

SECOND REGULAR SESSION

SENATE BILL NO. 993

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4784S.011

AN ACT

To repeal sections 361.711, 361.715, 362.275, and 362.445, RSMo, and to enact in lieu thereof four new sections relating to financial institution procedures.

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

Section A. Sections 361.711, 361.715, 362.275, and 362.445, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 361.711, 361.715, 362.275, and 362.445, to read as follows:

361.711. Each application for a license shall be accompanied by a
2 corporate surety bond in the principal sum of [twenty-five] **one hundred**
3 thousand dollars. The bond shall be in form satisfactory to the director and shall
4 be issued by a bonding company or insurance company authorized to do business
5 in this state, to secure the faithful performance of the obligations of the applicant
6 and the agents and subagents of the applicant with respect to the receipt,
7 transmission, and payment of money in connection with the sale or issuance of
8 checks **and also to pay the costs incurred by the division to remedy any**
9 **breach of the obligations of the applicant subject to the bond or to pay**
10 **examination costs of the division owed and not paid by the**
11 **applicant. Upon license renewal, the required amount of bond shall be**
12 **as follows:**

13 (1) For all licensees selling payment instruments or stored value
14 cards, five times the high outstanding balance from the previous year
15 with a minimum of one hundred thousand dollars and a maximum of
16 one million dollars;

17 (2) For all licensees receiving money for transmission, five times
18 the greatest amount transmitted in a single day during the previous

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

19 **year with a minimum of one hundred thousand dollars and a maximum**
20 **of one million dollars.**

21 If in the opinion of the director the bond shall at any time appear to be
22 inadequate, insecure, exhausted, or otherwise doubtful, additional bond in form
23 and with surety satisfactory to the director shall be filed within fifteen days after
24 notice of the requirement is given to the licensee by the director. An applicant
25 or licensee may, in lieu of filing any bond required under this section, provide the
26 director with an irrevocable letter of credit, as defined in section 400.5-103,
27 RSMo, issued by any state or federal financial institution. **Whenever in the**
28 **director's judgment it is necessary or expedient, the director may**
29 **perform a special examination of any person licensed under sections**
30 **361.700 to 361.727 with all authority under section 361.160 as though the**
31 **licensee were a bank. The cost of such examination shall be paid by the**
32 **licensee.**

361.715. 1. Upon the filing of the application, the filing of a certified
2 audit, the [payments] **payment** of the investigation fee and the approval by the
3 director of the necessary bond, the director **shall cause, investigate, and**
4 **determine whether the character, responsibility, and general fitness of**
5 **the principals of the applicant or any affiliates are such as to command**
6 **confidence and warrant belief that the business of the applicant will be**
7 **conducted honestly and efficiently and that the applicant is in**
8 **compliance with all other applicable state and federal laws. If**
9 **satisfied, the director** shall issue to the applicant a license pursuant to the
10 provisions of sections 361.700 to 361.727. **In processing a renewal license,**
11 **the director shall require the same information and follow the same**
12 **procedures described in this subsection.**

13 2. Each licensee shall pay to the director [within five days after] **before**
14 the issuance of the license, and annually thereafter on or before April fifteenth
15 of each year, a license fee of one hundred dollars.

16 3. **The director may assess a reasonable charge, not to exceed**
17 **one hundred dollars, for any application to amend and reissue an**
18 **existing license.**

362.275. 1. The board of directors of every bank and trust company
2 organized or doing business pursuant to this chapter shall hold a regular meeting
3 at least once each month, or, upon application to and acceptance by the director
4 of finance, at such other times, not less frequently than once each calendar

5 quarter as the director of finance shall approve, which approval may be rescinded
6 at any time. There shall be submitted to the meeting a list giving the aggregate
7 of loans, discounts, acceptances and advances, including overdrafts, to each
8 individual, partnership, corporation or person whose liability to the bank or trust
9 company has been created, extended, renewed or increased since the cut-off date
10 prior to the regular meeting by more than an amount to be determined by the
11 board of directors, which minimum amount shall not exceed five percent of the
12 bank's legal loan limit, except the minimum amount shall in no case be less than
13 ten thousand dollars[, and]; a second list of the aggregate indebtedness of each
14 borrower whose aggregate indebtedness exceeds five times such minimum
15 amount, except the aggregate indebtedness shall in no case be less than fifty
16 thousand dollars; [and] a third list showing all paper past due thirty days or
17 more **or alternatively, the third list shall report the total past due ratio**
18 **for loans thirty days or more past due, nonaccrual loans divided by**
19 **total loans, and a listing of past due loans in excess of the minimum**
20 **amount to be determined by the board of directors, which minimum**
21 **amount shall not exceed five percent of the bank's legal loan limit,**
22 **except the minimum amount shall in no case be less than ten thousand**
23 **dollars;** and a fourth list showing the aggregate of the then existing
24 indebtedness and liability to the bank or trust company of each of the directors,
25 officers, and employees thereof. The information called for in the second, third,
26 and fourth lists shall be submitted as of the date of the regular meeting or as of
27 a reasonable date prior thereto. [If there is collateral to the indebtedness, it shall
28 be described as of the date of the lists.] No bills payable shall be made, and no
29 bills shall be rediscounted by the bank or trust company except with the consent
30 or ratification of the board of directors; provided, however, that if the bank or
31 trust company is a member of the federal reserve system, rediscounts may be
32 made to it by the officers in accordance with its rules, a list of all rediscounts to
33 be submitted to the next regular meeting of the board. The director of finance
34 may require, by order, that the board of directors of a bank or trust company
35 approve or disapprove every purchase or sale of securities and every discount,
36 loan, acceptance, renewal or other advance including every overdraft over an
37 amount to be specified in the director's order and may also require that the board
38 of directors review, at each monthly meeting, a list of the aggregate indebtedness
39 of each borrower whose aggregate indebtedness exceeds an amount to be specified
40 in the director's order. The minutes of the meeting shall indicate the compliance

41 with the requirements of this section. Furthermore, the debtor's identity on the
42 information required in this subsection may be masked by code to conceal the
43 actual debtor's identity only for information mailed to or otherwise provided
44 directors who are not physically present at the board meeting. The code used
45 shall be revealed to all directors at the beginning of each board meeting for which
46 this procedure is used.

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

362.445. 1. **The term "process", when used in this section, shall
2 include any writ, summons, petition, or order whereby any suit, action,
3 or proceeding shall be commenced.**

4 2. **Any state or federally chartered bank, trust company, or thrift
5 institution may be served with process according to the Missouri Rules
6 of Civil Procedure describing service of process for corporations.**

7 3. **Any state or federally chartered bank, trust company, or thrift
8 institution may appoint a Missouri service agent and register the
9 appointment with the director of finance who will maintain a record of
10 all such appointments for public reference.**

11 4. Whenever pursuant to [any provision] **express provisions** of this
12 chapter, the director shall have been duly appointed attorney to receive service
13 of process for any foreign corporation **or out-of-state bank or trust company**,
14 he **or she** shall forthwith forward by mail, postage prepaid, a copy of every
15 process served upon him **or her** directed to the president or secretary of such
16 corporation, at its last known post-office address.

17 [2.] 5. For each copy of process the director of revenue shall collect the
18 sum of [two] **ten** dollars, which shall be paid by the plaintiff or moving party at
19 the time of such service, to be recovered by [him] **the plaintiff** as part of [his]
20 **the plaintiff's** taxable disbursement if he **or she** succeeds in his **or her** suit or
21 proceeding.

22 [3. The term "process", when used in this section, shall include any writ,
23 summons, petition or order whereby any suit, action or proceeding shall be
24 commenced.]

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Unofficial

Bill

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