sections 362.550 and 362.580.

362.119. Any bank [or trust company] organized under the laws of this state may invest not to exceed five percent of its capital, surplus and undivided profits in shares of stock in any new or existing trust company or companies if the direct or indirect ownership of a majority of such stock or class of stock in such trust company or companies is restricted to banks authorized to do business in the state of Missouri. For purposes of this section, the term "ownership of a majority of such stock or class of stock" does not mean or infer that such owner or owners have a controlling interest or voting interest in such trust company or companies.

362.170. 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the aggregate which will exceed fifteen percent of the unimpaired capital of the bank or trust company if located in a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;

e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;

f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;

g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, **the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank** or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage

Association, **the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank** or the Federal Home Loan Mortgage Corporation;

(b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision is upon paper based upon the collateral security of warehouse receipts covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: First, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable installment consumer paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same, shall not be considered as money borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g of paragraph (a) of subdivision (1) of subsection 2 of this section, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) No salaried officer of any bank or trust company shall use or borrow for himself or herself, directly or indirectly, any money or other property belonging to any bank or trust company of which the person is an officer, in excess of ten percent of the unimpaired capital of the bank or trust company, nor shall the total amount loaned to all salaried officers of any bank or trust company exceed twenty-five percent of the unimpaired capital of the bank or trust company. Where loans and a line of credit are made to salaried officers, the loans and line of credit shall first be approved by a majority of the board of directors or of the executive or discount committee, the approval to be in writing and the officer to whom the loans are made, not voting. The form of the approval shall be as follows:

We, the undersigned, constituting a majority of the of the (bank or trust company), do hereby approve a loan of \$..... or a line of credit of \$....., or both, to, it appearing that the loan or line of credit, or both, is not more than 10 percent of the unimpaired capital of (bank or trust company); it further appearing that the loan (money actually advanced) will not make the aggregate of loans to salaried officers more than 25 percent of the unimpaired capital of the bank or trust company.

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Dated this day of, [19] 20.....

Provided, if the officer owns or controls a majority of the stock of any other corporation, a loan to that corporation shall be considered for the purpose of this subdivision as a loan to the officer. Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount lent;

(6) Invest or keep invested in the stock of any private corporation, except as provided in this chapter.

3. Provided, that the provisions in this section shall not be so construed as in any way to interfere with the rules and regulations of any clearing house association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class C felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915.

7. Any bank or trust company to which the provisions of subsection 2 of this section apply, may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

362.172. Any bank [or trust company] organized under the laws of this state may invest not to exceed five percent of its capital, surplus and undivided profits in shares of stock in any new bank or banks, existing bank or banks, or bank holding companies if the ownership of a majority of such stock in such bank or bank holding companies is restricted to banks authorized to do business in the state of Missouri.

362.235. 1. Any national banking association incorporated under the laws of the United States having its place of business in this state may be converted into a bank or trust company under the laws of the state of Missouri and to be located in the city or town in which the converting national banking association is located, or alone, or with one or more other national banking associations, may be consolidated or merged with one or more banks or trust companies incorporated under the laws of this state under the charter of a bank or trust company incorporated under the laws of this state, upon compliance with the laws of the United States in such cases made and provided and upon obtaining the approval of the director of finance of the state of Missouri. The name of the resulting bank or trust company in the case of conversion may be the name of the converting national banking association, and in the case of consolidation or merger may be the name of any one of the parties to the consolidation or merger, provided that in no case shall the name contain the word "national" or be the same as or deceptively similar to the name of any bank or trust

company incorporated under the laws of this state which is engaged in business at the time of the particular conversion, consolidation or merger and is not a party thereto.

2. Upon a majority of the board of directors of the national banking association certifying to the director of finance that the laws of the United States relating to the approval of stockholders (and to the approval of the Comptroller of the Currency whenever his **or her** approval is required) have been complied with, the majority of the board shall have full power and authority to complete the conversion, consolidation or merger on the part of the national banking association, provided that the rights of the dissenting shareholders of the national banking association shall be determined pursuant to the laws of the United States.

3. (1) In the case of conversion the majority of the board of directors of the national banking association shall proceed as is provided by law for other individuals in incorporating a bank or trust company under the laws of this state except that the articles of agreement:

(a) May provide that instead of the capital stock having actually been paid up in money it is to be paid up in assets of the converting national banking association, the net value of which is equal to at least the full amount of the capital stock of the proposed resulting bank or trust company which capital stock shall not be less than that required by law for a bank or trust company, as the case may be, to be located in the particular city or town in which the converting national banking association is located;

(b) Shall provide that the proposed resulting bank or trust company is and shall be considered the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting national banking association although as to rights, powers and duties the proposed resulting institution is a bank or trust company incorporated under the laws of the state of Missouri; and

(c) Shall set out the names and addresses of all persons who are to be officers of the proposed bank or trust company.

(2) If the director of finance, as the result of an examination and investigation made by him **or her**, his **or her** deputies or his **or her** examiners, is satisfied that such assets are of such value and that the character, responsibility and general fitness of the persons named in the articles of agreement are such as to command confidence and warrant belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the purpose and intent of the laws of this state relative to banks or trust companies, as the case may be, he **or she** shall grant the charter. If he **or she** is not satisfied as to either or both matters, he **or she** shall forthwith give notice thereof to the majority of the board of directors of the converting national banking association who shall have the same right of appeal as is provided by the laws of this state in the case of the proposed incorporators of a new bank or trust company.

(3) Upon the approval of the particular conversion being granted the director of finance shall execute and deliver to the majority of the board of directors of the converting national banking association his **or her** certificate setting forth that the bank or trust company therein named has been duly organized and is the institution resulting from the conversion of the national banking association into the resulting bank or trust company, and that the resulting bank or trust company is and shall be considered the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting national banking association. **One certified copy of the certificate shall be [recorded in the office of the recorder of deeds of the county or city in which the resulting bank or trust company is located] filed in the public records of the division of finance** and the certificate so [recorded] **filed**, or certified copies thereof, shall be taken in all the courts of this state as evidence of the conversion of the national banking association into the resulting bank or trust company and that the resulting bank or trust company is the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting national banking association.

(4) When the director of finance has given his **or her** certificate as aforesaid:

(a) The resulting bank or trust company and all its stockholders, directors, officers, and employees shall have the same powers and privileges and be subject to the same duties and liabilities in all respects as in the case of such an institution had it originally organized as a bank or trust company under the laws of this state;

(b) All the rights, franchises, and interests of the converting national banking association in and to every species of property, real, personal and mixed, and choses in action thereto belonging shall be deemed to be transferred to and vest in the resulting bank or trust company without any deed or other transfer; and

(c) The resulting bank or trust company by virtue of the conversion and without any order of any court or otherwise shall hold and enjoy the same and all rights of property and interests including, but not by way of limitation, appointments, designations and nominations and all other rights and interests, as trustee, personal representative, conservator, receiver, registrar, assignee and every other fiduciary capacity in the same manner and to the same extent as these rights and interests were held or enjoyed by the converting national banking association at the time of its conversion into the resulting bank or trust company.

4. In the case of consolidation or merger the same shall be consummated by each national banking association complying with the laws of the United States thereto relating, and also by each national banking association and each bank or trust company complying with the provisions of the laws of this state relating to the consolidation or merger of trust companies, except that it shall not be necessary for a national banking association to obtain the consent of its shareholders in the manner provided by the law of this state, and except that where the resulting institution is a bank rather than a trust company the number and qualifications of directors and any requirement that directors shall or may be divided into classes shall be determined as provided by law for banks. The rights of dissenting shareholders of each national banking association shall be determined pursuant to the laws of the United States and the rights of the dissenting shareholders of each bank or trust company shall be determined as provided by the laws of this state in the case of consolidation or merger of trust companies. In the case of the consolidation or merger the resulting bank or trust company shall be and shall be considered the same business and corporate entity as, and a continuation of the corporate entity and identity of, each national banking association and each bank or trust company which is a party to the consolidation or merger, and all and singular the provisions of sections 362.610 to 362.810 shall apply in the case of any such consolidation or merger even though one or more of the parties is a national banking association or a bank as compared with a trust company and as though each party to the consolidation or merger were a trust company incorporated under the laws of the state of Missouri.

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 **or her** residence be in another state adjoining and contiguous to the state of Missouri, he **or she** 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 **or she** shall upon his **or her** election as a director file with the president of the banking house written consent to service of legal

process upon him in his **or her** 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 **or she** shall forthwith cease to be a director of the bank or trust company and his **or her** office shall be vacant.

4. 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.

362.325. 1. Any bank or trust company may, at any time, **and in any amount**, increase or, with the approval of the director, [diminish] **reduce** its capital stock [to any amount] **(as to its authorized but unissued shares, its issued shares, and its capital stock as represented by such issued shares), including a reduction of capital stock by reverse stock split**, change its name, change or extend its business or the length of its corporate life, avail itself of the privileges and provisions of this chapter or otherwise change its articles of agreement in any way not inconsistent with the provisions of this chapter, with the consent of the persons holding a majority of the stock of the bank or trust company, which consent shall be obtained at an annual meeting or at a special meeting of the shareholders called for that purpose. **A bank or trust company may, but shall not be obligated to, issue a certificate for a fractional share, and, by action of its board of directors, may in lieu thereof, pay cash equal to the value of the fractional share.**

2. The meeting shall be called and notice given as provided in section 362.044.

3. If, at any time and place specified in the notice, stockholders shall appear in person or by proxy, in number representing not less than a majority of all the shares of stock of the bank or trust company, they shall organize by choosing one of the directors chairman of the meeting, and a suitable person for secretary, and proceed to a vote of those present in person or by proxy.

4. If, upon a canvass of the vote at the meeting, it is ascertained that the proposition has carried, it shall be so declared by the president of the meeting and the proceedings entered of record.

5. When the full amount of the proposed increase has been bona fide subscribed and paid in cash to the board of directors of the bank or trust company or the change has been duly authorized, then a statement of the proceedings, showing a compliance with the provisions of this chapter, the increase of capital actually subscribed and paid up or the change shall be made out, signed and verified by the affidavit of the president and countersigned by the cashier, or secretary, and such statement shall be acknowledged by the president and [recorded in the office of the recorder of deeds of the county or city in which the corporation is located, and a certified copy of the recorded instrument shall be filed in the office of the director] **one certified copy filed in the public records of the division of finance.**

6. Upon the filing of the certified copy the director shall promptly satisfy himself **or herself** that there has been a compliance in good faith with all the requirements of the law relating to the increase, decrease or change, and when he **or she** is so satisfied he **or she** shall issue a certificate that the bank or trust company has complied with the law made and provided for the increase or decrease of capital stock, and the amount to which the capital stock has been increased or decreased or for the change in the length of its corporate life or any other change provided for in this section. Thereupon, the capital stock of the bank or trust company shall be increased or decreased to the amount specified in the certificate or the length of the corporate life of the bank shall be changed or other authorized change made as specified in the

certificate. The certificate, or certified copies thereof, shall be taken in all the courts of the state as evidence of the increase, decrease or change.

7. Provided, however, that if the change undertaken by the bank or trust company in its articles of agreement shall provide for the relocation of the bank or trust company in another community, the director shall make or cause to be made an examination to ascertain whether the convenience and needs of the new community wherein the bank desires to locate are such as to justify and warrant the opening of the bank therein and whether the probable volume of business at the new location is sufficient to insure and maintain the solvency of the bank and the solvency of the then existing banks and trust companies at the location, without endangering the safety of any bank or trust company in the locality as a place of deposit of public and private moneys, and, if the director, as a result of the examination, be not satisfied in the particulars mentioned or either of them, he **or she** may refuse to issue the certificate applied for, in which event he **or she** shall forthwith give notice of his **or her** refusal to the bank applying for the certificate, which if it so desires may, within ten days thereafter, appeal from the refusal to the state banking board.

8. All certificates issued by the director of finance relating to amendments to the charter of any bank shall be [recorded in the office of the recorder of deeds] **provided to the bank or trust company and one certified copy filed in the public records of the division of finance.**

362.440. 1. Upon receipt by the director from any foreign corporation of an application in proper form for leave to do business in this state under the provisions of this chapter, he **or she** shall, by such investigation as he **or she** may deem necessary, satisfy himself **or herself** whether the applicant may safely be permitted to do business in this state.

2. If from such investigation he **or she** shall be satisfied that it is safe and expedient to grant such application and it shall have been shown to his **or her** satisfaction that such applicant may be authorized to engage in business in this state pursuant to the provisions of this chapter and has complied with all the requirements of this chapter, he **or she** shall issue a license under his **or her** hand and official seal authorizing such applicant to carry on such business at the place designated in the license and, if such license is for a limited time, specifying the date upon which it shall expire.

3. Such license shall be executed in triplicate and the director shall transmit one copy to the applicant, file another in his **or her** own office and file the third in the [office of the recorder of the county or city in which is located the place designated in such license] **public records of the division of finance.**

4. Whenever any such license is issued for one year or less, the director may, at the expiration thereof, renew such license for one year.

362.450. 1. If at any time the director shall be satisfied that any foreign corporation to which has been issued an authorization certificate or license is violating any of the provisions of this chapter, or is conducting its business in an unauthorized or unsafe manner, or is in an unsound or unsafe condition to transact its business, or cannot with safety and expediency continue business, the director may over his **or her** official signature and seal of office notify the holder of such authorization certificate or license that the same is revoked.

2. Such notice shall be executed in triplicate and the director shall forthwith transmit one copy to the holder of such authorization certificate or license, file another in his **or her** own office and file the third in the [office of the recorder of the county or city in which such authorization certificate or license has been filed] **public records of the division of finance.**

3. The director may, in his **or her** discretion, publish a copy of such notice, with such other facts as he **or she** may deem proper, for six successive days, in a paper published at the City of Jefferson.

362.464. 1. No out-of-state bank shall be permitted to relocate its main banking house to Missouri, except in accordance with sections 362.462 to 362.464.

2. The board of directors of the out-of-state bank shall file an application with the director of the division of finance, on a form to be prescribed by the director, seeking approval of its relocation to this state. The application shall contain a certification that the relocation has been approved by at least a majority of the shareholders of the out-of-state bank.

3. The application shall contain articles of agreement executed as provided for other individuals seeking to incorporate a bank or trust company pursuant to this chapter, except that the articles of agreement:

(1) May provide that instead of the capital stock having actually been paid up in money the capital stock is to be paid up in assets of the out-of-state bank, the net value of which is equal to at least the full amount of the capital stock of the proposed resulting bank or trust company;

(2) Shall provide that the proposed resulting bank or trust company is, and shall be considered, the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting out-of-state bank although as to rights, powers and duties, the proposed resulting institution is a bank or trust company incorporated under the laws of the state of Missouri; and

(3) Shall set out the names and addresses of all persons who are to be officers of the proposed bank or trust company.

4. If the director of the division of finance, as the result of an examination and investigation made by the director, the director's deputies, or the director's examiners, is satisfied that such assets are of such value and that the character, responsibility and general fitness of the persons named in the articles of agreement are such as to command confidence and warrant belief that the business of the proposed bank or trust company will be honestly and efficiently conducted in accordance with the purpose and intent of the laws of this state relative to banks or trust companies, as the case may be, the director shall grant the charter and approve the relocation. If the director takes exception as to either or both matters, the director shall give notice of such exception to the majority of the board of directors of the converting out-of-state bank who shall have the same right of appeal as is provided by the laws of this state in the case of the proposed incorporators of a new bank or trust company.

5. Upon the approval of the relocation and conversion, the director of the division of finance shall execute and deliver to the bank or trust company the director's certificate stating that the bank or trust company named in the certificate has been duly organized and is the institution resulting from the conversion of the out-of-state bank into the resulting bank or trust company, and that the resulting bank or trust company is, and shall be considered, the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting out-of-state bank. **A certified copy of the certificate shall be [recorded in the office of the recorder of deeds of the county or city in which the resulting bank or trust company is located] filed in the public records of the division of finance** and the certificate so [recorded] **filed** or certified by copies of the certificate shall be taken in all the courts of this state as evidence of the conversion of the out-of-state bank into the resulting bank or trust company and that the resulting bank or trust company is the same business and corporate entity as, and a continuation of the corporate entity and identity of, the converting out-of-state bank.

6. When the director of the division of finance has given the director's certificate as provided in subsection 5 of this section:

(1) The resulting bank or trust company and all its stockholders, directors, officers and employees shall have the same powers and privileges and be subject to the same duties and liabilities in all respects as in the case of such institution originally organizing as a bank or trust company under the laws of this state;

(2) All the rights, franchises and interests of the converting out-of-state bank in and to every category of property, including, real, personal and mixed, and choses in action thereto belonging shall be deemed to be transferred to, and vested in, the resulting bank or trust company without any deed or other transfer; and

(3) The resulting bank or trust company by virtue of the conversion and without any order of any court or otherwise shall hold and enjoy the same and all rights of property and interests including, but not by way of limitation, appointments, designations and nominations and all other rights and interest, as trustee, personal representative, conservator, receiver, registrar, assignee and every other fiduciary capacity in the same manner and to the same extent as these rights and interests were held or enjoyed by the converting out-of-state bank at the time of its conversion into the resulting bank or trust company.

7. A bank or trust company organized under the laws of this state may, with the approval of the director of the division of finance, relocate its main banking house up to thirty miles away to a location in another state and convert its charter to a charter issued by such other state. When it has done so, and to the extent provided by the laws of such state, the resulting bank or trust company by virtue of the conversion and without any order of any court or otherwise, shall hold and enjoy the same and all rights of property and interests including, but not by way of limitation, appointments, designations and nominations and all other rights and interests, as trustee, personal representative, conservator, receiver, registrar, assignee and every other fiduciary capacity in the same manner and to the same extent as these rights and interest were held or enjoyed by the converting bank or trust company at the time of its conversion into the out-of-state bank or trust company.

362.600. 1. The term "foreign corporation", as used in this section, shall mean:

(1) Any bank or other corporation now or hereafter organized under the laws of any state of the United States other than Missouri; and

(2) Any national banking association having its principal place of business in any state of the United States other than Missouri.

2. Except as provided in subsection 5 of this section, any foreign corporation may act in this state as trustee, executor, administrator, guardian, or in any other like fiduciary capacity, without the necessity of complying with any law of this state relating to the licensing of foreign banking corporations by the director of finance or relating to the qualifications of foreign corporations to do business in this state, and notwithstanding any prohibition, limitation or restriction contained in any other law of this state, provided only that:

(1) The foreign corporation is authorized to act in this fiduciary capacity or capacities in the state in which it is incorporated, or, if the foreign corporation be a national banking association, in which it has its principal place of business; and

(2) Any bank or other corporation organized under the laws of this state or a national banking association having its principal place of business in this state may act in these fiduciary capacities in that state without further showing or qualification, other than that it is authorized to act in these fiduciary capacities in this state and compliance with any law of that state concerning service of process:

(a) Which may require the appointment of an official or other person for the receipt of process; or

(b) Which contains provisions to the effect that any bank or other corporation, which is not incorporated under the laws of that state, or if a national bank then which does not have its principal place of business in that state, acting in that state in a fiduciary capacity pursuant to provisions of law making it eligible to do so, shall be deemed to have appointed an official of that state to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the corporation has acted or is acting in that state in this fiduciary capacity, and that the acceptance of or engagement in that state in any acts in this fiduciary capacity shall be signification of its agreement that the process against it, which is so served, shall be of the same legal force and validity as though served upon it personally, or which contains any substantially similar provisions.

Any foreign corporation eligible to act in any fiduciary capacity in this state pursuant to the provisions of this section may so act whether or not a resident of this state be acting with it in this capacity, may use its corporate name in connection with such activity in this state, and may be appointed to act in this fiduciary capacity by any court having jurisdiction in the premises, all notwithstanding any provision of law to the contrary. Nothing in this section contained shall be construed to prohibit or make unlawful any activity in this state by a bank or other corporation which is not incorporated under the laws of this state, or if a national bank then which does not have its principal place of business in this state, which would be lawful in the absence of this section.

3. Except as provided in subsection 5 of this section, prior to the time when any foreign corporation acts pursuant to the authority of this section in any fiduciary capacity or capacities in this state, the foreign corporation shall file with the director of finance a written application for a certificate of reciprocity and the director of finance shall issue the certificate to the foreign corporation. The application shall state:

- (1) The correct corporate name of the foreign corporation;
- (2) The name of the state under the laws of which it is incorporated, or if the foreign corporation is a national banking association shall state that fact;
- (3) The address of its principal business office;
- (4) In what fiduciary capacity or capacities it desires to act, in the state of Missouri;
- (5) That it is authorized to act in a similar fiduciary capacity or capacities in the state in which it is incorporated, or, if it is a national banking association, in which it has its principal place of business;
- (6) That the application shall constitute the irrevocable appointment of the director of finance of Missouri as its true and lawful attorney to receive service of all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the foreign corporation may act in this state in the fiduciary capacity pursuant to the certificate of reciprocity applied for.

The application shall be verified by an officer of the foreign corporation, and there shall be filed with it such certificates of public officials and copies of documents certified by public officials as may be necessary to show that the foreign corporation is authorized to act in a fiduciary capacity or capacities similar to those in which it desires to act in the state of Missouri, in the state in which it is incorporated, or, if it is a national banking association in which it has its principal place of business. The director of finance shall, thereupon, if the foreign corporation is one which may act in the fiduciary capacity or capacities as provided in subsection 2 of this section, issue to the corporation a certificate of reciprocity, retaining a duplicate thereof together with the application and accompanying documents in his **or her** office. The certificate of reciprocity shall recite and certify that the foreign corporation is eligible to act in this state

pursuant to this section and shall recite the fiduciary capacity or capacities in which the foreign corporation is eligible so to act.

4. A certificate of reciprocity issued to any foreign corporation shall remain in effect until the foreign corporation shall cease to be entitled under subsection 2 of this section to act in this state in the fiduciary capacity or capacities covered by the certificate, and thereafter until revoked by the director of finance. If at any time the foreign corporation shall cease to be entitled under subsection 2 of this section to act in this state in the fiduciary capacity or capacities covered by the certificate, the director of finance shall revoke the certificate and give written notice of the revocation to the foreign corporation. No revocation of any certificate of reciprocity shall affect the right of the foreign corporation to continue to act in this state in a fiduciary capacity in estates or matters in which it has theretofore begun to act in a fiduciary capacity pursuant to the certificate.

5. A foreign corporation shall not establish or maintain in this state a place of business, branch office or agency for the conduct in this state of business as a fiduciary unless:

(1) The foreign corporation is under the control of a Missouri bank or a Missouri bank holding company, as these terms are defined in section 362.925, and the foreign corporation has complied with the requirements relating to the qualifications of foreign corporations to do business in this state; [or]

(2) The foreign corporation is a bank, trust company or national banking association in good standing that possesses fiduciary powers from its chartering authority and is the surviving corporation to a merger or consolidation with a national banking association located in Missouri or a Missouri bank or trust company. The provisions of this subdivision are enacted to implement subsection 2 of this section and section 362.610, and the provisions of Title 12, U.S.C. 36(f)(2) of the National Bank Act; **or**

(3) The foreign corporation is a state chartered bank, savings and loan association, trust company or national banking association in good standing that possesses fiduciary powers and has received a certificate of reciprocity, in which case it may only open a trust representative office in Missouri which is not otherwise a branch of such foreign corporation, provided a bank, savings and loan association or trust company chartered under the laws of Missouri and a national bank with its principal location in Missouri, all with fiduciary powers, are permitted to open and operate a trust representative office under the same or less restrictive conditions in the state in which the foreign corporation is organized or has its principal office.

6. A foreign corporation, insofar as it acts in a fiduciary capacity in this state pursuant to the provisions of this section, shall not be deemed to be transacting business in this state, if the foreign corporation does not establish or maintain in this state a place of business, branch office, or agency for the conduct in this state of business as a fiduciary.

7. Every foreign corporation to which a certificate of reciprocity shall have been issued shall be deemed to have appointed the director of finance to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the foreign corporation acts in this state in any fiduciary capacity pursuant to the certificate of reciprocity. Service of the process shall be made by delivering a copy of the summons or other process, with a copy of the petition when service of the copy is required by law, together with a remittance of one dollar (to be taxed as costs in the action or proceeding), to the director of finance or to any person in his **or her** office authorized by him to receive the service. The director of finance shall immediately forward the process, together with the copy of the petition, if any, to the foreign corporation, by registered mail, addressed to it at the address on file with the director, or if there be none on file then at its last known address. The director of finance shall keep a permanent record in his **or her** office showing for all process served, the style of the action or proceeding, the court in which it was brought, the name and

title of the officer serving the process, the day and hour of service, and the day of mailing by registered mail to the foreign corporation and the address to which mailed. In case the process is issued by an associate circuit judge, the same may be directed to and served by any officer authorized to serve process in the city or county where the director of finance shall have his **or her** office, at least fifteen days before the return thereof.

362.680. 1. In case of approval by the finance director, the agreement, except as provided in subsection 3 of this section, shall within sixty days after the date of the approval be submitted to the stockholders of each bank and trust company which is a party to the merger or consolidation.

2. The meeting of the stockholders of each bank and trust company for the purpose shall be called upon notice given as provided in section 362.044.

3. In the event that the director of the division of finance determines that one of the banks which is a party to the merger is in imminent danger of failing and that the merger is necessary to prevent such failure, or that one of the banks which is a party to the merger was formed to take over assets and liabilities of a failed bank, or that the parties to the merger are wholly owned by a bank holding company, he or she shall issue an order to such effect and the merger shall take effect immediately upon the issuance of his or her order approving the merger. In such a case, the agreement of merger, along with a copy of the order of the director of the division of finance approving the merger, shall be filed in the [office of the recorder of deeds in the county or counties in which the respective banks are located] **public records of the division of finance**. No stockholders' meeting need be held but any stockholder of either bank shall be entitled to exercise the right of a dissenting stockholder pursuant to section 362.730.

362.700. 1. If the agreement is so approved and ratified by the stockholders of each of the respective banks and trust companies, then in case the agreement provides for a merger, a copy of the minutes of the respective stockholders' meetings at which the agreement is approved, with a copy of the agreement and the director's approval thereof, all certified and verified by the respective secretaries of the meetings, shall be filed in the [office of the director] **public records of the division of finance**, and a like copy of the minutes, agreement and approval shall be filed with the cashier or secretary of each of the banks and trust companies which are parties to the agreement[, and a like copy of the minutes, agreement and approval, together with an affidavit of the cashier or secretary of the receiving corporation in the merger, showing the filing of the copies with the director, as herein provided, and also the filing of the copies with the cashier or secretary of each of the banks and trust companies which are parties to the agreement shall be filed for record and recorded in the office of the recorder of deeds of each county wherein is located the place of business of each bank and trust company which is party to the agreement, it being understood that the city of St. Louis shall be considered as a county in regard to the filing and recording of the copies].

2. Upon the filing for record of the copies as herein required to be filed [for record in the office of the recorder of deeds], the agreement and merger shall become effective according to its terms.

362.710. 1. If the agreement is approved and ratified by the stockholders of the respective banks and trust companies, then in case the agreement provides for a consolidation of the banks and trust companies which are parties thereto, a copy of the minutes of the proceedings of the respective stockholders' meetings at which the agreement is approved, with a copy of the agreement and the finance director's approval thereof, all certified and verified by the respective secretaries of the meetings, shall be filed in the [office of the director] **public records of the division of finance** and a like copy of the minutes, agreement and approval shall be filed with the cashier or secretary of each of the banks and trust companies **party** to the agreement[, and a like copy of the minutes, agreement and approval, together with an affidavit of the cashier or secretary of one of the consolidating banks or trust companies, showing the filing of the copies with the director, as herein provided, and also the filing of the copies with the cashier or secretary of each of the banks and trust companies party to the consolidating agreement, as herein provided, shall be filed for

record and recorded in the office of the recorder of deeds in each county wherein is located the place of business of each bank and trust company which is a party to the agreement. The city of St. Louis shall be considered as a county so far as the filing for record in the office of the recorder of deeds of the copies is concerned].

2. Upon the filing [for record in the office of the recorder of deeds] **in the public records of the division of finance** of a copy of the agreement with the approval of the director, and the proceedings above prescribed, the agreement for the consolidation of the banks and trust companies which are parties thereto shall take effect according to its terms and the consolidation shall thereupon be complete; provided, the legal fees for the incorporation of the consolidated banks or trust companies are paid to the director, the same as if a new corporation were organized for the same amount of capital authorized for the consolidated company.

362.730. 1. If any merger or consolidation takes effect [under] **pursuant to** the provisions of sections 362.610 to 362.810, **or in the event of a reverse stock split pursuant to the provisions of section 362.325 which results in the elimination of the stock ownership of a holder**, then the holder of any stock, with or without voting rights, of any corporation which is a party to the agreement **in case of merger or consolidation, or of a corporation which has effected a reverse stock split, who dissents by** not voting in favor of the agreement to merge or consolidate at the stockholders' meeting aforesaid **or for the reverse stock split** shall be entitled to receive from the [receiving] **surviving** corporation, [in case of a merger or from the consolidated corporation in case of a consolidation,] the reasonable value of his **or her** stock at the time of the merger [or], consolidation **or reverse stock split**, which value shall be determined in the following manner:

(1) Within sixty days after the taking effect of the merger [or], consolidation **or reverse stock split**, the dissenting stockholder may apply to the circuit court of the county wherein the principal place of business of the [receiving] **surviving** corporation[, in case of a merger, or the consolidated corporation, in case of a consolidation,] is located, by petition for the appointment of appraisers to value his **or her** stock **in existence at the time of the merger, consolidation or reverse stock split**;

(2) At any time during the above named sixty days any other dissenting stockholder or stockholders[, in any corporation which is a party to the agreement,] **meeting the requirements of this subsection** may file his **or her** or their petition in the court wherein the proceeding is pending for the determination of the value of their respective shares of stock affected by the merger [or], consolidation **or reverse stock split**;

(3) Any stockholder who does not become a party to such proceeding within the time herein prescribed shall be conclusively presumed to have assented to the merger or consolidation and shall be bound thereby as fully and as firmly as if he **or she** had voted therefor. **The remedy provided pursuant to the provisions of this section shall be the exclusive remedy for any dissenting shareholder unless fraud is involved.**

2. Within five days after the expiration of the period of sixty days, the court wherein the proceeding is pending shall issue an order in which it shall fix the time and place of the hearing under the petition or petitions then pending, which shall not be more than twenty days after the issuance of the order. The court shall cause to be served upon each party, or his **or her** attorney of record, at least ten days before the hearing, a copy of the order fixing the time and place of hearing. The hearing shall be before the court, and at the hearing the court shall cause all petitions filed in the cause to be consolidated, and if the court finds that each of the parties to the proceedings has been notified of the time and place of hearing at least ten days before the hearing, then the court shall appoint three disinterested [householders of the county in which the proceeding is pending] **persons whom the court determines are qualified to appraise bank stock**, not related to either of the parties to the proceeding, as appraisers to ascertain and determine the value of the shares of stock of the dissenting stockholders, and upon the appointment, the court shall fix the

time and place of the first meeting of the appraisers; each of the appraisers shall qualify by taking and subscribing an oath that he **or she** will faithfully and impartially discharge the duties imposed upon him and will render a true appraisal of the value of the stock of the dissenting stockholders in the proceeding. Should any appraiser fail to qualify or serve, the court shall, by an order duly entered, fill such vacancy.

362.740. **1.** The appraisers so appointed and qualified shall meet at the time and place so designated by the court or judge, and shall proceed to ascertain and determine the reasonable cash value of the shares of stock of the respective dissenting stockholders at the time of the merger or consolidation. For this purpose each of the appraisers may administer oaths and the appraisers may hear testimony offered by any party to the proceeding. At the conclusion of the hearing the appraisers shall forthwith determine the value of the shares of stock of each of the dissenting stockholders to the proceeding **which shall not be less than the current book value of said stock.** The concurrence of at least two of the appraisers shall be necessary to constitute a finding by the appraisers. The report of the appraisers shall be in writing, signed and acknowledged by at least two of them, and filed with the clerk of the court in which the proceeding is pending, together with their qualifying affidavits. The court may fix the compensation to be awarded appraisers, which compensation shall be taxed as costs in the case. The clerk of the court shall, upon the filing of the award or finding by the appraisers, notify each of the

parties or their attorneys of record of the filing of the report.

2. To determine the reasonable value of the stock at the time of the merger, consolidation or reverse stock split, such appraisers shall value such stock to include consideration of a minority discount to reflect that these minority shareholders' lack of control over corporate decision making and a marketability discount to reflect the fact that a ready market does not exist for such stock, except as otherwise provided in this section.

362.750. Within twenty days after the filing of the appraisal, exceptions in writing may be filed thereto by any party interested. If exceptions are so filed the court shall review the appraisal and may order, on good cause shown, a new appraisal by other appraisers, or the court may hear evidence touching matters in controversy and take an accounting to ascertain and determine the value of the shares and may make the order that justice, equity and right require. If no exceptions are filed to the report of the appraisers, the court shall enter final judgment approving the report. If any of the orders herein provided for are made in vacation, the vacation orders shall be considered and confirmed by the court. In its judgment the court shall ascertain and determine the value of the shares of stock of the merging bank, banks, trust company or trust companies [or], of the consolidating banks or trust companies, **or of the bank or trust company in a reverse stock split** at the time of the merger [or], consolidation **or reverse stock split.** When the receiving bank or trust company under the merger [or], the consolidated bank or trust company under the consolidation **or the bank or trust company in a reverse stock split** has paid the value of the stock as determined by the court, the stock shall be surrendered and the stockholder shall cease to have any interest in the stock or in the corporate property of the corporation [and the stock may be held and disposed of by the corporation for its own benefit] **and the corporation shall not hold such stock as treasury stock.**

365.020. Unless otherwise clearly indicated by the context, the following words and phrases have the meanings indicated:

(1) "Cash sale price", the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if the sale had been a sale for cash or at a cash price instead of a retail installment transaction at a time sale price. The cash sale price may include any taxes, registration, certificate of title, license and other fees and charges for accessories and their installment and for delivery, servicing, repairing or improving the motor vehicle;

- (2) "Director", the office of the director of the division of finance;
- (3) "Holder" of a retail installment contract, the retail seller of the motor vehicle under the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;
- (4) "Insurance company", any form of lawfully authorized insurer in this state;
- (5) "Motor vehicle", any new or used automobile, mobile home, motorcycle, **all-terrain vehicle, motorized bicycle, moped, motortricycle**, truck, trailer, semitrailer, truck tractor, or bus having a cash sale price of seven thousand five hundred dollars or less primarily designed or used to transport persons or property on a public highway, road or street;
- (6) "Official fees", the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction;
- (7) "Person", an individual, partnership, corporation, association, and any other group however organized;
- (8) "Principal balance", the cash sale price of the motor vehicle which is the subject matter of the retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits, including any amounts paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien, or lease interest on property traded in and official fees, minus the amount of the buyer's down payment in money or goods. Notwithstanding any law to the contrary, any amount actually paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien or lease on property traded in which was included in a contract prior to August 28, 1999, is valid and legal;
- (9) "Retail buyer" or "buyer", a person who buys a motor vehicle from a retail seller in a retail installment transaction under a retail installment contract;
- (10) "Retail installment contract" or "contract", an agreement evidencing a retail installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle, which is the subject matter of the retail installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a chattel mortgage or a conditional sales contract;
- (11) "Retail installment transaction", a sale of a motor vehicle by a retail seller to a retail buyer on time under a retail installment contract for a time sale price payable in one or more deferred installments;
- (12) "Retail seller" or "seller", a person who sells a motor vehicle, not principally for resale, to a retail buyer under a retail installment contract;
- (13) "Sales finance company", a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, loan and investment company, savings and loan association, financing institution, or registrant pursuant to sections 367.100 to 367.200, RSMo, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated or successive purchases of retail installment contracts from the same seller;
- (14) "Time price differential", the amount, however denominated or expressed, as limited by section 365.120, in addition to the principal balance to be paid by the buyer for the privilege of purchasing the motor vehicle on time to be paid for by the buyer in one or more deferred installments;

(15) "Time sale price", the total of the cash sale price of the motor vehicle and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and time price differential.

369.219. An association may invest in the following securities:

(1) Obligations of, or obligations fully guaranteed as to principal and interest by, the United States or the state of Missouri;

(2) Stock or obligations of any Office of Thrift Supervision or any successor thereto, of the Federal Deposit Insurance Corporation or any successor thereto, of the Federal National Mortgage Association, of the Government National Mortgage Association, of the Federal Home Loan Mortgage Corporation, **the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Banks** or of any corporation or agency of the United States or of this state succeeding any of such corporations or performing similar functions;

(3) Demand, time, or savings deposits, or accounts of any state or federally chartered financial institution, but such deposits or accounts in institutions not insured by a federal agency shall be limited to amounts permitted by regulation of the director of the division of finance;

(4) Stock of a not for profit industrial or community development corporation established for the general welfare of the area but not in excess of a total investment of one-half of one percent of its assets;

(5) Obligations of any city, county, town, school district or other political subdivisions of any state including any agency, corporation, or instrumentality of a state or political subdivision in an amount to any one issuer not greater than ten percent of the capital of the association exclusive of investments in general obligations of any issuer, but each such investment shall, when made, meet any requirements as to quality which the director of the division of finance may prescribe; provided, that any obligations of a political subdivision of any state, including an agency, corporation or instrumentality of a political subdivision may be purchased without regard to such quality requirements in an aggregate amount not exceeding an additional one percent of the association's assets if the association's home office, branch office or agency is located in such county;

(6) Capital stock obligations or other securities of any service corporation, as defined by the director of the division of finance, organized under the laws of any state in which all stock is owned by one or more associations or federal associations in an aggregate amount not exceeding that percent of the assets of the association fixed from time to time by the director of the division of finance; and

(7) Such other securities and in such amounts as may be approved from time to time by the director of the division of finance, and any securities purchased while so approved may be retained if the approval is later withdrawn.

369.371. 1. Any person requesting association records by subpoena in a civil court case shall reimburse the association fifteen dollars plus a fee of thirty-five cents per page for researching the records and copying or reproduction of such records.

2. If the requesting party provides the association a written affidavit, signed by all parties to whom the records pertain, granting permission to release the records at least fourteen days prior to the date scheduled for a records deposition, then the association may mail the records to the requesting party with a business records affidavit in lieu of an association officer appearing at a deposition. If an association officer must appear in court or at a records deposition in response to a subpoena, the

requesting party shall be responsible for the association's reasonable expenses incurred for appearing in court or at a deposition.

3. A court may assess as costs against any party the expenses incurred and paid to an association for records produced or appearances in the civil action.

4. An association shall have no liability to an account holder for disclosing records in reliance on an affidavit to it in accordance with this section.

375.017. 1. (1) The director shall not assess a greater fee for an insurance license or related service to a person not residing in the state based solely on the fact that the person does not reside in this state.

(2) The director shall waive any license application requirements for a nonresident license applicant with a valid license from his or her home state, except the requirements imposed by subsection 2 of this section, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

(3) A nonresident licensee's satisfaction of his or her home state's continuing education requirements for licensees shall constitute satisfaction of this state's continuing education requirements if the nonresident licensee's home state recognizes the satisfaction of its continuing education requirement imposed upon licensees from this state on the same basis. This section shall also apply to surplus line licensees licensed pursuant to chapter 384, RSMo.

2. (1) Unless denied pursuant to section 375.141, a nonresident person shall receive a nonresident agent or broker's license if:

(a) The person is currently licensed for the same line of authority as a resident and in good standing in his or her home state;

(b) The person has submitted the proper request for licensure and has paid the fees required by law;

(c) The person has submitted or transmitted to the director the application for licensure that the person submitted to his or her home state, or in lieu of the same, a completed uniform application; and

(d) The person's home state awards nonresident licenses to residents of this state on the same basis.

(2) Notwithstanding any other provision of sections 375.012 to 375.146, a person licensed as a surplus licensee in his or her home state shall receive a nonresident surplus lines license pursuant to subdivision (1) of this subsection. Except as provided in subdivision (1) of this subsection, nothing in this subsection otherwise amends or supercedes any provision of chapter 384, RSMo.

(3) Notwithstanding any other provision of sections 375.012 to 375.146, a person licensed as a limited line credit insurance or other type of limited lines licensee in his or her home state shall receive a nonresident limited lines license, pursuant to subdivision (1) of this subsection, granting the same scope of authority as granted under the license issued by licensee's home state.

3. An individual who applies for an agent or broker's license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete any

prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in the state or the state's licensee database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries, indicate that the licensee was licensed in good standing for the line of authority requested.

4. Subsections 1 to 3 of this section do not apply to excess and surplus licensees licensed pursuant to chapter 384, RSMo, except as provided in subdivision (3) of subsection 1 and subsection 2 of this section.

5. Any bank or trust company in their sale or issuance of insurance products or services, as authorized pursuant to section 362.105, RSMo, shall be subject to the insurance laws of this state and rules adopted by the department of insurance.

[375.017. 1. A person not a legal resident of this state may be licensed to act in this state as an agent upon compliance with the provisions of this chapter provided that the state in which the person resides will accord the same privilege to a resident of this state. The director is authorized to enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant residing in the other state; provided, the director deems the applicant fully qualified and competent; and

(1) That a written examination is required of applicants for similar licenses in the other state; and

(2) That the appropriate official in that state certifies that the applicant holds a currently valid license as broker or agent in that state and either passed a written examination or was the holder of a license prior to the time a written examination was required.

2. In the event that the applicant is a resident of a state which does not require a written examination, then the director shall subject him to a written examination under terms and conditions to be prescribed by the director of insurance.

3. In the event that the applicant is a resident of another state in which the appropriate insurance official, as a general policy, has refused to permit legal residents of Missouri to become licensed as agents and to transact the business of insurance in such state, then the director shall not license any applicant from that state.]375.022. 1. Every insurance company authorized to provide or transact insurance in this state shall, within thirty working days of an appointment of an agent to act for such insurance company, notify the director of such appointment upon forms prescribed by the director. Each appointment will result in a ten-dollar fee. The company shall remit these fees to the department of insurance on a quarterly basis. Such appointments may be made by appointing individual agents or by designating a licensed agency **or a licensed organizational credit agency**. The designation of an agency **or an organizational credit agency** shall be deemed to appoint all agents listed by such agency **or listed as employees of such organizational credit agency** pursuant to section 375.061 **or section 375.065** to act for the insurance company in the lines for which the agent is licensed and the agency is designated. Any additional agents listed by the agency **or additional agents listed by the organizational credit agency** pursuant to section 375.061 **or section 375.065** after the designation of the agency **or the organizational credit agency**, shall be deemed appointed for all companies with existing designations of the agency **or the organizational credit agency**. The appointment of an agent pursuant to the provisions of this subsection shall terminate upon the agent's termination by or resignation from the agency **or the organizational credit agency**, upon termination of the agency **or the organizational credit agency** by the insurance company, or upon nonrenewal, suspension, surrender or revocation of the agent's license. Every such insurance company shall notify the director within thirty working days of the termination of the appointment of any agent

whether the termination is by action of the company or resignation of the agent. Each termination will result in a ten-dollar fee. When the cause of termination is for a reason that, pursuant to the provisions of section 375.141, would permit the director to revoke, suspend or refuse to issue an agent's license, the notice shall state the cause and circumstances of the termination. The notice shall be filed promptly after termination and within such time as may be prescribed by an appropriate order or regulation of the director of the department of insurance. The director may prescribe the form upon which the notification is to be given. The director shall upon written request by the agent furnish to him or her a copy of all information obtained pursuant to this section.

2. Any information filed by an insurance company or obtained by the director pursuant to this section and any document, record or statement required by the director pursuant to the provisions of this section shall be deemed confidential and absolutely privileged. There shall be no liability on the part of, and no cause of action shall arise against, any insurer, its agents or its authorized investigative sources or the director or the director's authorized representatives in connection with any written notice required by this section made by them in good faith.

375.065. 1. Notwithstanding any other provision of this chapter, the director may license credit insurance agents by issuing individual licenses to such agents or by issuing an organizational credit agency license to a resident or nonresident applicant who has complied with the requirements of this section. An organizational credit agency license authorizes the licensee's employees who are at least eighteen years of age, acting on behalf of and supervised by the licensee and whose compensation is not primarily paid on a commission basis to act as agents for the following types of insurance:

- (1) Credit life insurance;**
- (2) Credit accident and health insurance;**
- (3) Credit property insurance;**
- (4) Credit involuntary unemployment insurance;**
- (5) Any other form of credit or credit related insurance approved by the director.**

2. To obtain an organizational credit agency license, an applicant shall submit to the director an application in a form prescribed by the director along with a fee of one hundred dollars. All applications shall include the following information:

(1) The name of the agency, the business address or addresses of the agency and the type of ownership of the agency. If an agency is a partnership or unincorporated association, the application shall contain the name and address of every person or corporation having a financial interest in or owning any part of such agency. If an agency is a corporation, the application shall contain the names and addresses of all officers and directors of the corporation. If the agency is a limited liability company, the application shall contain the names and addresses of all members and officers of the limited liability company;

(2) A list of all persons employed by the agency and to whom the agency pays any salary or commission for the solicitation or negotiation of any contracts of credit life, credit accident and health, credit involuntary unemployment, credit leave of absence, credit property or any other form of credit or credit related insurance approved by the director.

3. An organizational credit agency authorized pursuant to this section shall be deemed a licensed agency for the purposes of subsection 1 of section 375.061 and section 375.141. All persons included

on the list referenced in subdivision (2) of subsection 2 of this section shall be deemed licensed agents pursuant to the provision of section 375.016 for the authorized lines of credit insurance, and shall be deemed licensed agents for the purposes of section 375.141, notwithstanding the fact that individual licenses are not issued to those persons included on such list.

4. Upon receipt of a completed application and payment of the requisite fees, the director, if satisfied that an applicant organizational credit agency has complied with all license requirements contained in this section, shall issue the applicant an organizational credit agency license which shall remain in effect for one year or until suspended or revoked by the director, or until the agency ceases to operate as a legal entity in this state. Each organizational credit agency shall renew its license annually, on or before the anniversary date of the original issuance of the license, by:

(1) Paying a renewal fee of fifty dollars;

(2) Providing the director a list of all employees soliciting, negotiating and procuring credit insurance, and paying a fee of eighteen dollars per each such employee.

5. Licenses which are not timely renewed shall expire thirty days after the anniversary date of the original issuance. The director shall assess a penalty of twenty-five dollars per month if a formerly licensed credit agency operates as such without a current license.

6. Notwithstanding any other provision of law to the contrary, this section shall not be construed to prohibit an insurance company from paying a commission or providing another form of remuneration to a duly licensed organizational credit agency.

7. The director shall have the power to promulgate such rules and regulations as are necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[375.126. A person not a legal resident of this state may be licensed to act in this state as a broker upon compliance with the provisions of this chapter; provided that the state in which the person resides will accord the same privilege to a resident of this state; provided that a written examination is required of applicants for similar licenses in the other state and that the appropriate official in that state certifies that the applicant holds a currently valid license as broker or agent in that state and either passed a written examination or was the holder of a license prior to the time a written examination was required.]

375.347. Securities and other related assets not exclusively controlled by an insurance company shall only be held by banks, trust companies, or securities depositories that are members of or regulated by the Securities and Exchange Commission, the Federal Reserve System or the appropriate bank regulatory authority.

376.350. 1. It shall be the duty of the president or vice president and secretary or actuary, or a majority of the directors, of every life assurance company organized [under] **pursuant to** sections 376.010 to 376.670 or [under] **pursuant to** the laws of this state, or any such company incorporated by or organized [under] **pursuant to** the laws of the United States or any other state, and doing business in this state, annually, on the first day of January, or within sixty days thereafter, to prepare under oath, and deposit in the office of the director of the insurance department, a statement made up for the year ending the thirty-first day of December next preceding, showing:

(1) The number of policies issued during the year;

(2) The amount of assurance effected thereby;

- (3) The amount of premiums received during the year;
- (4) The amount received for interest, and all other receipts during the year, classifying the items;
- (5) The amount of losses paid during the year;
- (6) The amount of losses unpaid, giving the reason for such nonpayment;
- (7) The amount of expenses, classifying the items;
- (8) The whole number of policies in force, specifying the description;
- (9) The amount of liabilities or risks thereon, and of all other liabilities;
- (10) The amount of capital stock and how invested;
- (11) The amount of assets other than capital, specifying the particular sources from whence they have been derived, and the manner in which they are invested, and what amount is invested in real estate, in stocks, promissory notes and other securities, and what amount is loaned on bonds and mortgages, or deeds of trust, stocks, policies of the company and other securities, specifying the kinds and amounts;
- (12) The amount of dividend declared to stockholders and policyholders, respectively, and how much remains unpaid; and
- (13) A statement of any other facts or information concerning the affairs of said company which may be required by the director.

2. Notwithstanding any other provision of law to the contrary, information regarding compensation of any employee or officer contained within a statement required to be filed pursuant to this section shall not be subject to disclosure to any person other than employees of the department.

379.105. **1.** It shall be the duty of the president or vice president and secretary or a majority of the directors of every insurance company organized [under] **pursuant to** sections 379.010 to 379.160, or the laws of this state, or of the United States or any other state of the United States, doing the business mentioned in section 379.010 annually, on the first day of January, or within sixty days thereafter, to prepare under oath and deposit in the office of the director of the insurance department a statement made up for the year ending the thirty-first day of December next preceding, showing:

- (1) The amount of capital stock of the company, if it be a joint stock company, or if it be a mutual company, the amount of the face of the premium notes held by it, and the amount thereof remaining unpaid, specifying the amount constituting liens on property, and the amount of guarantee fund, if the company has such fund;
- (2) The property or assets held by the company, specifying:
 - (a) The value of the real estate held by such company;
 - (b) The amount of cash on hand or deposited in banks to the credit of the company, specifying in what banks the same is deposited;
 - (c) The amount of cash in the hands of agents, and in the course of transmission;

- (d) The amount of loans secured by bonds and mortgages or by deeds of trust;
- (e) The amount of notes and bills receivable, matured and remaining unpaid;
- (f) The amount of notes and bills receivable maturing;
- (g) The amount of other securities held by the company specifying what they are and their cash value;
- (h) The amount of debts considered bad or doubtful;
- (3) The liabilities of the company, as follows:
 - (a) The amount due or to become due to banks or other creditors;
 - (b) Losses adjusted and due;
 - (c) Losses adjusted and not due;
 - (d) Losses unadjusted and in suspense and awaiting further proofs;
 - (e) Premium reserved or amount required to safely reinsure all outstanding risks, to be estimated by taking fifty percent of the gross premiums on all unexpired fire risks that have less than one year to run, and a pro rata of all gross premiums on risks that have more than one year to run, with fifty percent of the gross premiums on all unexpired inland navigation risks, and the whole amount of the gross premiums on all unexpired marine risks, and a pro rata of all gross premiums on all other risks;
 - (f) All other claims against the company;
- (4) Greatest amount insured in any one risk;
- (5) The number of agents employed in this state or other states;
- (6) The amount of outstanding risks and gross premiums received and receivable thereon at the date of each statement;
- (7) The amount of receipts from all sources, and amount of expenditures for all purposes, including dividends for the last fiscal year preceding the date of the statement; and
- (8) A statement of any other facts or information concerning the affairs of said company which may be required by the director.

2. Notwithstanding any other provision of law to the contrary, information regarding compensation of any employee or officer contained within a statement required to be filed pursuant to this section shall not be subject to disclosure to any person other than employees of the department.

400.3-312. (a) In this section the following shall mean:

- (1) "Check", a cashier's check, teller's check, or certified check;
- (2) "Claimant", a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen;

(3) "Declaration of loss", a written statement, made under penalty of perjury, to the effect that: (i) the declarer lost possession of a check; (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check; (iii) the loss of possession was not the result of a transfer by the declarer [of] **or** a lawful seizure; and (iv) the declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process;

(4) "Obligated bank", the issuer of a cashier's check or teller's check or the acceptor of a certified check.

(b) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if: (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check; (ii) the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check; (iii) the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid; and (iv) the claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statement made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

(1) The claim becomes enforceable at the later of: (i) the time the claim is asserted; or (ii) the ninetieth day following the date of the check, in the case of a cashier's check or teller's check, or the ninetieth day following the date of the acceptance, in the case of a certified check;

(2) Until the claim becomes enforceable it has no legal effect and the obligated bank may pay the check or, in the case of teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check;

(3) If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check;

(4) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to section 400.4-302(a)(1), payment to the claimant discharges all liability of the obligated bank with respect to the check.

(c) If the obligated bank pays the amount of a check to a claimant under subsection (b)(4) and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to: (i) refund the payment to the obligated bank if the check is paid; or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

(d) If a claimant has the right to assert a claim under subsection (b) and is also a person entitled to enforce a cashier's check, teller's check, or certified check that is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or section 400.3-309.

407.125. The provisions of this chapter shall not bar the commissioner of securities from administering the provisions of chapter 409, RSMo.

407.2000. 1. For the purposes of sections 407.2000 to 407.2021, "business opportunity" means the sale or lease of any product, equipment, supplies or services which are sold or leased to a purchaser to enable the purchaser to start a business for which the purchaser is required to pay an initial fee or sum of money in excess of five hundred dollars to the seller, and in which the seller represents:

(1) That the seller or a person or entity affiliated with, or referred by, the seller will provide locations, or assist the purchaser in finding locations, for the use or operation of vending machines, racks, display cases or other similar devices or currency-operated amusement machines or devices on premises neither owned nor leased by the purchaser or the sellers;

(2) That the promoter or its affiliate or designee will refund all or a substantial part of the purchaser's initial payment if the purchaser is unsuccessful or dissatisfied with the business opportunity;

(3) That the seller guarantees in writing that the purchaser will derive income from the business opportunity which exceeds the price paid or rent charged for the business opportunity or that the seller will refund all or part of the price paid or rent charged for the business opportunity or will repurchase any of the products, equipment, supplies or chattels supplied by the seller, if the purchaser is not satisfied with the business opportunity; or

(4) That the business opportunity is free from risk or certain to produce profits, which representation may arise from all of the assurances taken as a whole.

2. For purposes of subsection 1 of this section the term "assist the purchaser in finding locations", includes, but is not limited to, supplying the purchaser with names of locator companies, contracting with the purchaser to provide assistance or supply names or collecting a fee on behalf of or for a locator company.

3. For purposes of sections 407.2000 to 407.2021, "business opportunity" does not include:

(1) The sale of ongoing businesses when the owner of those businesses sells and intends to sell only those business opportunities so long as those business opportunities to be sold are no more than five in number; or

(2) The not-for-profit sale of sales demonstration equipment, materials or samples for a price that does not exceed five hundred dollars or any sales training course offered by the seller, the cost of which does not exceed five hundred dollars.

4. For purposes of sections 407.2000 to 407.2021, "purchaser" shall include a lessee and "seller" shall include a lessor.

407.2015. 1. A business opportunity seller shall not:

(1) Misrepresent, by failure to disclose or otherwise, the known required total investment for such business opportunity;

(2) Misrepresent or fail to disclose efforts to sell or establish more franchises or distributorships than it is reasonable to expect the market or market area for the particular business opportunity to sustain;

(3) Misrepresent the quantity or the quality of the products to be sold or distributed through the business opportunity;

(4) Misrepresent the training and management assistance available to the business opportunity purchaser;

- (5) Misrepresent the amount of profits, net or gross, which the franchisee can expect from the operation of the business opportunity;**
- (6) Misrepresent, by failure to disclose or otherwise, the termination, transfer or renewal provision of a business opportunity agreement;**
- (7) Falsely claim or imply that a primary marketer or trademark of products or services sponsors or participates directly or indirectly in the business opportunity;**
- (8) Assign a so-called exclusive territory encompassing the same area to more than one business opportunity purchaser;**
- (9) Provide machines or display of a brand or kind substantially different from and inferior to those promised by the business opportunity seller;**
- (10) Fail to provide the purchaser a written contract;**
- (11) Misrepresent the seller's ability or the ability of a person or entity providing services as defined in subdivision (1) of subsection 1 of section 407.2000 to provide locations or assist the purchaser in finding locations expected to have a positive impact on the success of the business opportunity;**
- (12) Misrepresent a material fact or create a false or misleading impression in the sale of a business opportunity.**

2. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

407.2021. 1. If a business opportunity seller uses untrue or misleading statements in the sale of a business opportunity, fails to give the proper disclosures, or fails to deliver the equipment, supplies or products necessary to begin substantial operation of the business within forty-five days of the delivery date stated in the business opportunity contract, the purchaser may, within one year of the date of the execution of the contract and upon written notice to the seller, rescind the contract and the purchaser shall be entitled to receive from the business opportunity seller all sums paid to the business seller. Upon receipt of such sums, the purchaser shall make available to the seller at the purchaser's address, or at the places at which the purchaser is located at the time notice is given, all products, equipment or supplies received by the purchaser. The purchaser shall not be entitled to unjust enrichment by exercising the remedies provided in this subsection.

2. Any purchaser injured by a violation of sections 407.2000 to 407.2021 or by the business opportunity seller's breach of a contract subject to sections 407.2000 to 407.2021 or any obligation arising therefrom, may bring an action for recovery of damages, including reasonable attorney's fees.

3. Upon complaint of any person that a business opportunity seller has violated the provisions of sections 407.2000 to 407.2021, the circuit court shall have jurisdiction to enjoin the defendant from any further violations.

4. The remedies provided in this section shall be in addition to any other remedies provided by law or in equity.

408.052. 1. No lender shall charge, require or receive, on any residential real estate loan, any points or other fees of any nature whatsoever, excepting insurance, including insurance for involuntary

unemployment coverage, and a one percent origination fee, whether from the buyer or the seller or any other person, except that the lender may charge bona fide expenses paid by the lender to any other person or entity except to an officer, employee, or director of the lender or to any business in which any officer, employee or director of the lender owns any substantial interest for services actually performed in connection with a loan. In addition to the foregoing, if the loan is for the construction, repair, or improvement of residential real estate, the lender may charge a fee not to exceed one percent of the loan amount for inspection and disbursement of the proceeds of the loan to third parties. Notwithstanding the foregoing, the parties may contract for a default charge for any installment not paid in full within fifteen days of its scheduled due date. The restrictions of this section shall not apply (1) to any loan which is insured or covered by guarantee made by any department, board, bureau, commission, agency or establishment of the United States, pursuant to the authority of any act of Congress heretofore or hereafter adopted; and (2) to any loan for which an offer or commitment or agreement to purchase has been received from and which is made with the intention of reselling such loan to the Federal Housing Administration, Farmers Home Administration, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or to any successor to the above mentioned organizations, to any other state or federal governmental or quasi-governmental organization; and (3) provided that the 1994 reenactment of this section shall not be construed to be action taken in accordance with Public Law 96-221, Section 501(b)(4). Any points or fees received in excess of those permitted under this section shall be returned to the person from whom received upon demand.

2. Notwithstanding the language in subsection 1 **of this section**, a lender may pay to an officer, employee or director of the lender, or to any business in which such person has an interest, bona fide fees for services actually and necessarily performed in good faith in connection with a residential real estate loan, provided:

(1) Such services are individually listed by amount and payee on the loan-closing documents; and

(2) Such lender may use the preemption of Public Law 96-221, Section 501 with respect to the residential real estate loan in question. **When fees charged need not be disclosed in the annual percentage rate required by Title 15, U.S.C. Sections 1601, et seq., and regulations thereunder because such fees are de minimus amounts or for other reasons, such fees need not be included in the annual percentage rate for state examination purposes.**

3. If any points or fees are charged, required or received, which are in excess of those permitted by this section, or which are not returned upon demand when required by this section, then the person paying the same points or fees or his **or her** legal representative may recover twice the amount paid together with costs of the suit and reasonable attorney's fees, provided that the action is brought within five years of such payment.

4. Any lender who knowingly violates the provisions of this section is guilty of a class B misdemeanor.

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

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

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

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

443.415. Mortgage insurers may insure a mortgage in an amount not exceeding [ninety-seven] **one hundred** percent of the fair market value of the authorized real estate security at the time that the loan is made if secured by a first lien or charge on such real estate security.

525.080. **1.** If it appear that a garnishee, at or after his **or her** garnishment, was possessed of any property of the defendant, or was indebted to him, the court, or judge in vacation, may order the delivery of such property, or the payment of the amount owing by the garnishee, to the sheriff or into court, at such time as the court may direct; or may permit the garnishee to retain the same, upon his **or her** executing a bond to the plaintiff, with security, approved by the court, to the effect that the property shall be forthcoming, or the amount paid, as the court may direct. Upon a breach of the obligation of such bond, the plaintiff may proceed against the obligors therein, in the manner prescribed in the case of a delivery bond given to the sheriff.

2. Notwithstanding subsection 1 of this section, when property is protected from garnishment by state or federal law including but not limited to federal restrictions on the garnishment of earnings in Title 15, U.S.C. Sections 1671 to 1677 and old age, survivors and disability insurance benefits as provided in Title 42, U.S.C. Section 407, such property need not be delivered to the court by the garnishee to the extent such protection or preemption is applicable.

525.230. **1.** The court shall make the garnishee a reasonable allowance for his **or her** trouble and expenses in answering the interrogatories, to be paid out of the funds or proceeds of the property or effects confessed in his **or her** hands. **The reasonable allowances shall include any court costs, attorney's fees and any other bona fide expenses of the garnishee.**

2. The court also shall allow the garnishee, in addition to the reasonable allowance for his **or her** trouble and expenses in answering the interrogatories, to [claim a] **collect an administrative** fee consisting of the greater of eight dollars or two percent of the amount required to be deducted by any court ordered garnishment or series of garnishments arising out of the same judgment debt. **Such fee shall be for the trouble and expenses in administering the notice of garnishment and paying over any garnished funds available to the court.** The fee shall be withheld by the employer from the employee, **or by any other garnishee from any fund garnished**, in addition to the moneys withheld to satisfy the court ordered judgment. Such fee shall not be a credit against the court ordered judgment **and shall be collected first.**

525.233. The notice of garnishment and the writ of sequestration shall contain the [social security] **federal taxpayer identification** number, when available, on the judgment debtor. When the [social security] **federal taxpayer identification** number is omitted from the notice of garnishment or the writ of sequestration the garnishee shall not be held liable for withholding from the incorrect debtor **by the creditor garnishing the funds.** The creditor shall not have any action against the garnishee, when the [social security] **federal taxpayer identification** number is omitted from the notice of garnishment or the writ of sequestration **or does not match the federal taxpayer identification**, for failure to withhold from [the correct] **any** person the amount stated in the notice of garnishment or the writ of sequestration, except to serve a notice of garnishment or writ of sequestration for the original amount to the garnishee with the correct [social security] **federal taxpayer identification** number.

525.240. If any plaintiff in attachment shall cause any person to be summoned as garnishee, and shall fail to recover judgment against such garnishee, all the costs attending such garnishment shall be adjudged against such plaintiff, and the court shall render judgment in favor of such garnishee, against the plaintiff,

for a sum sufficient to indemnify him **or her** for his **or her bona fide** time and expenses **including actual employee costs**, and reasonable attorney's fees, in **preparing**, attending and answering and defending in subsequent proceedings as garnishee.

525.250. In all cases between the plaintiff and garnishee, **a court of competent jurisdiction may order** the parties [may be adjudged] to pay or recover costs, as in ordinary cases between plaintiff and defendant.

Section 1. Any limited liability company that owns and rents or leases real property located within any home rule city with a population of more than four hundred thousand inhabitants which is located in more than one county, shall file with that city's clerk an affidavit listing the name and address of at least one person, who has management control and responsibility for the real property owned and leased or rented by the limited liability company.

Section B. Because immediate action is necessary to protect the public welfare, sections 21.650 and 362.170 are deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 21.650 and 362.170 shall be in full force and effect upon its passage and approval.
