

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 187

AN ACT

To repeal sections 30.753, 130.011, 130.021, 130.031, 130.036, 130.041, 137.100, 143.121, 214.330, 361.020, 361.098, 361.160, 361.260, 361.262, 361.700, 361.705, 361.707, 361.711, 361.715, 361.718, 361.720, 361.723, 361.725, 361.727, 362.245, 364.030, 364.105, 365.030, 367.140, 407.640, 408.010, 408.145, 408.500, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465, 469.467, 475.040, 475.275, 569.010, 569.100, 570.010, and 570.030, RSMo, and to enact in lieu thereof one hundred eighty-two new sections relating to financial affairs, with penalty provisions.

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

Section A. Sections 30.753, 130.011, 130.021, 130.031,
 2 130.036, 130.041, 137.100, 143.121, 214.330, 361.020, 361.098,
 3 361.160, 361.260, 361.262, 361.700, 361.705, 361.707, 361.711,
 4 361.715, 361.718, 361.720, 361.723, 361.725, 361.727, 362.245,
 5 364.030, 364.105, 365.030, 367.140, 407.640, 408.010, 408.145,
 6 408.500, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411,
 7 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425,
 8 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437,

9 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451,
10 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465,
11 469.467, 475.040, 475.275, 569.010, 569.100, 570.010, and
12 570.030, RSMo, are repealed and one hundred eighty-two new
13 sections enacted in lieu thereof, to be known as sections
14 30.266, 30.753, 130.011, 130.021, 130.031, 130.036, 130.041,
15 137.100, 143.121, 170.281, 214.330, 285.1000, 285.1005,
16 285.1010, 285.1015, 285.1020, 285.1025, 285.1030, 285.1035,
17 285.1040, 285.1045, 285.1050, 285.1055, 361.020, 361.098,
18 361.106, 361.160, 361.260, 361.262, 361.715, 361.749, 361.900,
19 361.903, 361.906, 361.909, 361.912, 361.915, 361.918, 361.921,
20 361.924, 361.927, 361.930, 361.933, 361.936, 361.939, 361.942,
21 361.945, 361.948, 361.951, 361.954, 361.957, 361.960, 361.963,
22 361.966, 361.969, 361.972, 361.975, 361.978, 361.981, 361.984,
23 361.987, 361.990, 361.996, 361.999, 361.1002, 361.1005,
24 361.1008, 361.1011, 361.1014, 361.1017, 361.1020, 361.1023,
25 361.1026, 361.1029, 361.1032, 361.1035, 362.034, 362.245,
26 364.030, 364.105, 365.030, 367.140, 376.414, 379.1850,
27 379.1851, 379.1853, 379.1855, 379.1857, 379.1859, 379.1861,
28 379.1863, 379.1865, 379.1867, 379.1869, 407.640, 407.2020,
29 407.2025, 407.2030, 407.2035, 407.2040, 407.2045, 407.2050,
30 407.2055, 407.2060, 407.2065, 407.2070, 407.2075, 407.2080,
31 407.2085, 407.2090, 408.010, 408.012, 408.145, 408.500,
32 408.900, 427.300, 431.204, 436.550, 436.552, 436.554, 436.556,
33 436.558, 436.560, 436.562, 436.564, 436.566, 436.568, 436.570,
34 436.572, 469.399, 469.401, 469.402, 469.403, 469.404, 469.405,
35 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425,
36 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437,
37 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.450,
38 469.451, 469.453, 469.455, 469.456, 469.457, 469.459, 469.462,
39 469.463, 469.464, 469.465, 469.467, 469.471, 469.473, 469.475,
40 469.477, 469.479, 469.481, 469.483, 469.485, 469.487, 475.040,

41 475.275, 569.010, 569.100, 570.010, and 570.030, to read as
42 follows:

2 30.266. The state treasurer may keep in the custody of
3 the state treasury an amount of gold and silver greater than
4 or equal to one percent of all state funds. Nothing in this
5 section shall require the state treasurer to invest any
6 state funds in a manner inconsistent with Article IV,
Section 15 of the Missouri Constitution.

2 30.753. 1. The state treasurer may invest in linked
3 deposits; however, the total amount so deposited at any one
4 time shall not exceed, in the aggregate, [eight hundred
5 million] one billion dollars. [No more than three hundred
6 thirty million dollars of] The aggregate deposit shall be
7 used for linked deposits to eligible farming operations,
8 eligible locally owned businesses, eligible agribusinesses,
9 eligible beginning farmers, eligible livestock operations,
10 [and] eligible facility borrowers, [no more than one
11 hundred ninety million of the aggregate deposit shall be
12 used for linked deposits to] and eligible small
13 businesses[,]. No more than [twenty million dollars] five
14 percent shall be used for linked deposits to eligible
15 multitenant development enterprises, and no more than
16 [twenty million dollars] five percent of the aggregate
17 deposit shall be used for linked deposits to eligible
18 residential property developers and eligible residential
19 property owners, and no more than [two hundred twenty
20 million dollars] twenty percent of the aggregate deposit
21 shall be used for linked deposits to eligible job
22 enhancement businesses, and no more than [twenty million
23 dollars] five percent of the aggregate deposit shall be used
24 for linked deposit loans to eligible water systems. Linked
25 deposit loans may be made to eligible student borrowers,
eligible alternative energy operations, eligible alternative

26 energy consumers, and eligible governmental entities from
27 the aggregate deposit. If demand for a particular type of
28 linked deposit exceeds the initial allocation, and funds
29 initially allocated to another type are available and not in
30 demand, the state treasurer may commingle allocations among
31 the types of linked deposits.

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

130.011. As used in this chapter, unless the context
2 clearly indicates otherwise, the following terms mean:

3 (1) "Appropriate officer" or "appropriate officers",
4 the person or persons designated in section 130.026 to
5 receive certain required statements and reports;

6 (2) "Ballot measure" or "measure", any proposal
7 submitted or intended to be submitted to qualified voters
8 for their approval or rejection, including any proposal
9 submitted by initiative petition, referendum petition, or by
10 the general assembly or any local governmental body having
11 authority to refer proposals to the voter;

12 (3) "Candidate", an individual who seeks nomination or
13 election to public office. The term "candidate" includes an
14 elected officeholder who is the subject of a recall
15 election, an individual who seeks nomination by the
16 individual's political party for election to public office,
17 an individual standing for retention in an election to an
18 office to which the individual was previously appointed, an

19 individual who seeks nomination or election whether or not
20 the specific elective public office to be sought has been
21 finally determined by such individual at the time the
22 individual meets the conditions described in paragraph (a)
23 or (b) of this subdivision, and an individual who is a write-
24 in candidate as defined in subdivision (28) of this
25 section. A candidate shall be deemed to seek nomination or
26 election when the person first:

27 (a) Receives contributions or makes expenditures or
28 reserves space or facilities with intent to promote the
29 person's candidacy for office; or

30 (b) Knows or has reason to know that contributions are
31 being received or expenditures are being made or space or
32 facilities are being reserved with the intent to promote the
33 person's candidacy for office; except that, such individual
34 shall not be deemed a candidate if the person files a
35 statement with the appropriate officer within five days
36 after learning of the receipt of contributions, the making
37 of expenditures, or the reservation of space or facilities
38 disavowing the candidacy and stating that the person will
39 not accept nomination or take office if elected; provided
40 that, if the election at which such individual is supported
41 as a candidate is to take place within five days after the
42 person's learning of the above-specified activities, the
43 individual shall file the statement disavowing the candidacy
44 within one day; or

45 (c) Announces or files a declaration of candidacy for
46 office;

47 (4) "Cash", currency, coin, United States postage
48 stamps, or any negotiable instrument which can be
49 transferred from one person to another person without the
50 signature or endorsement of the transferor;

51 (5) "Check", a check drawn on a state or federal bank,
52 or a draft on a negotiable order of withdrawal account in a
53 savings and loan association or a share draft account in a
54 credit union;

55 (6) "Closing date", the date through which a statement
56 or report is required to be complete;

57 (7) "Committee", a person or any combination of
58 persons, who accepts contributions or makes expenditures for
59 the primary or incidental purpose of influencing or
60 attempting to influence the action of voters for or against
61 the nomination or election to public office of one or more
62 candidates or the qualification, passage or defeat of any
63 ballot measure or for the purpose of paying a previously
64 incurred campaign debt or obligation of a candidate or the
65 debts or obligations of a committee or for the purpose of
66 contributing funds to another committee:

67 (a) "Committee", does not include:

68 a. A person or combination of persons, if neither the
69 aggregate of expenditures made nor the aggregate of
70 contributions received during a calendar year exceeds five
71 hundred dollars and if no single contributor has contributed
72 more than two hundred fifty dollars of such aggregate
73 contributions;

74 b. An individual, other than a candidate, who accepts
75 no contributions and who deals only with the individual's
76 own funds or property;

77 c. A corporation, cooperative association,
78 partnership, proprietorship, or joint venture organized or
79 operated for a primary or principal purpose other than that
80 of influencing or attempting to influence the action of
81 voters for or against the nomination or election to public
82 office of one or more candidates or the qualification,
83 passage or defeat of any ballot measure, and it accepts no

84 contributions, and all expenditures it makes are from its
85 own funds or property obtained in the usual course of
86 business or in any commercial or other transaction and which
87 are not contributions as defined by subdivision (12) of this
88 section;

89 d. A labor organization organized or operated for a
90 primary or principal purpose other than that of influencing
91 or attempting to influence the action of voters for or
92 against the nomination or election to public office of one
93 or more candidates, or the qualification, passage, or defeat
94 of any ballot measure, and it accepts no contributions, and
95 expenditures made by the organization are from its own funds
96 or property received from membership dues or membership fees
97 which were given or solicited for the purpose of supporting
98 the normal and usual activities and functions of the
99 organization and which are not contributions as defined by
100 subdivision (12) of this section;

101 e. A person who acts as an authorized agent for a
102 committee in soliciting or receiving contributions or in
103 making expenditures or incurring indebtedness on behalf of
104 the committee if such person renders to the committee
105 treasurer or deputy treasurer or candidate, if applicable,
106 an accurate account of each receipt or other transaction in
107 the detail required by the treasurer to comply with all
108 record-keeping and reporting requirements of this chapter;

109 f. Any department, agency, board, institution or other
110 entity of the state or any of its subdivisions or any
111 officer or employee thereof, acting in the person's official
112 capacity;

113 (b) The term "committee" includes, but is not limited
114 to, each of the following committees: campaign committee,
115 candidate committee, continuing committee and political
116 party committee;

117 (8) "Campaign committee", a committee, other than a
118 candidate committee, which shall be formed by an individual
119 or group of individuals to receive contributions or make
120 expenditures and whose sole purpose is to support or oppose
121 the qualification and passage of one or more particular
122 ballot measures in an election or the retention of judges
123 under the nonpartisan court plan, such committee shall be
124 formed no later than thirty days prior to the election for
125 which the committee receives contributions or makes
126 expenditures, and which shall terminate the later of either
127 thirty days after the general election or upon the
128 satisfaction of all committee debt after the general
129 election, except that no committee retiring debt shall
130 engage in any other activities in support of a measure for
131 which the committee was formed;

132 (9) "Candidate committee", a committee which shall be
133 formed by a candidate to receive contributions or make
134 expenditures in behalf of the person's candidacy and which
135 shall continue in existence for use by an elected candidate
136 or which shall terminate the later of either thirty days
137 after the general election for a candidate who was not
138 elected or upon the satisfaction of all committee debt after
139 the election, except that no committee retiring debt shall
140 engage in any other activities in support of the candidate
141 for which the committee was formed. Any candidate for
142 elective office shall have only one candidate committee for
143 the elective office sought, which is controlled directly by
144 the candidate for the purpose of making expenditures. A
145 candidate committee is presumed to be under the control and
146 direction of the candidate unless the candidate files an
147 affidavit with the appropriate officer stating that the
148 committee is acting without control or direction on the
149 candidate's part;

150 (10) "Continuing committee", a committee of continuing
151 existence which is not formed, controlled or directed by a
152 candidate, and is a committee other than a candidate
153 committee or campaign committee, whose primary or incidental
154 purpose is to receive contributions or make expenditures to
155 influence or attempt to influence the action of voters
156 whether or not a particular candidate or candidates or a
157 particular ballot measure or measures to be supported or
158 opposed has been determined at the time the committee is
159 required to file any statement or report pursuant to the
160 provisions of this chapter. "Continuing committee"
161 includes, but is not limited to, any committee organized or
162 sponsored by a business entity, a labor organization, a
163 professional association, a trade or business association, a
164 club or other organization and whose primary purpose is to
165 solicit, accept and use contributions from the members,
166 employees or stockholders of such entity and any individual
167 or group of individuals who accept and use contributions to
168 influence or attempt to influence the action of voters.
169 Such committee shall be formed no later than sixty days
170 prior to the election for which the committee receives
171 contributions or makes expenditures;

172 (11) "Connected organization", any organization such
173 as a corporation, a labor organization, a membership
174 organization, a cooperative, or trade or professional
175 association which expends funds or provides services or
176 facilities to establish, administer or maintain a committee
177 or to solicit contributions to a committee from its members,
178 officers, directors, employees or security holders. An
179 organization shall be deemed to be the connected
180 organization if more than fifty percent of the persons
181 making contributions to the committee during the current

182 calendar year are members, officers, directors, employees or
183 security holders of such organization or their spouses;

184 (12) "Contribution", a payment, gift, loan, advance,
185 deposit, or donation of money or anything of value for the
186 purpose of supporting or opposing the nomination or election
187 of any candidate for public office or the qualification,
188 passage or defeat of any ballot measure, or for the support
189 of any committee supporting or opposing candidates or ballot
190 measures or for paying debts or obligations of any candidate
191 or committee previously incurred for the above purposes. A
192 contribution of anything of value shall be deemed to have a
193 money value equivalent to the fair market value.

194 "Contribution" includes, but is not limited to:

195 (a) A candidate's own money or property used in
196 support of the person's candidacy other than expense of the
197 candidate's food, lodging, travel, and payment of any fee
198 necessary to the filing for public office;

199 (b) Payment by any person, other than a candidate or
200 committee, to compensate another person for services
201 rendered to that candidate or committee;

202 (c) Receipts from the sale of goods and services,
203 including the sale of advertising space in a brochure,
204 booklet, program or pamphlet of a candidate or committee and
205 the sale of tickets or political merchandise;

206 (d) Receipts from fund-raising events including
207 testimonial affairs;

208 (e) Any loan, guarantee of a loan, cancellation or
209 forgiveness of a loan or debt or other obligation by a third
210 party, or payment of a loan or debt or other obligation by a
211 third party if the loan or debt or other obligation was
212 contracted, used, or intended, in whole or in part, for use
213 in an election campaign or used or intended for the payment
214 of such debts or obligations of a candidate or committee

215 previously incurred, or which was made or received by a
216 committee;

217 (f) Funds received by a committee which are
218 transferred to such committee from another committee or
219 other source, except funds received by a candidate committee
220 as a transfer of funds from another candidate committee
221 controlled by the same candidate but such transfer shall be
222 included in the disclosure reports;

223 (g) Facilities, office space or equipment supplied by
224 any person to a candidate or committee without charge or at
225 reduced charges, except gratuitous space for meeting
226 purposes which is made available regularly to the public,
227 including other candidates or committees, on an equal basis
228 for similar purposes on the same conditions;

229 (h) The direct or indirect payment by any person,
230 other than a connected organization, of the costs of
231 establishing, administering, or maintaining a committee,
232 including legal, accounting and computer services, fund
233 raising and solicitation of contributions for a committee;

234 (i) "Contribution" does not include:

235 a. Ordinary home hospitality or services provided
236 without compensation by individuals volunteering their time
237 in support of or in opposition to a candidate, committee or
238 ballot measure, nor the necessary and ordinary personal
239 expenses of such volunteers incidental to the performance of
240 voluntary activities, so long as no compensation is directly
241 or indirectly asked or given;

242 b. An offer or tender of a contribution which is
243 expressly and unconditionally rejected and returned to the
244 donor within ten business days after receipt or transmitted
245 to the state treasurer;

246 c. Interest earned on deposit of committee funds;

247 d. The costs incurred by any connected organization
248 listed pursuant to subdivision (4) of subsection 5 of
249 section 130.021 for establishing, administering or
250 maintaining a committee, or for the solicitation of
251 contributions to a committee which solicitation is solely
252 directed or related to the members, officers, directors,
253 employees or security holders of the connected organization;

254 (13) "County", any one of the several counties of this
255 state or the city of St. Louis;

256 (14) "Disclosure report", an itemized report of
257 receipts, expenditures and incurred indebtedness which is
258 prepared on forms approved by the Missouri ethics commission
259 and filed at the times and places prescribed;

260 (15) "Election", any primary, general or special
261 election held to nominate or elect an individual to public
262 office, to retain or recall an elected officeholder or to
263 submit a ballot measure to the voters, and any caucus or
264 other meeting of a political party or a political party
265 committee at which that party's candidate or candidates for
266 public office are officially selected. A primary election
267 and the succeeding general election shall be considered
268 separate elections;

269 (16) "Electronic means", any instrument, device, or
270 service that facilitates an electronic withdrawal of funds
271 from a bank account including, but not limited to, credit
272 cards, debit cards, and the presentation of a credit or
273 debit card account number;

274 (17) "Expenditure", a payment, advance, conveyance,
275 deposit, donation or contribution of money or anything of
276 value for the purpose of supporting or opposing the
277 nomination or election of any candidate for public office or
278 the qualification or passage of any ballot measure or for
279 the support of any committee which in turn supports or

280 opposes any candidate or ballot measure or for the purpose
281 of paying a previously incurred campaign debt or obligation
282 of a candidate or the debts or obligations of a committee; a
283 payment, or an agreement or promise to pay, money or
284 anything of value, including a candidate's own money or
285 property, for the purchase of goods, services, property,
286 facilities or anything of value for the purpose of
287 supporting or opposing the nomination or election of any
288 candidate for public office or the qualification or passage
289 of any ballot measure or for the support of any committee
290 which in turn supports or opposes any candidate or ballot
291 measure or for the purpose of paying a previously incurred
292 campaign debt or obligation of a candidate or the debts or
293 obligations of a committee. An expenditure of anything of
294 value shall be deemed to have a money value equivalent to
295 the fair market value. "Expenditure" includes, but is not
296 limited to:

297 (a) Payment by anyone other than a committee for
298 services of another person rendered to such committee;

299 (b) The purchase of tickets, goods, services or
300 political merchandise in connection with any testimonial
301 affair or fund-raising event of or for candidates or
302 committees, or the purchase of advertising in a brochure,
303 booklet, program or pamphlet of a candidate or committee;

304 (c) The transfer of funds by one committee to another
305 committee;

306 (d) The direct or indirect payment by any person,
307 other than a connected organization for a committee, of the
308 costs of establishing, administering or maintaining a
309 committee, including legal, accounting and computer
310 services, fund raising and solicitation of contributions for
311 a committee; but

312 (e) "Expenditure" does not include:

313 a. Any news story, commentary or editorial which is
314 broadcast or published by any broadcasting station,
315 newspaper, magazine or other periodical without charge to
316 the candidate or to any person supporting or opposing a
317 candidate or ballot measure;

318 b. The internal dissemination by any membership
319 organization, proprietorship, labor organization,
320 corporation, association or other entity of information
321 advocating the election or defeat of a candidate or
322 candidates or the passage or defeat of a ballot measure or
323 measures to its directors, officers, members, employees or
324 security holders, provided that the cost incurred is
325 reported pursuant to subsection 2 of section 130.051;

326 c. Repayment of a loan, but such repayment shall be
327 indicated in required reports;

328 d. The rendering of voluntary personal services by an
329 individual of the sort commonly performed by volunteer
330 campaign workers and the payment by such individual of the
331 individual's necessary and ordinary personal expenses
332 incidental to such volunteer activity, provided no
333 compensation is, directly or indirectly, asked or given;

334 e. The costs incurred by any connected organization
335 listed pursuant to subdivision (4) of subsection 5 of
336 section 130.021 for establishing, administering or
337 maintaining a committee, or for the solicitation of
338 contributions to a committee which solicitation is solely
339 directed or related to the members, officers, directors,
340 employees or security holders of the connected organization;

341 f. The use of a candidate's own money or property for
342 expense of the candidate's personal food, lodging, travel,
343 and payment of any fee necessary to the filing for public
344 office, if such expense is not reimbursed to the candidate
345 from any source;

346 [(17)] (18) "Exploratory committees", a committee
347 which shall be formed by an individual to receive
348 contributions and make expenditures on behalf of this
349 individual in determining whether or not the individual
350 seeks elective office. Such committee shall terminate no
351 later than December thirty-first of the year prior to the
352 general election for the possible office;

353 [(18)] (19) "Fund-raising event", an event such as a
354 dinner, luncheon, reception, coffee, testimonial, rally,
355 auction or similar affair through which contributions are
356 solicited or received by such means as the purchase of
357 tickets, payment of attendance fees, donations for prizes or
358 through the purchase of goods, services or political
359 merchandise;

360 [(19)] (20) "In-kind contribution" or "in-kind
361 expenditure", a contribution or expenditure in a form other
362 than money;

363 [(20)] (21) "Labor organization", any organization of
364 any kind, or any agency or employee representation committee
365 or plan, in which employees participate and which exists for
366 the purpose, in whole or in part, of dealing with employers
367 concerning grievances, labor disputes, wages, rates of pay,
368 hours of employment, or conditions of work;

369 [(21)] (22) "Loan", a transfer of money, property or
370 anything of ascertainable monetary value in exchange for an
371 obligation, conditional or not, to repay in whole or in part
372 and which was contracted, used, or intended for use in an
373 election campaign, or which was made or received by a
374 committee or which was contracted, used, or intended to pay
375 previously incurred campaign debts or obligations of a
376 candidate or the debts or obligations of a committee;

377 [(22)] (23) "Person", an individual, group of
378 individuals, corporation, partnership, committee,

379 proprietorship, joint venture, any department, agency,
380 board, institution or other entity of the state or any of
381 its political subdivisions, union, labor organization, trade
382 or professional or business association, association,
383 political party or any executive committee thereof, or any
384 other club or organization however constituted or any
385 officer or employee of such entity acting in the person's
386 official capacity;

387 [(23)] (24) "Political merchandise", goods such as
388 bumper stickers, pins, hats, ties, jewelry, literature, or
389 other items sold or distributed at a fund-raising event or
390 to the general public for publicity or for the purpose of
391 raising funds to be used in supporting or opposing a
392 candidate for nomination or election or in supporting or
393 opposing the qualification, passage or defeat of a ballot
394 measure;

395 [(24)] (25) "Political party", a political party which
396 has the right under law to have the names of its candidates
397 listed on the ballot in a general election;

398 [(25)] (26) "Political party committee", a state,
399 district, county, city, or area committee of a political
400 party, as defined in section 115.603, which may be organized
401 as a not-for-profit corporation under Missouri law, and
402 which committee is of continuing existence, and has the
403 primary or incidental purpose of receiving contributions and
404 making expenditures to influence or attempt to influence the
405 action of voters on behalf of the political party;

406 [(26)] (27) "Public office" or "office", any state,
407 judicial, county, municipal, school or other district, ward,
408 township, or other political subdivision office or any
409 political party office which is filled by a vote of
410 registered voters;

411 [(27)] (28) "Regular session", includes that period
412 beginning on the first Wednesday after the first Monday in
413 January and ending following the first Friday after the
414 second Monday in May;

415 [(28)] (29) "Write-in candidate", an individual whose
416 name is not printed on the ballot but who otherwise meets
417 the definition of candidate in subdivision (3) of this
418 section.

130.021. 1. Every committee shall have a treasurer
2 who, except as provided in subsection 10 of this section,
3 shall be a resident of this state and reside in the district
4 or county in which the committee sits. A committee may also
5 have a deputy treasurer who, except as provided in
6 subsection 10 of this section, shall be a resident of this
7 state and reside in the district or county in which the
8 committee sits, to serve in the capacity of committee
9 treasurer in the event the committee treasurer is unable for
10 any reason to perform the treasurer's duties.

11 2. Every candidate for offices listed in subsection 1
12 of section 130.016 who has not filed a statement of
13 exemption pursuant to that subsection and every candidate
14 for offices listed in subsection 6 of section 130.016 who is
15 not excluded from filing a statement of organization and
16 disclosure reports pursuant to subsection 6 of section
17 130.016 shall form a candidate committee and appoint a
18 treasurer. Thereafter, all contributions on hand and all
19 further contributions received by such candidate and any of
20 the candidate's own funds to be used in support of the
21 person's candidacy shall be deposited in a candidate
22 committee depository account established pursuant to the
23 provisions of subsection 4 of this section, and all
24 expenditures shall be made through the candidate, treasurer
25 or deputy treasurer of the person's candidate committee.

26 Nothing in this chapter shall prevent a candidate from
27 appointing himself or herself as a committee of one and
28 serving as the person's own treasurer, maintaining the
29 candidate's own records and filing all the reports and
30 statements required to be filed by the treasurer of a
31 candidate committee.

32 3. A candidate who has more than one candidate
33 committee supporting the person's candidacy shall designate
34 one of those candidate committees as the committee
35 responsible for consolidating the aggregate contributions to
36 all such committees under the candidate's control and
37 direction as required by section 130.041.

38 4. (1) Every committee shall have a single official
39 fund depository within this state which shall be a federally
40 or state-chartered bank, a federally or state-chartered
41 savings and loan association, or a federally or state-
42 chartered credit union in which the committee shall open and
43 thereafter maintain at least one official depository account
44 in its own name. An "official depository account" shall be
45 a checking account or some type of negotiable draft or
46 negotiable order of withdrawal account, and the official
47 fund depository shall, regarding an official depository
48 account, be a type of financial institution which provides a
49 record of deposits, cancelled checks or other cancelled
50 instruments of withdrawal evidencing each transaction by
51 maintaining copies within this state of such instruments and
52 other transactions. All contributions which the committee
53 receives in money, checks and other negotiable instruments
54 shall be deposited in a committee's official depository
55 account. Contributions shall not be accepted and
56 expenditures shall not be made by a committee except by or
57 through an official depository account and the committee
58 treasurer, deputy treasurer or candidate; however, a

59 committee may utilize a credit card or debit card in the
60 name of the committee when authorized by the treasurer,
61 deputy treasurer, or candidate, provided that all
62 expenditures made by the committee through a credit card are
63 paid through the official depository account. Contributions
64 received by a committee shall not be commingled with any
65 funds of an agent of the committee, a candidate or any other
66 person, except that contributions from a candidate of the
67 candidate's own funds to the person's candidate committee
68 shall be deposited to an official depository account of the
69 person's candidate committee. No expenditure shall be made
70 by a committee when the office of committee treasurer is
71 vacant except that when the office of a candidate committee
72 treasurer is vacant, the candidate shall be the treasurer
73 until the candidate appoints a new treasurer.

74 (2) A committee treasurer, deputy treasurer or
75 candidate may withdraw funds from a committee's official
76 depository account and deposit such funds in one or more
77 savings accounts in the committee's name in any bank,
78 savings and loan association or credit union within this
79 state, and may also withdraw funds from an official
80 depository account for investment in the committee's name in
81 any certificate of deposit, bond or security. Proceeds from
82 interest or dividends from a savings account or other
83 investment or proceeds from withdrawals from a savings
84 account or from the sale of an investment shall not be
85 expended or reinvested, except in the case of renewals of
86 certificates of deposit, without first redepositing such
87 proceeds in an official depository account. Investments,
88 other than savings accounts, held outside the committee's
89 official depository account at any time during a reporting
90 period shall be disclosed by description, amount, any
91 identifying numbers and the name and address of any

92 institution or person in which or through which it is held
93 in an attachment to disclosure reports the committee is
94 required to file. Proceeds from an investment such as
95 interest or dividends or proceeds from its sale, shall be
96 reported by date and amount. In the case of the sale of an
97 investment, the names and addresses of the persons involved
98 in the transaction shall also be stated. Funds held in
99 savings accounts and investments, including interest earned,
100 shall be included in the report of money on hand as required
101 by section 130.041.

102 (3) Notwithstanding any other provision of law to the
103 contrary, funds held in candidate committees, campaign
104 committees, debt service committees, and exploratory
105 committees shall be liquid such that these funds shall be
106 readily available for the specific and limited purposes
107 allowed by law. These funds may be invested only in short-
108 term treasury instruments or short-term bank certificates
109 with durations of one year or less, or that allow the
110 removal of funds at any time without any additional
111 financial penalty other than the loss of interest income.
112 Continuing committees, political party committees, and other
113 committees such as out-of-state committees not formed for
114 the benefit of any single candidate or ballot issue shall
115 not be subject to the provisions of this subdivision. This
116 subdivision shall not be interpreted to restrict the
117 placement of funds in an interest-bearing checking account.

118 5. The treasurer or deputy treasurer acting on behalf
119 of any person or organization or group of persons which is a
120 committee by virtue of the definitions of committee in
121 section 130.011 and any candidate who is not excluded from
122 forming a committee in accordance with the provisions of
123 section 130.016 shall file a statement of organization with
124 the appropriate officer within twenty days after the person

125 or organization becomes a committee but no later than the
126 date for filing the first report required pursuant to the
127 provisions of section 130.046. The statement of
128 organization shall contain the following information:

129 (1) The name, mailing address and telephone number, if
130 any, of the committee filing the statement of organization.
131 If the committee is deemed to be affiliated with a connected
132 organization as provided in subdivision (11) of section
133 130.011, the name of the connected organization, or a
134 legally registered fictitious name which reasonably
135 identifies the connected organization, shall appear in the
136 name of the committee. If the committee is a candidate
137 committee, the name of the candidate shall be a part of the
138 committee's name;

139 (2) The name, mailing address and telephone number of
140 the candidate;

141 (3) The name, mailing address and telephone number of
142 the committee treasurer, and the name, mailing address and
143 telephone number of its deputy treasurer if the committee
144 has named a deputy treasurer;

145 (4) [The names, mailing addresses and titles of its
146 officers, if any;

147 (5)] The name and mailing address of any connected
148 organizations with which the committee is affiliated;

149 (5) The names, mailing addresses and titles of its
150 officer, if any;

151 (6) The name and mailing address of its depository,
152 [and] the name and account number of each account the
153 committee has in the depository, and the account number and
154 issuer of any credit card in the committee's name. The
155 account number of each account shall be redacted prior to
156 disclosing the statement to the public;

157 (7) Identification of the major nature of the
158 committee such as a candidate committee, campaign committee,
159 continuing committee, political party committee, incumbent
160 committee, or any other committee according to the
161 definition of committee in section 130.011;

162 (8) In the case of the candidate committee designated
163 in subsection 3 of this section, the full name and address
164 of each other candidate committee which is under the control
165 and direction of the same candidate, together with the name,
166 address and telephone number of the treasurer of each such
167 other committee;

168 (9) The name and office sought of each candidate
169 supported or opposed by the committee;

170 (10) The ballot measure concerned, if any, and whether
171 the committee is in favor of or opposed to such measure.

172 6. A committee may omit the information required in
173 subdivisions (9) and (10) of subsection 5 of this section
174 if, on the date on which it is required to file a statement
175 of organization, the committee has not yet determined the
176 particular candidates or particular ballot measures it will
177 support or oppose.

178 7. A committee which has filed a statement of
179 organization and has not terminated shall not be required to
180 file another statement of organization, except that when
181 there is a change in any of the information previously
182 reported as required by subdivisions (1) to (8) of
183 subsection 5 of this section an amended statement of
184 organization shall be filed within twenty days after the
185 change occurs, but no later than the date of the filing of
186 the next report required to be filed by that committee by
187 section 130.046.

188 8. Upon termination of a committee, a termination
189 statement indicating dissolution shall be filed not later

190 than ten days after the date of dissolution with the
191 appropriate officer or officers with whom the committee's
192 statement of organization was filed. The termination
193 statement shall include: the distribution made of any
194 remaining surplus funds and the disposition of any deficits;
195 and the name, mailing address and telephone number of the
196 individual responsible for preserving the committee's
197 records and accounts as required in section 130.036.

198 9. Any statement required by this section shall be
199 signed and attested by the committee treasurer or deputy
200 treasurer, and by the candidate in the case of a candidate
201 committee.

202 10. A committee domiciled outside this state shall be
203 required to file a statement of organization and appoint a
204 treasurer residing in this state and open an account in a
205 depository within this state; provided that either of the
206 following conditions prevails:

207 (1) The aggregate of all contributions received from
208 persons domiciled in this state exceeds twenty percent in
209 total dollar amount of all funds received by the committee
210 in the preceding twelve months; or

211 (2) The aggregate of all contributions and
212 expenditures made to support or oppose candidates and ballot
213 measures in this state exceeds one thousand five hundred
214 dollars in the current calendar year.

215 11. If a committee domiciled in this state receives a
216 contribution of one thousand five hundred dollars or more
217 from any committee domiciled outside of this state, the
218 committee domiciled in this state shall file a disclosure
219 report with the commission. The report shall disclose the
220 full name, mailing address, telephone numbers and domicile
221 of the contributing committee and the date and amount of the
222 contribution. The report shall be filed within forty-eight

223 hours of the receipt of such contribution if the
224 contribution is received after the last reporting date
225 before the election.

226 12. Each legislative and senatorial district committee
227 shall retain only one address in the district it sits for
228 the purpose of receiving contributions.

130.031. 1. No contribution of cash in an amount of
2 more than one hundred dollars shall be made by or accepted
3 from any single contributor for any election by a continuing
4 committee, a campaign committee, a political party
5 committee, an exploratory committee or a candidate committee.

6 2. [Except for expenditures from a petty cash fund
7 which is established and maintained by withdrawals of funds
8 from the committee's depository account and with records
9 maintained pursuant to the record-keeping requirements of
10 section 130.036 to account for expenditures made from petty
11 cash,] Each expenditure of more than fifty dollars, except
12 an in-kind expenditure, shall be made by check signed by the
13 committee treasurer, deputy treasurer, or candidate or by
14 other electronic means authorized by the treasurer, deputy
15 treasurer, or candidate and drawn on the committee's
16 depository [and signed by the committee treasurer, deputy
17 treasurer or candidate] or credit card in the name of the
18 committee and authorized by the treasurer, deputy treasurer,
19 or candidate. A single expenditure [from a petty] of cash
20 [fund] shall not exceed fifty dollars, and the aggregate of
21 all expenditures [from a petty] of cash [fund] during a
22 calendar year shall not exceed the lesser of five thousand
23 dollars or ten percent of all expenditures made by the
24 committee during that calendar year. [A check made payable
25 to "cash" shall not be made except to replenish a petty cash
26 fund.]

27 3. No contribution shall be made or accepted and no
28 expenditure shall be made or incurred, directly or
29 indirectly, in a fictitious name, in the name of another
30 person, or by or through another person in such a manner as
31 to conceal the identity of the actual source of the
32 contribution or the actual recipient and purpose of the
33 expenditure. Any person who receives contributions for a
34 committee shall disclose to that committee's treasurer,
35 deputy treasurer or candidate the recipient's own name and
36 address and the name and address of the actual source of
37 each contribution such person has received for that
38 committee. Any person who makes expenditures for a
39 committee shall disclose to that committee's treasurer,
40 deputy treasurer or candidate such person's own name and
41 address, the name and address of each person to whom an
42 expenditure has been made and the amount and purpose of the
43 expenditures the person has made for that committee.

44 4. No anonymous contribution of more than twenty-five
45 dollars shall be made by any person, and no anonymous
46 contribution of more than twenty-five dollars shall be
47 accepted by any candidate or committee. If any anonymous
48 contribution of more than twenty-five dollars is received,
49 it shall be returned immediately to the contributor, if the
50 contributor's identity can be ascertained, and if the
51 contributor's identity cannot be ascertained, the candidate,
52 committee treasurer or deputy treasurer shall immediately
53 transmit that portion of the contribution which exceeds
54 twenty-five dollars to the state treasurer and it shall
55 escheat to the state.

56 5. The maximum aggregate amount of anonymous
57 contributions which shall be accepted in any calendar year
58 by any committee shall be the greater of five hundred
59 dollars or one percent of the aggregate amount of all

60 contributions received by that committee in the same
61 calendar year. If any anonymous contribution is received
62 which causes the aggregate total of anonymous contributions
63 to exceed the foregoing limitation, it shall be returned
64 immediately to the contributor, if the contributor's
65 identity can be ascertained, and, if the contributor's
66 identity cannot be ascertained, the committee treasurer,
67 deputy treasurer or candidate shall immediately transmit the
68 anonymous contribution to the state treasurer to escheat to
69 the state.

70 6. Notwithstanding the provisions of subsection 5 of
71 this section, contributions from individuals whose names and
72 addresses cannot be ascertained which are received from a
73 fund-raising activity or event, such as defined in section
74 130.011, shall not be deemed anonymous contributions,
75 provided the following conditions are met:

76 (1) There are twenty-five or more contributing
77 participants in the activity or event;

78 (2) The candidate, committee treasurer, deputy
79 treasurer or the person responsible for conducting the
80 activity or event makes an announcement that it is illegal
81 for anyone to make or receive a contribution in excess of
82 one hundred dollars unless the contribution is accompanied
83 by the name and address of the contributor;

84 (3) The person responsible for conducting the activity
85 or event does not knowingly accept payment from any single
86 person of more than one hundred dollars unless the name and
87 address of the person making such payment is obtained and
88 recorded pursuant to the record-keeping requirements of
89 section 130.036;

90 (4) A statement describing the event shall be prepared
91 by the candidate or the treasurer of the committee for whom
92 the funds were raised or by the person responsible for

93 conducting the activity or event and attached to the
94 disclosure report of contributions and expenditures required
95 by section 130.041. The following information to be listed
96 in the statement is in addition to, not in lieu of, the
97 requirements elsewhere in this chapter relating to the
98 recording and reporting of contributions and expenditures:

99 (a) The name and mailing address of the person or
100 persons responsible for conducting the event or activity and
101 the name and address of the candidate or committee for whom
102 the funds were raised;

103 (b) The date on which the event occurred;

104 (c) The name and address of the location where the
105 event occurred and the approximate number of participants in
106 the event;

107 (d) A brief description of the type of event and the
108 fund-raising methods used;

109 (e) The gross receipts from the event and a listing of
110 the expenditures incident to the event;

111 (f) The total dollar amount of contributions received
112 from the event from participants whose names and addresses
113 were not obtained with such contributions and an explanation
114 of why it was not possible to obtain the names and addresses
115 of such participants;

116 (g) The total dollar amount of contributions received
117 from contributing participants in the event who are
118 identified by name and address in the records required to be
119 maintained pursuant to section 130.036.

120 7. No candidate or committee in this state shall
121 accept contributions from any out-of-state committee unless
122 the out-of-state committee from whom the contributions are
123 received has filed a statement of organization pursuant to
124 section 130.021 or has filed the reports required by

125 sections 130.049 and 130.050, whichever is applicable to
126 that committee.

127 8. Any person publishing, circulating, or distributing
128 any printed matter relative to any candidate for public
129 office or any ballot measure shall on the face of the
130 printed matter identify in a clear and conspicuous manner
131 the person who paid for the printed matter with the words
132 "Paid for by" followed by the proper identification of the
133 sponsor pursuant to this section. For the purposes of this
134 section, "printed matter" shall be defined to include any
135 pamphlet, circular, handbill, sample ballot, advertisement,
136 including advertisements in any newspaper or other
137 periodical, sign, including signs for display on motor
138 vehicles, or other imprinted or lettered material; but
139 "printed matter" is defined to exclude materials printed and
140 purchased prior to May 20, 1982, if the candidate or
141 committee can document that delivery took place prior to May
142 20, 1982; any sign personally printed and constructed by an
143 individual without compensation from any other person and
144 displayed at that individual's place of residence or on that
145 individual's personal motor vehicle; any items of personal
146 use given away or sold, such as campaign buttons, pins,
147 pens, pencils, book matches, campaign jewelry, or clothing,
148 which is paid for by a candidate or committee which supports
149 a candidate or supports or opposes a ballot measure and
150 which is obvious in its identification with a specific
151 candidate or committee and is reported as required by this
152 chapter; and any news story, commentary, or editorial
153 printed by a regularly published newspaper or other
154 periodical without charge to a candidate, committee or any
155 other person.

156 (1) In regard to any printed matter paid for by a
157 candidate from the candidate's personal funds, it shall be

158 sufficient identification to print the first and last name
159 by which the candidate is known.

160 (2) In regard to any printed matter paid for by a
161 committee, it shall be sufficient identification to print
162 the name of the committee as required to be registered by
163 subsection 5 of section 130.021 and the name and title of
164 the committee treasurer who was serving when the printed
165 matter was paid for.

166 (3) In regard to any printed matter paid for by a
167 corporation or other business entity, labor organization, or
168 any other organization not defined to be a committee by
169 subdivision (7) of section 130.011 and not organized
170 especially for influencing one or more elections, it shall
171 be sufficient identification to print the name of the
172 entity, the name of the principal officer of the entity, by
173 whatever title known, and the mailing address of the entity,
174 or if the entity has no mailing address, the mailing address
175 of the principal officer.

176 (4) In regard to any printed matter paid for by an
177 individual or individuals, it shall be sufficient
178 identification to print the name of the individual or
179 individuals and the respective mailing address or addresses,
180 except that if more than five individuals join in paying for
181 printed matter it shall be sufficient identification to
182 print the words "For a list of other sponsors contact:"
183 followed by the name and address of one such individual
184 responsible for causing the matter to be printed, and the
185 individual identified shall maintain a record of the names
186 and amounts paid by other individuals and shall make such
187 record available for review upon the request of any person.
188 No person shall accept for publication or printing nor shall
189 such work be completed until the printed matter is properly
190 identified as required by this subsection.

191 9. Any broadcast station transmitting any matter
192 relative to any candidate for public office or ballot
193 measure as defined by this chapter shall identify the
194 sponsor of such matter as required by federal law.

195 10. The provisions of subsection 8 or 9 of this
196 section shall not apply to candidates for elective federal
197 office, provided that persons causing matter to be printed
198 or broadcast concerning such candidacies shall comply with
199 the requirements of federal law for identification of the
200 sponsor or sponsors.

201 11. It shall be a violation of this chapter for any
202 person required to be identified as paying for printed
203 matter pursuant to subsection 8 of this section or paying
204 for broadcast matter pursuant to subsection 9 of this
205 section to refuse to provide the information required or to
206 purposely provide false, misleading, or incomplete
207 information.

208 12. It shall be a violation of this chapter for any
209 committee to offer chances to win prizes or money to persons
210 to encourage such persons to endorse, send election material
211 by mail, deliver election material in person or contact
212 persons at their homes; except that, the provisions of this
213 subsection shall not be construed to prohibit hiring and
214 paying a campaign staff.

 130.036. 1. The candidate, treasurer or deputy
2 treasurer of a committee shall maintain accurate records and
3 accounts on a current basis. The records and accounts shall
4 be maintained in accordance with accepted normal bookkeeping
5 procedures and shall contain the bills, receipts, deposit
6 records, cancelled checks, credit card statements, and
7 records and other detailed information necessary to prepare
8 and substantiate any statement or report required to be
9 filed pursuant to this chapter. Every person who acts as an

10 agent for a committee in receiving contributions, making
11 expenditures or incurring indebtedness for the committee
12 shall, on request of that committee's treasurer, deputy
13 treasurer or candidate, but in any event within five days
14 after any such action, render to the candidate, committee
15 treasurer or deputy treasurer a detailed account thereof,
16 including names, addresses, dates, exact amounts and any
17 other details required by the candidate, treasurer or deputy
18 treasurer to comply with this chapter. Notwithstanding the
19 provisions of subsection 4 of section 130.021 prohibiting
20 commingling of funds, an individual, trade or professional
21 association, business entity, or labor organization which
22 acts as an agent for a committee in receiving contributions
23 may deposit contributions received on behalf of the
24 committee to the agent's account within a financial
25 institution within this state, for purposes of facilitating
26 transmittal of the contributions to the candidate, committee
27 treasurer or deputy treasurer. Such contributions shall not
28 be held in the agent's account for more than five days after
29 the date the contribution was received by the agent, and
30 shall not be transferred to the account of any other agent
31 or person, other than the committee treasurer.

32 2. Unless a contribution is rejected by the candidate
33 or committee and returned to the donor or transmitted to the
34 state treasurer within ten business days after its receipt,
35 it shall be considered received and accepted on the date
36 received, notwithstanding the fact that it was not deposited
37 by the closing date of a reporting period.

38 3. Notwithstanding the provisions of section 130.041
39 that only contributors of more than one hundred dollars
40 shall be reported by name and address for all committees,
41 the committee's records shall contain a listing of each
42 contribution received by the committee, including those

43 accepted and those which are rejected and either returned to
44 the donor or transmitted to the state treasurer. Each
45 contribution, regardless of the amount, shall be recorded by
46 date received, name and address of the contributor and the
47 amount of the contribution, except that any contributions
48 from unidentifiable persons which are received through fund-
49 raising activities and events as permitted in subsection 6
50 of section 130.031 shall be recorded to show the dates and
51 amounts of all such contributions received together with
52 information contained in statements required by subsection 6
53 of section 130.031. The procedure for recording
54 contributions shall be of a type which enables the
55 candidate, committee treasurer or deputy treasurer to
56 maintain a continuing total of all contributions received
57 from any one contributor.

58 4. [Notwithstanding the provisions of section 130.041
59 that certain expenditures need not be identified in reports
60 by name and address of the payee,] The committee's records
61 shall include a listing of each expenditure made and each
62 contract, promise or agreement to make an expenditure,
63 showing the date and amount of each transaction, the name
64 and address of the person to whom the expenditure was made
65 or promised, and the purpose of each expenditure made or
66 promised.

67 5. In the case of a committee which makes expenditures
68 for both the support or opposition of any candidate and the
69 passage or defeat of a ballot measure, the committee
70 treasurer shall maintain records segregated according to
71 each candidate or measure for which the expenditures were
72 made.

73 6. Records shall indicate which transactions, either
74 contributions received or expenditures made, were cash
75 transactions or in-kind transactions.

76 7. Any candidate who, pursuant to section 130.016, is
77 exempt from the requirements to form a committee shall
78 maintain records of each contribution received or
79 expenditure made in support of his candidacy. Any other
80 person or combination of persons who, although not deemed to
81 be a committee according to the definition of the term
82 "committee" in section 130.011, accepts contributions or
83 makes expenditures, other than direct contributions from the
84 person's own funds, for the purpose of supporting or
85 opposing the election or defeat of any candidate or for the
86 purpose of supporting or opposing the qualifications,
87 passage or defeat of any ballot measure shall maintain
88 records of each contribution received or expenditure made.
89 The records shall include name, address and amount
90 pertaining to each contribution received or expenditure made
91 and any bills, receipts, cancelled checks or other documents
92 relating to each transaction.

93 8. All records and accounts of receipts and
94 expenditures shall be preserved for at least three years
95 after the date of the election to which the records
96 pertain. Records and accounts regarding supplemental
97 disclosure reports or reports not required pursuant to an
98 election shall be preserved for at least three years after
99 the date of the report to which the records pertain. Such
100 records shall be available for inspection by the [campaign
101 finance review board] Missouri ethics commission and its
102 duly authorized representatives.

130.041. 1. Except as provided in subsection 5 of
2 section 130.016, the candidate, if applicable, treasurer or
3 deputy treasurer of every committee which is required to
4 file a statement of organization, shall file a legibly
5 printed or typed disclosure report of receipts and
6 expenditures. The reports shall be filed with the

7 appropriate officer designated in section 130.026 at the
8 times and for the periods prescribed in section 130.046.
9 Except as provided in sections 130.049 and 130.050, each
10 report shall set forth:

11 (1) The full name, as required in the statement of
12 organization pursuant to subsection 5 of section 130.021,
13 and mailing address of the committee filing the report and
14 the full name, mailing address and telephone number of the
15 committee's treasurer and deputy treasurer if the committee
16 has named a deputy treasurer;

17 (2) The amount of money, including cash on hand at the
18 beginning of the reporting period;

19 (3) Receipts for the period, including:

20 (a) Total amount of all monetary contributions
21 received which can be identified in the committee's records
22 by name and address of each contributor. In addition, the
23 candidate committee shall make a reasonable effort to obtain
24 and report the employer, or occupation if self-employed or
25 notation of retirement, of each person from whom the
26 committee received one or more contributions which in the
27 aggregate total in excess of one hundred dollars and shall
28 make a reasonable effort to obtain and report a description
29 of any contractual relationship over five hundred dollars
30 between the contributor and the state if the candidate is
31 seeking election to a state office or between the
32 contributor and any political subdivision of the state if
33 the candidate is seeking election to another political
34 subdivision of the state;

35 (b) Total amount of all anonymous contributions
36 accepted;

37 (c) Total amount of all monetary contributions
38 received through fund-raising events or activities from
39 participants whose names and addresses were not obtained

40 with such contributions, with an attached statement or copy
41 of the statement describing each fund-raising event as
42 required in subsection 6 of section 130.031;

43 (d) Total dollar value of all in-kind contributions
44 received;

45 (e) A separate listing by name and address and
46 employer, or occupation if self-employed or notation of
47 retirement, of each person from whom the committee received
48 contributions, in money or any other thing of value,
49 aggregating more than one hundred dollars, together with the
50 date and amount of each such contribution;

51 (f) A listing of each loan received by name and
52 address of the lender and date and amount of the loan. For
53 each loan of more than one hundred dollars, a separate
54 statement shall be attached setting forth the name and
55 address of the lender and each person liable directly,
56 indirectly or contingently, and the date, amount and terms
57 of the loan;

58 (4) Expenditures for the period, including:

59 (a) The total dollar amount of expenditures made by
60 check drawn on the committee's depository;

61 (b) The total dollar amount of expenditures made in
62 cash;

63 (c) The total dollar value of all in-kind expenditures
64 made;

65 (d) The total dollar amount of expenditures made via
66 electronic means;

67 (e) The full name and mailing address of each person
68 to whom an expenditure of money or any other thing of value
69 in the amount of more than one hundred dollars has been
70 made, contracted for or incurred, together with the date,
71 amount and purpose of each expenditure. Expenditures of one
72 hundred dollars or less may be grouped and listed by

73 categories of expenditure showing the total dollar amount of
74 expenditures in each category, except that the report shall
75 contain an itemized listing of each payment made to campaign
76 workers by name, address, date, amount and purpose of each
77 payment and the aggregate amount paid to each such worker;

78 ~~[(e)]~~ (f) A list of each loan made, by name and
79 mailing address of the person receiving the loan, together
80 with the amount, terms and date;

81 (5) The total amount of cash on hand as of the closing
82 date of the reporting period covered, including amounts in
83 depository accounts and in petty cash fund;

84 (6) The total amount of outstanding indebtedness as of
85 the closing date of the reporting period covered;

86 (7) The amount of expenditures for or against a
87 candidate or ballot measure during the period covered and
88 the cumulative amount of expenditures for or against that
89 candidate or ballot measure, with each candidate being
90 listed by name, mailing address and office sought. For the
91 purpose of disclosure reports, expenditures made in support
92 of more than one candidate or ballot measure or both shall
93 be apportioned reasonably among the candidates or ballot
94 measure or both. In apportioning expenditures to each
95 candidate or ballot measure, political party committees and
96 continuing committees need not include expenditures for
97 maintaining a permanent office, such as expenditures for
98 salaries of regular staff, office facilities and equipment
99 or other expenditures not designed to support or oppose any
100 particular candidates or ballot measures; however, all such
101 expenditures shall be listed pursuant to subdivision (4) of
102 this subsection;

103 (8) A separate listing by full name and address of any
104 committee including a candidate committee controlled by the
105 same candidate for which a transfer of funds or a

106 contribution in any amount has been made during the
107 reporting period, together with the date and amount of each
108 such transfer or contribution;

109 (9) A separate listing by full name and address of any
110 committee, including a candidate committee controlled by the
111 same candidate from which a transfer of funds or a
112 contribution in any amount has been received during the
113 reporting period, together with the date and amount of each
114 such transfer or contribution;

115 (10) Each committee that receives a contribution which
116 is restricted or designated in whole or in part by the
117 contributor for transfer to a particular candidate,
118 committee or other person shall include a statement of the
119 name and address of that contributor in the next disclosure
120 report required to be filed after receipt of such
121 contribution, together with the date and amount of any such
122 contribution which was so restricted or designated by that
123 contributor, together with the name of the particular
124 candidate or committee to whom such contribution was so
125 designated or restricted by that contributor and the date
126 and amount of such contribution.

127 2. For the purpose of this section and any other
128 section in this chapter except sections 130.049 and 130.050
129 which requires a listing of each contributor who has
130 contributed a specified amount, the aggregate amount shall
131 be computed by adding all contributions received from any
132 one person during the following periods:

133 (1) In the case of a candidate committee, the period
134 shall begin on the date on which the candidate became a
135 candidate according to the definition of the term
136 "candidate" in section 130.011 and end at 11:59 p.m. on the
137 day of the primary election, if the candidate has such an
138 election or at 11:59 p.m. on the day of the general

139 election. If the candidate has a general election held
140 after a primary election, the next aggregating period shall
141 begin at 12:00 midnight on the day after the primary
142 election day and shall close at 11:59 p.m. on the day of the
143 general election. Except that for contributions received
144 during the thirty-day period immediately following a primary
145 election, the candidate shall designate whether such
146 contribution is received as a primary election contribution
147 or a general election contribution;

148 (2) In the case of a campaign committee, the period
149 shall begin on the date the committee received its first
150 contribution and end on the closing date for the period for
151 which the report or statement is required;

152 (3) In the case of a political party committee or a
153 continuing committee, the period shall begin on the first
154 day of January of the year in which the report or statement
155 is being filed and end on the closing date for the period
156 for which the report or statement is required; except, if
157 the report or statement is required to be filed prior to the
158 first day of July in any given year, the period shall begin
159 on the first day of July of the preceding year.

160 3. The disclosure report shall be signed and attested
161 by the committee treasurer or deputy treasurer and by the
162 candidate in case of a candidate committee.

163 4. The words "consulting or consulting services, fees,
164 or expenses", or similar words, shall not be used to
165 describe the purpose of a payment as required in this
166 section. The reporting of any payment to such an
167 independent contractor shall be on a form supplied by the
168 appropriate officer, established by the ethics commission
169 and shall include identification of the specific service or
170 services provided including, but not limited to, public
171 opinion polling, research on issues or opposition

172 background, print or broadcast media production, print or
173 broadcast media purchase, computer programming or data
174 entry, direct mail production, postage, rent, utilities,
175 phone solicitation, or fund raising, and the dollar amount
176 prorated for each service.

137.100. The following subjects are exempt from
2 taxation for state, county or local purposes:

3 (1) Lands and other property belonging to this state;

4 (2) Lands and other property belonging to any city,
5 county or other political subdivision in this state,
6 including market houses, town halls and other public
7 structures, with their furniture and equipments, and on
8 public squares and lots kept open for health, use or
9 ornament;

10 (3) Nonprofit cemeteries;

11 (4) The real estate and tangible personal property
12 which is used exclusively for agricultural or horticultural
13 societies organized in this state, including not-for-profit
14 agribusiness associations;

15 (5) All property, real and personal, actually and
16 regularly used exclusively for religious worship, for
17 schools and colleges, or for purposes purely charitable and
18 not held for private or corporate profit, except that the
19 exemption herein granted does not include real property not
20 actually used or occupied for the purpose of the
21 organization but held or used as investment even though the
22 income or rentals received therefrom is used wholly for
23 religious, educational or charitable purposes;

24 (6) Household goods, furniture, wearing apparel and
25 articles of personal use and adornment, as defined by the
26 state tax commission, owned and used by a person in his home
27 or dwelling place;

28 (7) Motor vehicles leased for a period of at least one
29 year to this state or to any city, county, or political
30 subdivision or to any religious, educational, or charitable
31 organization which has obtained an exemption from the
32 payment of federal income taxes, provided the motor vehicles
33 are used exclusively for religious, educational, or
34 charitable purposes;

35 (8) Real or personal property leased or otherwise
36 transferred by an interstate compact agency created pursuant
37 to sections 70.370 to 70.430 or sections 238.010 to 238.100
38 to another for which or whom such property is not exempt
39 when immediately after the lease or transfer, the interstate
40 compact agency enters into a leaseback or other agreement
41 that directly or indirectly gives such interstate compact
42 agency a right to use, control, and possess the property;
43 provided, however, that in the event of a conveyance of such
44 property, the interstate compact agency must retain an
45 option to purchase the property at a future date or, within
46 the limitations period for reverters, the property must
47 revert back to the interstate compact agency. Property will
48 no longer be exempt under this subdivision in the event of a
49 conveyance as of the date, if any, when:

50 (a) The right of the interstate compact agency to use,
51 control, and possess the property is terminated;

52 (b) The interstate compact agency no longer has an
53 option to purchase or otherwise acquire the property; and

54 (c) There are no provisions for reverter of the
55 property within the limitation period for reverters;

56 (9) All property, real and personal, belonging to
57 veterans' organizations. As used in this section,
58 "veterans' organization" means any organization of veterans
59 with a congressional charter, that is incorporated in this

60 state, and that is exempt from taxation under section
61 501(c)(19) of the Internal Revenue Code of 1986, as amended;

62 (10) Solar energy systems not held for resale; and

63 (11) Virtual currencies. As used in this section,

64 "virtual currency" means any type of digital representation
65 of value that:

66 (a) Is used as a medium of exchange, unit of account,
67 or store of value; and

68 (b) Is not recognized as legal tender by the United
69 States government.

143.121. 1. The Missouri adjusted gross income of a
2 resident individual shall be the taxpayer's federal adjusted
3 gross income subject to the modifications in this section.

4 2. There shall be added to the taxpayer's federal
5 adjusted gross income:

6 (1) The amount of any federal income tax refund
7 received for a prior year which resulted in a Missouri
8 income tax benefit. The amount added pursuant to this
9 subdivision shall not include any amount of a federal income
10 tax refund attributable to a tax credit reducing a
11 taxpayer's federal tax liability pursuant to Public Law 116-
12 136 or 116-260, enacted by the 116th United States Congress,
13 for the tax year beginning on or after January 1, 2020, and
14 ending on or before December 31, 2020, and deducted from
15 Missouri adjusted gross income pursuant to section 143.171.
16 The amount added under this subdivision shall also not
17 include any amount of a federal income tax refund
18 attributable to a tax credit reducing a taxpayer's federal
19 tax liability under any other federal law that provides
20 direct economic impact payments to taxpayers to mitigate
21 financial challenges related to the COVID-19 pandemic, and
22 deducted from Missouri adjusted gross income under section
23 143.171;

24 (2) Interest on certain governmental obligations
25 excluded from federal gross income by 26 U.S.C. Section 103
26 of the Internal Revenue Code, as amended. The previous
27 sentence shall not apply to interest on obligations of the
28 state of Missouri or any of its political subdivisions or
29 authorities and shall not apply to the interest described in
30 subdivision (1) of subsection 3 of this section. The amount
31 added pursuant to this subdivision shall be reduced by the
32 amounts applicable to such interest that would have been
33 deductible in computing the taxable income of the taxpayer
34 except only for the application of 26 U.S.C. Section 265 of
35 the Internal Revenue Code, as amended. The reduction shall
36 only be made if it is at least five hundred dollars;

37 (3) The amount of any deduction that is included in
38 the computation of federal taxable income pursuant to 26
39 U.S.C. Section 168 of the Internal Revenue Code as amended
40 by the Job Creation and Worker Assistance Act of 2002 to the
41 extent the amount deducted relates to property purchased on
42 or after July 1, 2002, but before July 1, 2003, and to the
43 extent the amount deducted exceeds the amount that would
44 have been deductible pursuant to 26 U.S.C. Section 168 of
45 the Internal Revenue Code of 1986 as in effect on January 1,
46 2002;

47 (4) The amount of any deduction that is included in
48 the computation of federal taxable income for net operating
49 loss allowed by 26 U.S.C. Section 172 of the Internal
50 Revenue Code of 1986, as amended, other than the deduction
51 allowed by 26 U.S.C. Section 172(b)(1)(G) and 26 U.S.C.
52 Section 172(i) of the Internal Revenue Code of 1986, as
53 amended, for a net operating loss the taxpayer claims in the
54 tax year in which the net operating loss occurred or carries
55 forward for a period of more than twenty years and carries
56 backward for more than two years. Any amount of net

57 operating loss taken against federal taxable income but
58 disallowed for Missouri income tax purposes pursuant to this
59 subdivision after June 18, 2002, may be carried forward and
60 taken against any income on the Missouri income tax return
61 for a period of not more than twenty years from the year of
62 the initial loss; and

63 (5) For nonresident individuals in all taxable years
64 ending on or after December 31, 2006, the amount of any
65 property taxes paid to another state or a political
66 subdivision of another state for which a deduction was
67 allowed on such nonresident's federal return in the taxable
68 year unless such state, political subdivision of a state, or
69 the District of Columbia allows a subtraction from income
70 for property taxes paid to this state for purposes of
71 calculating income for the income tax for such state,
72 political subdivision of a state, or the District of
73 Columbia;

74 (6) For all tax years beginning on or after January 1,
75 2018, any interest expense paid or accrued in a previous
76 taxable year, but allowed as a deduction under 26 U.S.C.
77 Section 163, as amended, in the current taxable year by
78 reason of the carryforward of disallowed business interest
79 provisions of 26 U.S.C. Section 163(j), as amended. For the
80 purposes of this subdivision, an interest expense is
81 considered paid or accrued only in the first taxable year
82 the deduction would have been allowable under 26 U.S.C.
83 Section 163, as amended, if the limitation under 26 U.S.C.
84 Section 163(j), as amended, did not exist.

85 3. There shall be subtracted from the taxpayer's
86 federal adjusted gross income the following amounts to the
87 extent included in federal adjusted gross income:

88 (1) Interest received on deposits held at a federal
89 reserve bank or interest or dividends on obligations of the

90 United States and its territories and possessions or of any
91 authority, commission or instrumentality of the United
92 States to the extent exempt from Missouri income taxes
93 pursuant to the laws of the United States. The amount
94 subtracted pursuant to this subdivision shall be reduced by
95 any interest on indebtedness incurred to carry the described
96 obligations or securities and by any expenses incurred in
97 the production of interest or dividend income described in
98 this subdivision. The reduction in the previous sentence
99 shall only apply to the extent that such expenses including
100 amortizable bond premiums are deducted in determining the
101 taxpayer's federal adjusted gross income or included in the
102 taxpayer's Missouri itemized deduction. The reduction shall
103 only be made if the expenses total at least five hundred
104 dollars;

105 (2) The portion of any gain, from the sale or other
106 disposition of property having a higher adjusted basis to
107 the taxpayer for Missouri income tax purposes than for
108 federal income tax purposes on December 31, 1972, that does
109 not exceed such difference in basis. If a gain is
110 considered a long-term capital gain for federal income tax
111 purposes, the modification shall be limited to one-half of
112 such portion of the gain;

113 (3) The amount necessary to prevent the taxation
114 pursuant to this chapter of any annuity or other amount of
115 income or gain which was properly included in income or gain
116 and was taxed pursuant to the laws of Missouri for a taxable
117 year prior to January 1, 1973, to the taxpayer, or to a
118 decedent by reason of whose death the taxpayer acquired the
119 right to receive the income or gain, or to a trust or estate
120 from which the taxpayer received the income or gain;

121 (4) Accumulation distributions received by a taxpayer
122 as a beneficiary of a trust to the extent that the same are
123 included in federal adjusted gross income;

124 (5) The amount of any state income tax refund for a
125 prior year which was included in the federal adjusted gross
126 income;

127 (6) The portion of capital gain specified in section
128 135.357 that would otherwise be included in federal adjusted
129 gross income;

130 (7) The amount that would have been deducted in the
131 computation of federal taxable income pursuant to 26 U.S.C.
132 Section 168 of the Internal Revenue Code as in effect on
133 January 1, 2002, to the extent that amount relates to
134 property purchased on or after July 1, 2002, but before July
135 1, 2003, and to the extent that amount exceeds the amount
136 actually deducted pursuant to 26 U.S.C. Section 168 of the
137 Internal Revenue Code as amended by the Job Creation and
138 Worker Assistance Act of 2002;

139 (8) For all tax years beginning on or after January 1,
140 2005, the amount of any income received for military service
141 while the taxpayer serves in a combat zone which is included
142 in federal adjusted gross income and not otherwise excluded
143 therefrom. As used in this section, "combat zone" means any
144 area which the President of the United States by Executive
145 Order designates as an area in which Armed Forces of the
146 United States are or have engaged in combat. Service is
147 performed in a combat zone only if performed on or after the
148 date designated by the President by Executive Order as the
149 date of the commencing of combat activities in such zone,
150 and on or before the date designated by the President by
151 Executive Order as the date of the termination of combatant
152 activities in such zone;

153 (9) For all tax years ending on or after July 1, 2002,
154 with respect to qualified property that is sold or otherwise
155 disposed of during a taxable year by a taxpayer and for
156 which an additional modification was made under subdivision
157 (3) of subsection 2 of this section, the amount by which
158 additional modification made under subdivision (3) of
159 subsection 2 of this section on qualified property has not
160 been recovered through the additional subtractions provided
161 in subdivision (7) of this subsection;

162 (10) For all tax years beginning on or after January
163 1, 2014, the amount of any income received as payment from
164 any program which provides compensation to agricultural
165 producers who have suffered a loss as the result of a
166 disaster or emergency, including the:

- 167 (a) Livestock Forage Disaster Program;
- 168 (b) Livestock Indemnity Program;
- 169 (c) Emergency Assistance for Livestock, Honeybees, and
170 Farm-Raised Fish;
- 171 (d) Emergency Conservation Program;
- 172 (e) Noninsured Crop Disaster Assistance Program;
- 173 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 174 (g) Annual Forage Pilot Program;
- 175 (h) Livestock Risk Protection Insurance Plan;
- 176 (i) Livestock Gross Margin Insurance Plan;

177 (11) For all tax years beginning on or after January
178 1, 2018, any interest expense paid or accrued in the current
179 taxable year, but not deducted as a result of the limitation
180 imposed under 26 U.S.C. Section 163(j), as amended. For the
181 purposes of this subdivision, an interest expense is
182 considered paid or accrued only in the first taxable year
183 the deduction would have been allowable under 26 U.S.C.
184 Section 163, as amended, if the limitation under 26 U.S.C.
185 Section 163(j), as amended, did not exist; [and]

186 (12) One hundred percent of any retirement benefits
187 received by any taxpayer as a result of the taxpayer's
188 service in the Armed Forces of the United States, including
189 reserve components and the National Guard of this state, as
190 defined in 32 U.S.C. Sections 101(3) and 109, and any other
191 military force organized under the laws of this state; and

192 (13) For all tax years beginning on or after January
193 1, 2024, the portion of capital gain on the sale or exchange
194 of gold and silver that are otherwise included in the
195 taxpayer's federal adjusted gross income.

196 4. There shall be added to or subtracted from the
197 taxpayer's federal adjusted gross income the taxpayer's
198 share of the Missouri fiduciary adjustment provided in
199 section 143.351.

200 5. There shall be added to or subtracted from the
201 taxpayer's federal adjusted gross income the modifications
202 provided in section 143.411.

203 6. In addition to the modifications to a taxpayer's
204 federal adjusted gross income in this section, to calculate
205 Missouri adjusted gross income there shall be subtracted
206 from the taxpayer's federal adjusted gross income any gain
207 recognized pursuant to 26 U.S.C. Section 1033 of the
208 Internal Revenue Code of 1986, as amended, arising from
209 compulsory or involuntary conversion of property as a result
210 of condemnation or the imminence thereof.

211 7. (1) As used in this subsection, "qualified health
212 insurance premium" means the amount paid during the tax year
213 by such taxpayer for any insurance policy primarily
214 providing health care coverage for the taxpayer, the
215 taxpayer's spouse, or the taxpayer's dependents.

216 (2) In addition to the subtractions in subsection 3 of
217 this section, one hundred percent of the amount of qualified
218 health insurance premiums shall be subtracted from the

219 taxpayer's federal adjusted gross income to the extent the
220 amount paid for such premiums is included in federal taxable
221 income. The taxpayer shall provide the department of
222 revenue with proof of the amount of qualified health
223 insurance premiums paid.

224 8. (1) Beginning January 1, 2014, in addition to the
225 subtractions provided in this section, one hundred percent
226 of the cost incurred by a taxpayer for a home energy audit
227 conducted by an entity certified by the department of
228 natural resources under section 640.153 or the
229 implementation of any energy efficiency recommendations made
230 in such an audit shall be subtracted from the taxpayer's
231 federal adjusted gross income to the extent the amount paid
232 for any such activity is included in federal taxable
233 income. The taxpayer shall provide the department of
234 revenue with a summary of any recommendations made in a
235 qualified home energy audit, the name and certification
236 number of the qualified home energy auditor who conducted
237 the audit, and proof of the amount paid for any activities
238 under this subsection for which a deduction is claimed. The
239 taxpayer shall also provide a copy of the summary of any
240 recommendations made in a qualified home energy audit to the
241 department of natural resources.

242 (2) At no time shall a deduction claimed under this
243 subsection by an individual taxpayer or taxpayers filing
244 combined returns exceed one thousand dollars per year for
245 individual taxpayers or cumulatively exceed two thousand
246 dollars per year for taxpayers filing combined returns.

247 (3) Any deduction claimed under this subsection shall
248 be claimed for the tax year in which the qualified home
249 energy audit was conducted or in which the implementation of
250 the energy efficiency recommendations occurred. If
251 implementation of the energy efficiency recommendations

252 occurred during more than one year, the deduction may be
253 claimed in more than one year, subject to the limitations
254 provided under subdivision (2) of this subsection.

255 (4) A deduction shall not be claimed for any otherwise
256 eligible activity under this subsection if such activity
257 qualified for and received any rebate or other incentive
258 through a state-sponsored energy program or through an
259 electric corporation, gas corporation, electric cooperative,
260 or municipally owned utility.

261 9. The provisions of subsection 8 of this section
262 shall expire on December 31, 2020.

170.281. 1. As used in this section, "personal
2 finance" means a course consisting of financial literacy and
3 up-to-date tools, resources, and discipline necessary to
4 succeed in a personal and professional capacity in the
5 current economy; personal finance may include courses
6 offered in vocational or technical curricula.

7 2. The department of elementary and secondary
8 education shall convene a work group to develop and
9 recommend academic performance standards relating to the one-
10 half unit of credit of personal finance required by the
11 state board of education. The work group shall include, but
12 not be limited to, educators providing instruction in
13 personal finance, a representative from the Missouri
14 Association of Career and Technical Education, and
15 representatives from the department of elementary and
16 secondary education, banking industry, entrepreneurs, and
17 nonprofit organizations that focus on educating young
18 professionals and entrepreneurs.

19 3. The state board of education shall adopt and
20 implement academic performance standards relating to
21 personal finance for the 2024-25 school year and all
22 subsequent school years, except that academic performance

23 standards relating to personal finance shall be reviewed
24 every seven years to determine if the performance standards
25 need to be updated to reflect trends and best practices in
26 the current economy.

27 4. (1) For the 2024-25 school year and all subsequent
28 school years, each school district shall require that after
29 the completion of grade nine each student satisfactorily
30 completes such one-half unit of credit of personal finance
31 before receiving a high school diploma or certificate of
32 graduation.

33 (2) A school district may elect to waive the
34 requirements of subdivision (1) of this subsection for a
35 student who transfers from outside the state to a Missouri
36 high school if the student can furnish documentation deemed
37 acceptable by the school district of the student's
38 successful completion of a substantially similar course of
39 instruction.

40 (3) A school district may allow a student in grade
41 nine to complete such one-half unit of credit of personal
42 finance if, on the recommendation of a school counselor,
43 completing such one-half unit of credit of personal finance
44 is beneficial and appropriate for such student's personal
45 plan of study or career academic plan.

46 5. The requirements of section 160.514 shall not apply
47 to this section.

214.330. 1. (1) The endowed care trust fund required
2 by sections 214.270 to 214.410 shall be permanently set
3 aside in trust or in accordance with the provisions of
4 subsection 2 of this section. The trustee of the endowed
5 care trust shall be a state or federally chartered financial
6 institution authorized to exercise trust powers in
7 Missouri. The contact information for a trust officer or
8 duly appointed representative of the trustee with knowledge

9 and access to the trust fund accounting and trust fund
10 records must be disclosed to the office or its duly
11 authorized representative upon request.

12 (2) The trust fund records, including all trust fund
13 accounting records, shall be maintained in the state of
14 Missouri at all times or shall be electronically stored so
15 that the records may be made available in the state of
16 Missouri within fifteen business days of receipt of a
17 written request. The operator of an endowed care cemetery
18 shall maintain a current name and address of the trustee and
19 the records custodian for the endowed care trust fund and
20 shall supply such information to the office, or its
21 representative, upon request.

22 (3) Missouri law shall control all endowed care trust
23 funds and the Missouri courts shall have jurisdiction over
24 endowed care trusts regardless of where records may be kept
25 or various administrative tasks may be performed.

26 2. An endowed care trust fund shall be administered in
27 accordance with Missouri law governing trusts, including but
28 not limited to the applicable provisions of chapters 456 and
29 469, except as specifically provided in this subsection or
30 where the provisions of sections 214.270 to 214.410 provide
31 differently, provided that a cemetery operator shall not in
32 any circumstances be authorized to restrict, enlarge,
33 change, or modify the requirements of this section or the
34 provisions of chapters 456 and 469 by agreement or otherwise.

35 (1) Income and principal of an endowed care trust fund
36 shall be determined under the provisions of law applicable
37 to trusts, except that the [provisions of section 469.405
38 shall not apply] trustee shall have:

39 (a) No power of adjustment under section 469.405;

40 (b) No power of conversion either from an income trust
41 to a unitrust or from a unitrust to an income trust under
42 section 469.475;

43 (c) No power or discretion to determine or modify the
44 unitrust rate, as established in the terms of the endowed
45 care trust agreement; and

46 (d) No discretion to determine applicable value for
47 purposes of computing the unitrust amount beyond that
48 granted by law and exercised solely for reasons of
49 administrative convenience and not to affect the size of
50 distributions.

51 In determining applicable value under section 469.473,
52 values over a three-year period if available, or the
53 duration of the trust if shorter, shall be used.

54 (2) No principal shall be distributed from an endowed
55 care trust fund except to the extent that a unitrust
56 [election is in effect with respect to such trust under the
57 provisions of section 469.411] amount is required by the
58 terms of the endowed care trust fund agreement under
59 subdivision (6) of this subsection.

60 (3) No right to transfer jurisdiction from Missouri
61 under section 456.1-108 shall exist for endowed care trusts.

62 (4) All endowed care trusts shall be irrevocable.

63 (5) No trustee shall have the power to terminate an
64 endowed care trust fund under the provisions of section
65 456.4-414.

66 (6) A unitrust [election made in accordance with the
67 provisions of chapter 469 shall be made by the cemetery
68 operator in the terms of the endowed care trust fund
69 agreement itself, not by the trustee] definition of income
70 under sections 469.471 to 469.487 shall be established by
71 the cemetery operator in the terms of the endowed care trust
72 fund agreement itself, not by the trustee, and shall not

73 provide for a unitrust rate exceeding five percent per
74 annum. The unitrust rate shall be changed only by amendment
75 to the agreement as provided in this section.

76 (7) No contract of insurance shall be deemed a
77 suitable investment for an endowed care trust fund.

78 (8) The income from the endowed care fund may be
79 distributed to the cemetery operator at least annually on a
80 date designated by the cemetery operator by record, but no
81 later than sixty days following the end of the [trust fund]
82 trust's fiscal year. Any income not distributed within
83 sixty days following the end of the trust's fiscal year
84 shall be added to and held as part of the principal of the
85 trust fund. The cemetery operator may instruct by record
86 the trustee to distribute less than all the income
87 distributable for the year if the cemetery operator
88 determines that the money is not needed.

89 3. The cemetery operator shall have the duty and
90 responsibility to apply the income distributed to provide
91 care and maintenance only for that part of the cemetery
92 designated as an endowed care section and not for any other
93 purpose.

94 4. In addition to any other duty, obligation, or
95 requirement imposed by sections 214.270 to 214.410 or the
96 endowed care trust agreement, the trustee's duties shall be
97 the maintenance of records related to the trust and the
98 accounting for and investment of moneys deposited by the
99 operator to the endowed care trust fund.

100 (1) For the purposes of sections 214.270 to 214.410,
101 the trustee shall not be deemed responsible for the care,
102 the maintenance, or the operation of the cemetery, or for
103 any other matter relating to the cemetery, or the proper
104 expenditure of funds distributed by the trustee to the

105 cemetery operator, including, but not limited to, compliance
106 with environmental laws and regulations.

107 (2) With respect to cemetery property maintained by
108 endowed care funds, the cemetery operator shall be
109 responsible for the performance of the care and maintenance
110 of the cemetery property.

111 5. If the endowed care cemetery fund is not
112 permanently set aside in a trust fund as required by
113 subsection 1 of this section, then the funds shall be
114 permanently set aside in an escrow account in the state of
115 Missouri. Funds in an escrow account shall be placed in an
116 endowed care trust fund under subsection 1 if the funds in
117 the escrow account exceed three hundred fifty thousand
118 dollars, unless otherwise approved by the division for good
119 cause. The account shall be insured by the Federal Deposit
120 Insurance Corporation or comparable deposit insurance and
121 held in a state or federally chartered financial institution
122 authorized to do business in Missouri and located in this
123 state.

124 (1) The interest from the escrow account may be
125 distributed to the cemetery operator at least in annual or
126 semiannual installments, but not later than six months
127 following the calendar year. Any interest not distributed
128 within six months following the end of the calendar year
129 shall be added to and held as part of the principal of the
130 account.

131 (2) The cemetery operator shall have the duty and
132 responsibility to apply the interest to provide care and
133 maintenance only for that part of the cemetery in which
134 burial space shall have been sold and with respect to which
135 sales the escrow account shall have been established and not
136 for any other purpose. The principal of such funds shall be
137 kept intact. The cemetery operator's duties shall be the

138 maintenance of records and the accounting for an investment
139 of moneys deposited by the operator to the escrow account.
140 For purposes of sections 214.270 to 214.410, the
141 administrator of the office of endowed care cemeteries shall
142 not be deemed to be responsible for the care, maintenance,
143 or operation of the cemetery. With respect to cemetery
144 property maintained by cemetery care funds, the cemetery
145 operator shall be responsible for the performance of the
146 care and maintenance of the cemetery property owned by the
147 cemetery operator.

148 (3) The division may approve an escrow agent if the
149 escrow agent demonstrates the knowledge, skill, and ability
150 to handle escrow funds and financial transactions and is of
151 good moral character.

152 6. The cemetery operator shall be accountable to the
153 owners of burial space in the cemetery for compliance with
154 sections 214.270 to 214.410.

155 7. Excluding funds held in an escrow account, all
156 endowed care trust funds shall be administered in accordance
157 with an endowed care trust fund agreement, which shall be
158 submitted to the office by the cemetery operator for review
159 and approval. The endowed care cemetery shall be notified
160 in writing by the office of endowed care cemeteries
161 regarding the approval or disapproval of the endowed care
162 trust fund agreement and regarding any changes required to
163 be made for compliance with sections 214.270 to 214.410 and
164 the rules and regulations promulgated thereunder.

165 8. All endowed care cemeteries shall be under a
166 continuing duty to file with the office of endowed care
167 cemeteries and to submit for prior approval any and all
168 changes, amendments, or revisions of the endowed care trust
169 fund agreement at least thirty days before the effective
170 date of such change, amendment, or revision.

171 9. If the endowed care trust fund agreement, or any
172 changes, amendments, or revisions filed with the office, are
173 not disapproved by the office within thirty days after
174 submission by the cemetery operator, the endowed care trust
175 fund agreement, or the related change, amendment, or
176 revision, shall be deemed approved and may be used by the
177 cemetery operator and the trustee. Notwithstanding any
178 other provision of this section, the office may review and
179 disapprove an endowed care trust fund agreement, or any
180 submitted change, amendment, or revision, after the thirty
181 days provided herein or at any other time if the agreement
182 is not in compliance with sections 214.270 to 214.410 or the
183 rules promulgated thereunder. Notice of disapproval by the
184 office shall be in writing and delivered to the cemetery
185 operator and the trustee within ten days of disapproval.

186 10. Funds in an endowed care trust fund or escrow
187 account may be commingled with endowed care funds for other
188 endowed care cemeteries, provided that the cemetery operator
189 and the trustee shall maintain adequate accounting records
190 of the disbursements, contributions, and income allocated
191 for each cemetery.

192 11. By accepting the trusteeship of an endowed care
193 trust or accepting funds as an escrow agent pursuant to
194 sections 214.270 to 214.410, the trustee or escrow agent
195 submits personally to the jurisdiction of the courts of this
196 state and the office of endowed care cemeteries regarding
197 the administration of the trust or escrow account. A
198 trustee or escrow agent shall consent in writing to the
199 jurisdiction of the state of Missouri and the office in
200 regards to the trusteeship or the operation of the escrow
201 account and to the appointment of the office of secretary of
202 state as its agent for service of process regarding any
203 administrative or legal actions relating to the trust or the

204 escrow account, if it has no designated agent for service of
205 process located in this state. Such consent shall be filed
206 with the office prior to accepting funds pursuant to
207 sections 214.270 to 214.410 as trustee or as an escrow agent
208 on a form provided by the office by rule.

285.1000. For purposes of sections 285.1000 to
2 285.1055, the following terms shall mean:

3 (1) "Administrative fund" or "Show-Me MyRetirement
4 Savings administrative fund", the Show-Me MyRetirement
5 Savings administrative fund described in section 285.1045;

6 (2) "Association", any legal association of
7 individuals, corporations, limited liability companies,
8 partnerships, associations, or other entities that has been
9 in continuous existence for at least one year;

10 (3) "Board", the Show-Me MyRetirement Savings board
11 established under section 285.1005;

12 (4) "Eligible employee", an individual who is employed
13 by a participating employer, who has wages or other
14 compensation that is allocable to the state, and who is
15 eighteen years of age or older. "Eligible employee" shall
16 not include any of the following:

17 (a) Any employee covered under the federal Railway
18 Labor Act, 45 U.S.C. Section 151;

19 (b) Any employee on whose behalf an employer makes
20 contributions to a multiemployer pension trust fund under 29
21 U.S.C. Section 186; or

22 (c) Any individual who is an employee of:

23 a. The federal government;

24 b. Any state government in the United States; or

25 c. Any county, municipal corporation, or political
26 subdivision of any state in the United States;

27 (5) "Eligible employer", a person or entity engaged in
28 a business, industry, profession, trade, or other enterprise

29 in the state of Missouri, whether for profit or not for
30 profit, provided that such a person or entity employs no
31 more than fifty employees. A person or entity that
32 qualifies as an eligible employer but that later employs
33 more than fifty employees shall be permitted to remain an
34 eligible employer for a period of five years, beginning on
35 the date on which the person or entity first employs more
36 than fifty employees. After such five-year period has
37 ended, the person or entity shall immediately cease to
38 qualify as an eligible employer and shall be prohibited from
39 further participation in the plan unless the employer no
40 longer has more than fifty employees. An employer includes
41 an association and its members. For purposes of this
42 subdivision, an eligible employer shall not include:

- 43 (a) The federal government;
- 44 (b) The state of Missouri;
- 45 (c) Any county, municipal corporation, or political
46 subdivision of the state of Missouri; or
- 47 (d) Five years after the commencement of the program,
48 an employer that maintains a specified tax-favored
49 retirement plan, other than the Show-Me MyRetirement Savings
50 plan, for its employees or that has effectively done so in
51 form and operation at any time within the current or two
52 preceding calendar years. If an employer does not maintain
53 a specified tax-favored retirement plan, other than the Show-
54 Me MyRetirement Savings plan, for a portion of a calendar
55 year ending on or after the effective date of sections
56 285.1000 to 285.1055 and adopts such a plan effective for
57 the remainder of that calendar year, the employer shall not
58 be treated as an eligible employer for that remainder of the
59 year;
- 60 (6) "ERISA", the Employee Retirement Income Security
61 Act of 1974, as amended, 29 U.S.C. Section 1001 et seq.;

62 (7) "Internal Revenue Code", the Internal Revenue Code
63 of 1986, as amended;

64 (8) "Participant", an eligible employee or other
65 individual who has a balance credited to his or her account
66 under the plan;

67 (9) "Participating employer", an eligible employer
68 that is participating in the plan provided for by sections
69 285.1000 to 285.1055;

70 (10) "Plan" or "Show-Me MyRetirement Savings plan",
71 the multiple-employer retirement savings plan established by
72 sections 285.1000 to 285.1055, which shall be treated as a
73 single plan under Title I of ERISA and is described in
74 Sections 401(a), 401(k), and 413(c) of the Internal Revenue
75 Code of 1986, as amended, in which multiple employers may
76 choose to participate regardless of whether any relationship
77 exists between and among the employers other than their
78 participation in the plan. Based on the context, the term
79 "plan" may also refer to multiple plans if multiple plans
80 are established under sections 285.1000 to 285.1055;

81 (11) "Self-employed individual", an individual who is
82 eighteen years of age or older, is self-employed, and has
83 self-employment income or other compensation from self-
84 employment that is allocable to the state of Missouri;

85 (12) "Specified tax-favored retirement plan", a
86 retirement plan that is tax-qualified under, or is described
87 in and satisfies the requirements of, Section 401(a),
88 401(k), 403(a), 403(b), 408(k) (Simplified Employee Pension),
89 or 408(p) (SIMPLE-IRA) of the Internal Revenue Code of 1986,
90 as amended;

91 (13) "Total fees and expenses", all fees, costs, and
92 expenses including, but not limited to, administrative
93 expenses, investment expenses, investment advice expenses,
94 accounting costs, actuarial costs, legal costs, marketing

95 expenses, education expenses, trading costs, insurance
96 annuitization costs, and other miscellaneous costs;

97 (14) "Trust", the trust in which the assets of the
98 plan are held.

285.1005. 1. The "Show-Me MyRetirement Savings Board"
2 is hereby established in the office of the state treasurer.

3 2. The board shall consist of the following members,
4 with the state treasurer, or his or her designee, serving as
5 chair:

6 (1) The state treasurer, or his or her designee;

7 (2) An individual who has skill, knowledge, and
8 experience in the field of retirement savings and
9 investments, to be appointed by the governor with the advice
10 and consent of the senate;

11 (3) An individual who has skill, knowledge, and
12 experience relating to small business, to be appointed by
13 the governor with the advice and consent of the senate;

14 (4) Three members of the house of representatives, to
15 be appointed by the speaker of the house of representatives,
16 to include one representative from the minority party; and

17 (5) Three members of the senate, to be appointed by
18 the president pro tempore of the senate, to include one
19 senator from the minority party.

20 3. The governor, the president pro tempore of the
21 senate, and the speaker of the house of representatives
22 shall make the respective initial appointments to the board
23 for terms of office beginning on January 1, 2024.

24 4. Members of the board appointed by the governor, the
25 president pro tempore of the senate, and the speaker of the
26 house of representatives shall serve at the pleasure of the
27 appointing authority.

28 5. The term of office of each member of the board
29 shall be four years. Any member is eligible to be

30 reappointed. If there is a vacancy for any reason, the
31 appropriate appointing authority shall make an appointment,
32 to become immediately effective, for the unexpired term.

33 6. All members of the board shall serve without
34 compensation and shall be reimbursed from the administrative
35 fund for necessary travel expenses incurred in carrying out
36 the duties of the board.

37 7. A majority of the voting members of the board shall
38 constitute a quorum for the transaction of business.

285.1010. 1. The board, subject to the authority
2 granted under sections 285.1000 to 285.1055, shall design,
3 develop, and implement the plan and, to that end, may
4 conduct market, legal, and feasibility analyses.

5 2. The members of the board shall be fiduciaries of
6 the plan under ERISA, and the board shall have the following
7 powers, authorities, and duties:

8 (1) To establish, implement, and maintain the plan, in
9 each case acting on behalf of the state of Missouri,
10 including, in its discretion, more than one plan;

11 (2) To cause the plan, trust, and arrangements and
12 accounts established under the plan to be designed,
13 established, and operated:

14 (a) In accordance with best practices for retirement
15 savings vehicles;

16 (b) To encourage participation, saving, sound
17 investment practices, and appropriate selection of default
18 investments;

19 (c) To maximize simplicity and ease of administration
20 for eligible employers;

21 (d) To minimize costs, including by collective
22 investment and economies of scale; and

23 (e) To promote portability of benefits;

24 (3) To arrange for collective, common, and pooled
25 investment of assets of the plan and trust, including
26 investments in conjunction with other funds with which
27 assets are permitted to be collectively invested, to save
28 costs through efficiencies and economies of scale;

29 (4) To develop and disseminate educational information
30 designed to educate participants and citizens about the
31 benefits of planning and saving for retirement and to help
32 participants and citizens decide the level of participation
33 and savings strategies that may be appropriate, including
34 information in furtherance of financial capability and
35 financial literacy;

36 (5) To adopt rules and regulations necessary or
37 advisable for the implementation of sections 285.1000 to
38 285.1055 and the administration and operation of the plan
39 consistent with the Internal Revenue Code and regulations
40 thereunder, including to ensure that the plan satisfies all
41 criteria for favorable federal tax-qualified treatment, and
42 complies, to the extent necessary, with ERISA and any other
43 applicable federal or Missouri law. Any rule or portion of
44 a rule, as that term is defined in section 536.010, that is
45 created under the authority delegated in this section shall
46 become effective only if it complies with and is subject to
47 all of the provisions of chapter 536 and, if applicable,
48 section 536.028. This section and chapter 536 are
49 nonseverable and if any of the powers vested with the
50 general assembly pursuant to chapter 536 to review, to delay
51 the effective date, or to disapprove and annul a rule are
52 subsequently held unconstitutional, then the grant of
53 rulemaking authority and any rule proposed or adopted after
54 August 28, 2023, shall be invalid and void;

55 (6) To arrange for and facilitate compliance with the
56 plan or arrangements established thereunder with all

57 applicable requirements for the plan under the Internal
58 Revenue Code, ERISA, and any other applicable federal or
59 Missouri law and accounting requirements, and to provide or
60 arrange for assistance to eligible employers, eligible
61 employees, and self-employed individuals in complying with
62 applicable law and tax-related requirements in a cost-
63 effective manner. The board may establish any processes
64 deemed reasonably necessary or advisable to verify whether a
65 person or entity is an eligible employer, including
66 reference to online data and possible use of questions in
67 employer tax filings;

68 (7) To employ or retain a plan administrator;
69 executive director; staff; trustee; record-keeper;
70 investment managers; investment advisors; and other
71 administrative, professional, and expert advisors and
72 service providers, none of whom shall be members of the
73 board and all of whom shall serve at the pleasure of the
74 board, which shall determine their duties and compensation.
75 The board may authorize the executive director and other
76 officials to oversee requests for proposals or other public
77 competitions and enter into contracts on behalf of the board
78 or conduct any business necessary for the efficient
79 operation of the plan or the board;

80 (8) To establish procedures for the timely and fair
81 resolution of participant and other disputes related to
82 accounts or program operation and, if necessary, determine
83 the eligibility of an employer, employee, or other
84 individual to participate in the plan;

85 (9) To develop and implement an investment policy that
86 defines the plan's investment objectives, consistent with
87 the objectives of the plan, and that provides for policies
88 and procedures consistent with those investment objectives;

89 (10) (a) To designate appropriate default investments
90 that include a mix of asset classes, such as target date and
91 balanced funds;

92 (b) To seek to minimize participant fees and expenses
93 of investment and administration;

94 (c) To strive to design and implement investment
95 options available to holders of accounts established as part
96 of the plan and other plan features that are intended to
97 achieve maximum possible income replacement balanced with an
98 appropriate level of risk, consistent with the investment
99 objectives under the investment policy. The investment
100 options may encompass a range of risk and return
101 opportunities and allow for a rate of return commensurate
102 with an appropriate level of risk in view of the investment
103 objectives under the policy. The menu of investment options
104 shall be determined taking into account the nature and
105 objectives of the plan, the desirability of limiting
106 investment choices under the plan to a reasonable number,
107 based on behavioral research findings, and the extensive
108 investment choices available to participants in the event
109 that funds roll over to an individual retirement account
110 (IRA) outside the program; and

111 (d) In accordance with subdivision (7) of this
112 subsection, the board, to the extent it deems necessary or
113 advisable, in carrying out its responsibilities and
114 exercising its powers under sections 285.1000 to 285.1055,
115 shall employ or retain appropriate entities or personnel to
116 assist or advise it or to whom to delegate the carrying out
117 of such responsibilities and exercising of such powers;

118 (11) To discharge its duties and see that the members
119 of the board discharge their duties with respect to the plan
120 solely in the interests of the participants as follows:

121 (a) For the exclusive purpose of providing benefits to
122 participants and defraying reasonable expenses of
123 administering the plan; and

124 (b) With the care, skill, prudence, and diligence
125 under the circumstances then prevailing that a prudent
126 person acting in a like capacity and familiar with those
127 matters would use in the conduct of an enterprise of a like
128 character and with like aims;

129 (12) To cause expenses incurred to initiate,
130 implement, maintain, and administer the plan to be paid from
131 contributions to, or investment returns or assets of the
132 plan or other moneys collected by or for the plan or
133 pursuant to arrangements established under the plan to the
134 extent permitted under federal and Missouri law;

135 (13) To collect application, account, or
136 administrative fees and to accept any grants, gifts,
137 legislative appropriations, loans, and other moneys from the
138 state of Missouri; any unit of federal, state, or local
139 government; or any other person, firm, or entity to defray
140 the costs of administering and operating the plan;

141 (14) To make and enter into competitively procured
142 contracts, agreements, or arrangements with; to collaborate
143 and cooperate with; and to retain, employ, and contract with
144 or for any of the following to the extent necessary or
145 desirable for the effective and efficient design,
146 implementation, and administration of the plan consistent
147 with the purposes set forth in sections 285.1000 to 285.1055
148 and to maximize outreach to eligible employers and eligible
149 employees:

150 (a) Services of private and public financial
151 institutions, depositories, consultants, actuaries, counsel,
152 auditors, investment advisors, investment administrators,
153 investment management firms, other investment firms, third-

154 party administrators, other professionals and service
155 providers, and state public retirement systems;
156 (b) Research, technical, financial, administrative,
157 and other services; and
158 (c) Services of other state agencies to assist the
159 board in the exercise of its powers and duties;
160 (15) To develop and implement an outreach plan to gain
161 input and disseminate information regarding the plan and
162 retirement savings in general;
163 (16) To cause moneys to be held and invested and
164 reinvested under the plan;
165 (17) To ensure that all contributions under the plan
166 shall be used only to:
167 (a) Pay benefits to participants under the plan;
168 (b) Pay the costs of administering the plan; and
169 (c) Make investments for the benefit of the plan, and
170 ensure that no assets of the plan or trust are transferred
171 to the general revenue fund or to any other fund of the
172 state or are otherwise encumbered or used for any purpose
173 other than those specified in this paragraph or section
174 285.1045;
175 (18) To make provisions for the payment of costs of
176 administration and operation of the program and trust;
177 (19) To evaluate the need for and procure as needed
178 insurance against any and all loss in connection with the
179 property, assets, or activities of the program, including
180 fiduciary liability coverage;
181 (20) To evaluate the need for and procure as needed
182 pooled private insurance;
183 (21) To indemnify, including procurement of insurance
184 as needed for this purpose, each member of the board from
185 personal loss or liability resulting from a member's action
186 or inaction as a member of the board and as a fiduciary;

187 (22) To collaborate with and evaluate the role of
188 financial advisors or other financial professionals,
189 including in assisting and providing guidance for covered
190 employees; and

191 (23) To carry out the powers and duties of the program
192 under sections 285.1000 to 285.1055 and exercise any and all
193 other powers as are appropriate to effect the purposes,
194 objectives, and provisions of such sections pertaining to
195 the program.

196 3. A board member, program administrator, or other
197 staff of the board shall not:

198 (1) Directly or indirectly, have any interest in the
199 making of any investment under the program or in any gains
200 or profits accruing from any such investment;

201 (2) Borrow any program-related funds or deposits, or
202 use any such funds or deposits in any manner, for himself or
203 herself or as an agent or partner of others; or

204 (3) Become an endorser, surety, or obligor on
205 investments made under the program.

206 4. Each board member shall be subject to the
207 provisions of sections 105.452 and 105.454.

285.1015. 1. The board shall, consistent with federal
2 law and regulation, adopt and implement the plan, which
3 shall remain in compliance with federal law and regulations
4 once implemented and shall be called the "Show-Me
5 MyRetirement Savings Plan".

6 2. In accordance with terms and conditions specified
7 and regulations promulgated by the board, the plan shall:

8 (1) Be set forth in documents prescribing the terms
9 and conditions of the plan;

10 (2) Be available on a voluntary basis to eligible
11 employers and self-employed individuals;

- 12 (3) Be available to eligible members of an association
13 who may elect to participate in the plan if the association
14 or its members do not maintain a plan or a specified tax-
15 avored retirement plan, other than the Show-Me MyRetirement
16 Savings plan;
- 17 (4) Enroll self-employed individuals who wish to
18 participate;
- 19 (5) Provide participants the option to terminate their
20 participation at any time;
- 21 (6) Allow voluntary pre-tax or designated Roth 401(k)
22 contributions;
- 23 (7) Allow voluntary employer contributions;
- 24 (8) Be overseen by the board and its designees;
- 25 (9) Be administered and managed by one or more
26 trustees, other fiduciaries, custodians, third-party
27 administrators, investment managers, record-keepers, or
28 other service providers;
- 29 (10) Provide on a uniform basis, if and when the board
30 so determines, in its discretion, for an increase of each
31 participant's contribution rate, by a minimum increment of
32 one percent of salary or wages per year, for each additional
33 year the participant is employed or is participating in the
34 plan up to the maximum percentage of such participant's
35 salary or wages that may be contributed to the plan under
36 federal law. Any such increases shall apply to
37 participants, as determined by the board, by default or only
38 if initiated by affirmative participant election;
- 39 (11) Provide for direct deposit of contributions into
40 investments under the plan. To the extent consistent with
41 ERISA, the investment alternatives under the plan shall be
42 limited to an automatic investment for participants who do
43 not actively and affirmatively elect a particular investment
44 option, which unless the board provides otherwise, shall be

45 a diversified target date fund, including a series of such
46 diversified funds to apply to different participants
47 depending on their choice or their target retirement dates,
48 a principal-protected option, and at least four additional
49 investment alternatives as may be selected by the board in
50 its discretion. To the extent consistent with ERISA, the
51 investment options may, at the discretion of the board,
52 include a principal-protection fund as a temporary "security
53 corridor" option that applies as the sole initial investment
54 before participants may choose other investments or as the
55 initial default investment for a specified period of time or
56 up to a specified dollar amount of contributions or account
57 balance;

58 (12) Be professionally managed;

59 (13) Provide for reports on the status of each
60 participant's account to be provided to each participant at
61 least quarterly and make best efforts to provide
62 participants frequent or continual online access to
63 information on the status of their accounts;

64 (14) When possible and practicable, use existing
65 employer and public infrastructure to facilitate
66 contributions, record keeping, and outreach and use pooled
67 or collective investment arrangements;

68 (15) Provide that each account holder owns the
69 contributions to or earnings on amounts contributed to his
70 or her account under the plan and that the state and
71 employers have no proprietary interest in those
72 contributions or earnings;

73 (16) Be designed and implemented in a manner
74 consistent with federal law to the extent that it applies;

75 (17) Make provisions for the participation in the plan
76 of individuals who are not employees, if allowed under
77 federal law;

78 (18) Establish rules and procedures governing the
79 distribution of funds from the plan, including such
80 distributions as may be permitted or required by the plan
81 and any applicable provisions of ERISA, the tax-
82 qualification rules, and the other tax laws, with the
83 objectives of maximizing financial security in retirement,
84 protecting spousal rights, and assisting participants to
85 effectively manage the decumulation of their savings and to
86 receive payment of their benefits under the plan. The board
87 shall have the authority, in its discretion, to provide for
88 one or more reasonably priced distribution options to
89 provide a source of fixed regular retirement income,
90 including income for life or for the participant's life
91 expectancy, or for joint lives and life expectancies, as
92 applicable;

93 (19) Establish rules and procedures promoting
94 portability of benefits, including the ability to make roll-
95 overs or transfers to and from the plan that are exempt from
96 federal income tax, provided that any roll-over is initiated
97 by participants; and

98 (20) Encourage choices by employers in the state to
99 adopt a specified tax-favored retirement plan, including the
100 plan.

285.1020. The board shall adopt rules to implement the
2 plan that:

3 (1) Establish the processes for enrollment and
4 contributions under the plan, including withholding by
5 participating employers of employee payroll deduction
6 contributions from wages and remittance for deposit to the
7 plan; voluntary contributions by others, including self-
8 employed individuals and independent contractors, through
9 payroll deduction or otherwise; the making of default
10 contributions using default investments; and participant

11 selection of alternative contribution rates or amounts and
12 alternative investments from among the options offered under
13 the plan;

14 (2) Conduct outreach to individuals, employers, other
15 stakeholders, and the public regarding the plan. The rules
16 shall specify the contents, frequency, timing, and means of
17 required disclosures from the plan to eligible employees,
18 participants, and self-employed individuals, eligible
19 employers, participating employers, and other interested
20 parties. These disclosures shall include, but not be
21 limited to:

22 (a) The benefits associated with tax-favored
23 retirement saving;

24 (b) The potential advantages and disadvantages
25 associated with participating in the plan;

26 (c) Instructions for enrolling and making
27 contributions;

28 (d) The potential availability of a saver's tax
29 credit, including the eligibility conditions for the credit
30 and instructions on how to claim it;

31 (e) A disclaimer that employees seeking tax,
32 investment, or other financial advice should contact
33 appropriate professional advisors, and that participating
34 employers are not in a position to provide such advice and
35 are not liable for decisions individuals make in relation to
36 the plan;

37 (f) The potential implications of account balances
38 under the plan for the application of asset limits under
39 certain public assistance programs;

40 (g) A disclaimer that the account owner is solely
41 responsible for investment performance, including market
42 gains and losses, and that plan accounts and rates of return

43 are not guaranteed by any employer, the state, the board,
44 any board member or state official, or the plan;

45 (h) Any additional information about retirement and
46 saving and other information designed to promote financial
47 literacy and capability, which may take the form of links
48 to, or explanations of how to obtain, such information; and

49 (i) Instructions on how to obtain additional
50 information about the plan; and

51 (3) Ensure that the assets of the trust and plan shall
52 at all times be preserved, invested, and expended only for
53 the purposes set forth in sections 285.1000 to 285.1055, and
54 that no property rights therein shall exist in favor of the
55 state, except as provided under section 285.1045.

285.1025. An eligible employer, a participating
2 employer, or other employer is not and shall not be liable
3 for or bear responsibility for:

4 (1) An employee's decision as to which investments to
5 choose;

6 (2) Participants' or the board's investment decisions;

7 (3) The administration, investment, investment
8 returns, or investment performance of the plan including,
9 but not limited to, any interest rate or other rate of
10 return on any contribution or account balance, provided that
11 the eligible employer, participating employer, or other
12 employer is not involved in the administration or investment
13 of the plan;

14 (4) The plan design or the benefits paid to
15 participants; or

16 (5) Any loss, failure to realize any gain, or any
17 other adverse consequences including, but not limited to,
18 any adverse tax consequences or loss of favorable tax
19 treatment, public assistance, or other benefits, incurred by

20 any person solely and directly as a result of participating
21 in the plan.

285.1030. 1. The state of Missouri; the board; each
2 member of the board; any other state official, state board,
3 commission, and agency; any member, officer, and employee
4 thereof; and the plan:

5 (1) Shall not guarantee any interest rate or other
6 rate of return on or investment performance of any
7 contribution or account balance; and

8 (2) Shall not be liable or responsible for any loss,
9 deficiency, failure to realize any gain, or any other
10 adverse consequences including, but not limited to, any
11 adverse tax consequences or loss of favorable tax treatment,
12 public assistance, or other benefits, incurred by any person
13 as a result of participating in the plan.

14 2. The debts, contracts, and obligations of the plan
15 or the board are not the debts, contracts, and obligations
16 of the state, and neither the faith and credit nor the
17 taxing power of the state is pledged directly or indirectly
18 to the payment of the debts, contracts, and obligations of
19 the plan or the board.

20 3. Nothing in sections 285.1000 to 285.1055 shall be
21 construed to guarantee any interest rate or other rate of
22 return on or investment performance of any contribution or
23 account balance.

285.1035. 1. Individual account information relating
2 to accounts under the plan and relating to individual
3 participants including, but not limited to, names,
4 addresses, telephone numbers, email addresses, personal
5 identification information, investments, contributions, and
6 earnings shall be confidential and shall be maintained as
7 confidential, provided that such information may be
8 disclosed:

9 (1) To the extent necessary to administer the plan in
10 a manner consistent with sections 285.1000 to 285.1055,
11 ERISA, the Internal Revenue Code, or any other federal or
12 Missouri law; or

13 (2) If the individual who provides the information or
14 who is the subject of the information expressly agrees in
15 writing to the disclosure of the information.

16 2. Information required to be confidential under
17 subsection 1 of this section shall be considered a "closed
18 record" as that term is defined in section 610.010,
19 regardless as to whether such information has been disclosed
20 as allowed by subsection 1 of this section.

285.1040. The board may enter into an
2 intergovernmental agreement or memorandum of understanding
3 with the state of Missouri, another state or states, and any
4 agency thereof to receive outreach, technical assistance,
5 enforcement and compliance services, collection or
6 dissemination of information pertinent to the plan, subject
7 to such obligations of confidentiality as may be agreed or
8 required by law, or other services or assistance. The state
9 of Missouri, another state or states, and any agency thereof
10 that enters into such agreements or memoranda of
11 understanding shall collaborate to provide the outreach,
12 assistance, information, and compliance or other services or
13 assistance to the board. The memoranda of understanding may
14 cover the sharing of costs incurred in gathering and
15 disseminating information and the reimbursement of costs for
16 any enforcement activities or assistance.

285.1045. 1. There is hereby created in the state
2 treasury the "Show-Me MyRetirement Savings Administrative
3 Fund", which shall consist of moneys collected under this
4 section. The state treasurer shall be custodian of the
5 fund. In accordance with sections 30.170 and 30.180, the

6 state treasurer may approve disbursements. Subject to
7 appropriation, moneys in the fund shall be distributed by
8 the state treasurer solely for the administration of
9 sections 285.1000 to 285.1055.

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

14 3. The state treasurer shall invest moneys in the fund
15 in the same manner as other funds are invested. Any
16 interest and moneys earned on such investments shall be
17 credited to the fund.

18 4. The Show-Me MyRetirement Savings administrative
19 fund shall consist of:

20 (1) Moneys appropriated to the administrative fund by
21 the general assembly;

22 (2) Moneys transferred to the administrative fund from
23 the federal government, other state agencies, or local
24 governments;

25 (3) Moneys from the payment of application, account,
26 administrative, or other fees and the payment of other
27 moneys due to the board;

28 (4) Any gifts, donations, or grants made to the state
29 of Missouri for deposit in the administrative fund;

30 (5) Moneys collected for the administrative fund from
31 contributions to, or investment returns or assets of, the
32 plan or other moneys collected by or for the plan or
33 pursuant to arrangements established under the plan to the
34 extent permitted under federal and Missouri law; and

35 (6) Earnings on moneys in the administrative fund.

36 5. To the extent consistent with ERISA, the tax
37 qualification rules, and other federal law, the board shall
38 accept any grants, gifts, appropriations, or other moneys

39 from the state; any unit of federal, state, or local
40 government; or any other person, firm, partnership,
41 corporation, or other entity solely for deposit into the
42 administrative fund, whether for investment or
43 administrative expenses.

44 6. To enable or facilitate the start-up and continuing
45 operation, maintenance, administration, and management of
46 the program until the plan accumulates sufficient balances
47 and can generate sufficient funding through fees assessed on
48 program accounts for the plan to become financially self-
49 sustaining:

50 (1) The board may borrow from the state of Missouri;
51 any unit of federal, state, or local government; or any
52 other person, firm, partnership, corporation, or other
53 entity working capital funds and other funds as may be
54 necessary for this purpose, provided that such funds are
55 borrowed in the name of the plan and board only and that any
56 such borrowings shall be payable solely from the revenues of
57 the plan; and

58 (2) The board may enter into long-term procurement
59 contracts with one or more financial providers that provide
60 a fee structure that would assist the plan in avoiding or
61 minimizing the need to borrow or to rely upon general assets
62 of the state.

63 7. Subject to appropriation, the state of Missouri may
64 pay administrative costs associated with the creation,
65 maintenance, operation, and management of the plan and trust
66 until sufficient assets are available in the administrative
67 fund for that purpose. Thereafter, all administrative costs
68 of the administrative fund, including any repayment of start-
69 up funds provided by the state of Missouri, shall be repaid
70 only out of moneys on deposit therein. However, private
71 funds or federal funding received in order to implement the

72 program until the administrative fund is self-sustaining
73 shall not be repaid unless those funds were offered
74 contingent upon the promise of such repayment.

75 8. The board may use the moneys in the administrative
76 fund solely to pay the administrative costs and expenses of
77 the plan and the administrative costs and expenses the board
78 incurs in the performance of its duties under sections
79 285.1000 to 285.1055.

80 9. The state treasurer's office shall follow the
81 competitive bids procedure adopted by the office of
82 administration for the following:

83 (1) The contracting or hiring of a contractor with the
84 relevant skills, knowledge, and expertise determined by the
85 board for managing the program, every five years; and

86 (2) At the state treasurer's discretion, the
87 contracting or hiring of a contractor who has qualified
88 staff with the relevant skills, knowledge, and expertise as
89 determined by the state treasurer's office when the number
90 of the participants in the plan reaches fifty thousand
91 participants.

92 The office of administration is authorized to provide the
93 state treasurer's office with the necessary assistance and
94 services as may be needed.

285.1050. 1. The board shall keep an accurate account
2 of all the activities, operations, receipts, and
3 expenditures of the plan, the trust, and the board. Each
4 year, a full audit of the books and accounts of the board
5 pertaining to those activities, operations, receipts and
6 expenditures, personnel, services, or facilities shall be
7 conducted by a certified public accountant and shall
8 include, but not be limited to, direct and indirect costs
9 attributable to the use of outside consultants, independent
10 contractors, and any other persons who are not state

11 employees for the administration of the plan. For the
12 purposes of the audit, the auditors shall have access to the
13 properties and records of the plan and board and may
14 prescribe methods of accounting and the rendering of
15 periodic reports in relation to projects undertaken by the
16 plan.

17 2. By August first of each year, the board shall
18 submit to the governor, the state treasurer, the president
19 pro tempore of the senate, and the speaker of the house of
20 representatives a public report on the operation of the plan
21 and trust and activities of the board, including an audited
22 financial report, prepared in accordance with generally
23 accepted accounting principles, detailing the activities,
24 operations, receipts, and expenditures of the plan and board
25 during the preceding calendar year. The report shall also
26 include a summary of the benefits provided by the plan, the
27 number of participants, average account balance, the number
28 of participating employers, the contribution formulas and
29 amounts of contributions made by participants and by each
30 participating employer, the withdrawals, the account
31 balances, total assets under management, investments,
32 investment returns, fees and expenses associated with the
33 investments and with the administration of the plan,
34 projected activities of the plan for the current calendar
35 year, and any other information regarding the plan and its
36 operations that the board may determine to provide.

285.1055. 1. The board shall establish the plan so
2 that individuals are able to begin contributing under the
3 plan on or before September 1, 2025.

4 2. The board may, in its discretion, phase in the plan
5 so that the ability to contribute first applies on different
6 dates for different classes of individuals, including
7 employees of employers of different sizes or types and

8 individuals who are not employees; provided that, any such
9 staged or phased-in implementation schedule shall be
10 substantially completed on or before September 1, 2025.

361.020. 1. The division of finance shall have charge
2 of the execution of:

3 (1) The laws relating to banks, trust companies, and
4 the banking business of this state; [credit unions; and of]

5 (2) The laws relating to persons[, copartnerships and
6 corporations] or entities engaged in the small loan or
7 consumer credit business in this state;

8 (3) The laws relating to persons and entities engaged
9 in the mortgage loan business in this state; and

10 (4) The laws relating to persons and entities engaged
11 in any other financial-services-related business over which
12 the division of finance is granted express authority.

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

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

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

13 3. The board may meet and exercise its powers in any
14 place in this state and shall meet at any time upon the call

15 of its chairman or of the director of the division of
16 finance or of any two members of the board.

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

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

361.106. 1. As used in this section, the following
2 terms mean:

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

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

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

22 3. Notwithstanding any law to the contrary, the
23 director of finance may at his or her discretion issue
24 industry letters in response to a written request from an
25 individual or entity licensed, chartered, or regulated by

26 the division that seeks the position of the division of
27 finance on the application of law. In addition to any
28 materials or information requested by the division, the
29 written request for an industry letter shall include:

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

32 (2) A detailed statement of facts regarding every
33 relevant aspect of the proposed business activity,
34 transaction, event, or circumstance;

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

37 (4) A statement by the person or entity requesting the
38 industry letter of the person's own opinion regarding the
39 matter and the basis for such opinion; and

40 (5) A statement that the proposed business activity or
41 transaction has not commenced or, if it has commenced, the
42 present status of the proposed business activity or
43 transaction.

44 4. With respect to the requesting person or entity, an
45 industry letter is binding on the division. The requesting
46 person or entity shall not be subject to any administrative
47 proceeding or penalty for any acts or omissions done in
48 reliance on an industry letter, so long as no change in any
49 material fact or law has occurred and so long as the
50 requesting person or entity did not misrepresent or omit a
51 material fact.

52 5. An industry letter request and response shall be
53 confidential, but the director may publish an industry
54 letter with nonidentifying facts and information from the
55 request.

56 6. After redacting all identifying information, the
57 director may publish industry letters for informational
58 purposes. Because the division may have a different

59 position in response to similar but nonidentical facts and
60 circumstances, published industry letters shall not have the
61 force or effect of law, shall not be binding on the
62 division, and shall not be considered statements of general
63 applicability that would require promulgation by rule.

64 7. Industry letters issued under this section are
65 distinct from letters issued by the director under
66 subsection 5 of section 362.106, and this section shall not
67 apply to section 362.106.

361.160. 1. The director of finance at least once
2 each year, either personally or by a deputy or examiner
3 appointed by the director, shall visit and examine every
4 bank and trust company organized and doing business under
5 the laws of this state, and every other corporation which is
6 by law required to report to the director; except, for banks
7 or trust companies receiving a Camel/MOECA 1 or Camel/MOECA
8 2 rating from the division of finance, the director of
9 finance at least once each eighteen calendar months, or for
10 a private trust company at least once each thirty-six
11 months, either personally or by a deputy or examiner
12 appointed by the director, shall visit and examine such bank
13 or trust company, and the director of finance, at the
14 director's discretion, may conduct the director's
15 examination, or any part thereof, on the basis of
16 information contained in examination reports of other
17 states, the Federal Deposit Insurance Corporation or the
18 Federal Reserve Board or in audits performed by certified
19 public accountants. For purposes of this subsection, a
20 private trust company is one that does not engage in trust
21 company business with the general public or otherwise hold
22 itself out as a trustee or fiduciary for hire by
23 advertising, solicitation, or other means and instead
24 operates for the primary benefit of a family, relative of

25 same family, or single family lineage, regardless of whether
26 compensation is received or anticipated. The director shall
27 be afforded prompt and free access to any workpapers upon
28 which a certified public accountant bases an audit. A
29 certified public accountant shall retain workpapers for a
30 minimum of three years after the date of issuance of the
31 certified public accountant's report to the bank or trust
32 company. The director or the director's agent may
33 concentrate the examinations on institutions which the
34 director believes have safety or soundness concerns.

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

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

51 4. On every such examination inquiry shall be made as
52 to the condition and resources of such corporation, the mode
53 of conducting and managing its affairs, the actions of its
54 directors or trustees, the investment of its funds, the
55 safety and prudence of its management, the security afforded
56 to its creditors, and whether the requirements of its
57 charter and of law have been complied with in the

58 administration of its affairs, and as to such other matters
59 as the director may prescribe.

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

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

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

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

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

7 2. Whenever [it shall appear to] the director has
8 reason to believe, from any examination or investigation
9 made by [him] the director or his or her examiners, that any

10 corporation subject to the provisions of this chapter, or
11 any director, officer, employee, agent, or other person
12 participating in the conduct of the affairs of such
13 corporation, or any foreign corporation licensed by the
14 director to do business under this chapter or chapter 362 is
15 engaging in [or], has engaged in, or [there is reasonable
16 cause to believe that the corporation or any director,
17 officer, employee, agent, or other person participating in
18 the conduct of the affairs of such corporation] is about to
19 engage in[,]:

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

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

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

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

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

36 3. Whenever it shall appear to the director that any
37 corporation subject to the provisions of this chapter does
38 not keep its books and accounts in such manner as to enable
39 him or her readily to ascertain its true condition or that
40 wrong entries or unlawful uses of the funds of the
41 corporation have been made, the director may issue and serve
42 upon the corporation or any appropriate director, officer,

43 employee, agent, or other person a notice of charges in
44 respect thereof.

45 4. The notice of charges shall contain a statement of
46 the facts constituting the deficiencies, [the] alleged
47 violation or violations, improper use of funds, or [the]
48 unsafe or unsound practice or practices[,] and shall fix a
49 time and place at which a contested hearing will be held to
50 determine whether an order to cease and desist therefrom
51 should [issue] be issued against the corporation or the
52 director, officer, employee, agent, or other person
53 participating in the conduct of the affairs of such
54 corporation.

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

66 6. The cease and desist order:

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

72 (2) May require the corporation or its directors,
73 officers, employees, agents, and other persons participating
74 in the conduct of the affairs of such corporation to take

75 affirmative action to correct the conditions resulting from
76 any such actions, violations, or practices[.];

77 (3) Shall require that, if the director determines
78 that the capital of the corporation is impaired, [the order
79 shall require that] the corporation make good the deficiency
80 forthwith or within a time specified in the order[.];

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

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

93 [6.] 7. If a notice of charges served under this
94 section specifies, on the basis of particular facts and
95 circumstances, that a corporation's books and records are so
96 incomplete or inaccurate that the director is unable,
97 through the normal supervisory process, to determine the
98 financial condition of that corporation or the details or
99 purpose of any transaction or transactions that may have a
100 material effect on the financial condition of that
101 corporation, the director may issue a temporary order
102 requiring the cessation of any activity or practice which
103 gave rise, whether in whole or in part, to the incomplete or
104 inaccurate state of the books or records, or affirmative
105 action to restore such books or records to a complete and
106 accurate state, until the completion of the proceedings
107 under this section. Any temporary order issued under this

108 subsection shall become effective upon service and, unless
109 set aside, limited or suspended by a court, shall remain in
110 effect and enforceable until the earlier of the completion
111 of the proceedings initiated under this section or the date
112 on which the director determines by examination or otherwise
113 that the corporation's books and records are accurate and
114 reflect the financial condition of the corporation.

115 [7.] 8. Whenever it shall appear to the director that
116 the violation or threatened violation or the unsafe or
117 unsound practice or practices specified in the notice of
118 charges served upon the corporation or any director,
119 officer, employee, agent, or other person participating in
120 the conduct of the affairs of such corporation pursuant to
121 subsection 4 of this section, or the continuation thereof,
122 is likely to cause insolvency or significant dissipation of
123 assets or earnings of the corporation, or is likely to
124 weaken the condition of the corporation or otherwise
125 prejudice the interests of its depositors prior to the
126 completion of the proceedings conducted pursuant to said
127 subsection, the director may issue a temporary order,
128 effective immediately, requiring the corporation or such
129 director, officer, employee, agent, or other person to cease
130 and desist from any such violation or practice and to take
131 affirmative action to prevent such insolvency, dissipation,
132 condition, or prejudice pending completion of such
133 proceedings. Such order shall remain effective and
134 enforceable pending the completion of the administrative
135 proceedings pursuant to such notice and until such time as
136 the director shall dismiss the charges specified in such
137 notice or if a cease and desist order is issued against the
138 corporation or such director, officer, employee, agent, or
139 other person, until the effective date of such order. The
140 corporation, director, officer, employee, agent, or other

141 person may, within ten days after having been served with a
142 temporary cease and desist order, apply to the circuit court
143 of Cole County for an order setting aside, limiting, or
144 suspending the enforcement, operation, or effectiveness of
145 such order.

146 [8.] 9. If any corporation, or any director, officer,
147 employee, agent, or other person participating in the
148 conduct of the affairs of such corporation shall fail or
149 refuse to comply with any duly issued order provided for in
150 this chapter and chapter 362, the corporation or such
151 director, officer, employee, agent, or other person shall
152 pay a civil penalty of not more than one thousand dollars
153 per day for each day the failure or refusal shall continue.
154 The penalty shall be assessed and collected by the director
155 of the division. In determining the amount of the penalty,
156 the director shall take into account the appropriateness of
157 the penalty with respect to the size of the financial
158 resources and good faith of the corporation or person
159 charged, the gravity of the violation, the history of
160 previous violations, and such other matters as justice may
161 require. In addition to the penalty, the director may, in
162 his or her discretion, report the delinquency to the
163 attorney general, with a request that [he] the attorney
164 general proceed as provided in section 361.270, and in the
165 event of such request, the attorney general shall proceed.

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

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

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

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

10 (c) Violated any director-imposed written condition
11 [imposed in writing by the director] in connection with the
12 grant of any application or other request by such
13 corporation [or];

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

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

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

21 (2) The director determines that:

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

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

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

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

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

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

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

41 2. When If it shall appear appears to the
42 director, from any examination made by him or his
43 examiners or investigation, that the conduct or practice of
44 any director or officer of a corporation subject to this
45 chapter, by conduct or practice with respect to another
46 such corporation or any other corporation or business
47 institution which:

48 (1) Resulted in financial loss or other damage[, has];

49 (2) Evidenced either his:

50 (a) Personal dishonesty; or

51 (b) A willful or continuing disregard for its the
52 corporation's safety and soundness; and[, in addition, has]

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

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

70 3. If it appears to the director, from any examination
71 or investigation, that the conduct or practice of any person
72 participating in the affairs of a corporation subject to

73 this chapter, with respect to the corporation or other
74 corporation or business institution:

75 (1) Resulted in financial loss or other damage;
76 (2) Evidenced either:
77 (a) Personal dishonesty; or
78 (b) A willful or continuing disregard for safety and
79 sound practices; and

80 (3) Evidenced the person's unfitness to participate in
81 the affairs of the corporation,

82 then the director may serve upon such person a written
83 notice of intention to remove him or her from office or to
84 prohibit him or her from any further participation in the
85 affairs of the corporation or of any other banking, savings,
86 or trust institution supervised by the director.

87 **[3.]** 4. Whenever it shall appear to the director to be
88 necessary for the protection of any corporation or its
89 depositors, **[he]** beneficiaries, or other customers, the
90 director may, by written notice to such effect served upon
91 any director, officer, or other person referred to in
92 subsection 1, 2, or **[2]** 3 of this section, suspend him or
93 her from office or prohibit him or her from further
94 participation in any manner in the conduct of the affairs of
95 the corporation. Such suspension or prohibition shall
96 become effective upon service of such notice and shall
97 remain in effect pending the completion of the
98 administrative proceedings pursuant to the notice served
99 under subsection 1, 2, or **[2]** 3 of this section and until
100 such time as the director shall dismiss the charges
101 specified in such notice or, if an order of removal or
102 prohibition is issued against the director or officer or
103 other person, until the effective date of any such order.
104 Copies of any such notice shall also be served upon the

105 corporation of which he or she is a director or officer or
106 in the conduct of whose affairs he or she has participated.

107 [4.] 5. Except as provided in subsection [5] 6 of this
108 section, any person who, pursuant to an order issued under
109 this section, has been removed or suspended from office in a
110 corporation or prohibited from participating in the conduct
111 of the affairs of a corporation may not, while such order is
112 in effect, continue or commence to hold any office in, or
113 participate in any manner in, the conduct of the affairs of
114 any other corporation subject to the provisions of this
115 chapter.

116 [5.] 6. If, on or after the date an order is issued
117 under this section [which] that removes or suspends from
118 office any person or prohibits such person from
119 participating in the conduct of the affairs of a
120 corporation[,] and such party receives the written consent
121 of the director, subsection [4] 5 of this section shall, to
122 the extent of such consent, cease to apply to such person
123 with respect to the [corporation] terms and conditions
124 described in the written consent and the director shall
125 publicly disclose such consent. Any violation of subsection
126 [4] 5 of this section by any person who is subject to an
127 order described in such subsection shall be treated as a
128 violation of the order.

361.715. 1. Upon the filing of the application, the
2 filing of a certified audit, the payment of the
3 investigation fee and the approval by the director of the
4 necessary bond, the director shall cause, investigate, and
5 determine whether the character, responsibility, and general
6 fitness of the principals of the applicant or any affiliates
7 are such as to command confidence and warrant belief that
8 the business of the applicant will be conducted honestly and
9 efficiently and that the applicant is in compliance with all

10 other applicable state and federal laws. If satisfied, the
11 director shall issue to the applicant a license pursuant to
12 the provisions of sections 361.700 to 361.727. In
13 processing a renewal license, the director shall require the
14 same information and follow the same procedures described in
15 this subsection.

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

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

361.749. 1. As used in this section, unless the
2 context clearly indicates otherwise, the following terms
3 mean:

4 (1) "Consumer", any individual;

5 (2) "Consumer-directed wage access services", the
6 business of offering or providing earned wage access
7 services directly to a consumer based on the consumer's
8 representation and the provider's reasonable determination
9 of the consumer's earned but unpaid income;

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

12 (4) "Division", the Missouri division of finance
13 within the department of commerce and insurance;

14 (5) "Earned but unpaid income", salary, wages,
15 compensation, or other income that a consumer or an employer
16 has represented, and that a provider has reasonably
17 determined, has been earned or has accrued to the benefit of
18 the consumer in exchange for the consumer's provision of
19 services to the employer or on behalf of the employer,
20 including on an hourly, project-based, piecework, or other

21 basis and including where the consumer is acting as an
22 independent contractor of the employer, but has not, at the
23 time of the payment of proceeds, been paid to the consumer
24 by the employer;

25 (6) "Earned wage access services", the business of
26 providing consumer-directed wage access services, employer-
27 integrated wage access services, or both;

28 (7) "Employer":

29 (a) A person who employs a consumer; or

30 (b) Any other person who is contractually obligated to
31 pay a consumer earned but unpaid income in exchange for a
32 consumer's provision of services to the employer or on
33 behalf of the employer, including on an hourly, project-
34 based, piecework, or other basis and including where the
35 consumer is acting as an independent contractor with respect
36 to the employer.

37 "Employer" does not include a customer of an employer or any
38 other person whose obligation to make a payment of salary,
39 wages, compensation, or other income to a consumer is not
40 based on the provision of services by that consumer for or
41 on behalf of such person;

42 (8) "Employer-integrated wage access services", the
43 business of delivering to consumers access to earned but
44 unpaid income that is based on employment, income, and
45 attendance data obtained directly or indirectly from an
46 employer;

47 (9) "Fee":

48 (a) A fee imposed by a provider for delivery or
49 expedited delivery of proceeds to a consumer;

50 (b) A subscription or membership fee imposed by a
51 provider for a bona fide group of services that includes
52 earned wage access services; or

53 (c) An amount paid by an employer to a provider on a
54 consumer's behalf, which entitles the consumer to receive
55 proceeds at reduced or no cost to the consumer.

56 A voluntary tip, gratuity, or donation shall not be deemed a
57 fee;

58 (10) "Outstanding proceeds", a payment of proceeds to
59 a consumer by a provider that has not yet been repaid to
60 that provider;

61 (11) "Person", a partnership, corporation,
62 association, sole proprietorship, limited liability company,
63 or nonprofit or governmental entity;

64 (12) "Proceeds", a payment of funds to a consumer by a
65 provider that is based on earned but unpaid income;

66 (13) "Provider", a person who is in the business of
67 offering and providing earned wage access services to
68 consumers.

69 2. (1) No person shall engage in the business of
70 earned wage access services in this state without first
71 registering as an earned wage access services provider with
72 the division.

73 (2) The annual registration fee shall be one thousand
74 dollars payable to the division as of the first day of July
75 of each year. The division may establish a biennial
76 registration arrangement, but in no case shall the
77 registration fee be payable for more than one year at a time.

78 (3) Registration shall be made on forms prepared by
79 the director and shall contain the following information:

80 (a) Name, business address, and telephone number of
81 the earned wage access services provider;

82 (b) Name and business address of corporate officers
83 and directors or principals or partners;

84 (c) A sworn statement by an appropriate officer,
85 principal, or partner of the earned wage access services
86 provider that:

87 a. The provider is financially capable of engaging in
88 the business of earned wage access services; and

89 b. If a corporation, that the corporation is
90 authorized to transact business in this state.

91 If any material change occurs in the information contained
92 in the registration form, a revised statement shall be
93 submitted to the director.

94 (4) A certificate of registration shall be issued by
95 the director within thirty calendar days after the date on
96 which all registration materials have been received by the
97 director and shall not be assignable or transferable, except
98 as approved by the director.

99 (5) Each certificate of registration shall remain in
100 full force and effect until surrendered, revoked, or
101 suspended.

102 3. This section shall not apply to:

103 (1) A bank or savings and loan association whose
104 deposits or accounts are eligible for insurance by the
105 Federal Deposit Insurance Corporation, or a subsidiary of
106 such a bank or savings and loan association;

107 (2) A credit union doing business in this state; or

108 (3) A person authorized to make loans or extensions of
109 credit under the laws of this state or the United States,
110 who is subject to regulation and supervision by this state
111 or the United States.

112 4. Each provider shall:

113 (1) Develop and implement policies and procedures to
114 respond to questions raised by consumers and address
115 complaints from consumers in an expedient manner;

116 (2) Before entering into an agreement with a consumer
117 for the provision of earned wage access services, provide a
118 consumer with a written paper or electronic document, which
119 can be included as part of the contract to provide earned
120 wage access services and which meets all of the following
121 requirements:

122 (a) Informs the consumer of his or her rights under
123 the agreement; and

124 (b) Fully and clearly discloses all fees associated
125 with the earned wage access services;

126 (3) Inform the consumer of the fact of any material
127 changes to the terms and conditions of the earned wage
128 access services before implementing those changes for that
129 consumer;

130 (4) Provide proceeds to a consumer by any means
131 mutually agreed upon by the consumer and provider;

132 (5) Comply with all local, state, and federal privacy
133 and information security laws;

134 (6) In any case in which the provider will seek
135 repayment of outstanding proceeds, fees, or other payments,
136 including voluntary tips, gratuities, or other donations
137 from a consumer's account at a depository institution and
138 including via electronic funds transfer:

139 (a) Comply with applicable provisions of the federal
140 Electronic Funds Transfer Act and its implementing
141 regulations; and

142 (b) Reimburse the consumer for the full amount of any
143 overdraft or nonsufficient funds fees imposed on a consumer
144 by the consumer's depository institution that were caused by
145 the provider attempting to seek payment of any outstanding
146 proceeds, fees, voluntary tips, gratuities, or other
147 donations on a date before, or in an incorrect amount from,
148 the date or amount disclosed to the consumer.

149 The provisions of this subdivision shall not apply with
150 respect to payments of outstanding proceeds, fees, tips,
151 gratuities, or other donations incurred by a consumer
152 through fraudulent or other means; and

153 (7) If a provider solicits, charges, or receives a
154 tip, gratuity, or donation from a consumer:

155 (a) Clearly and conspicuously disclose to the consumer
156 immediately prior to each transaction that a tip, gratuity,
157 or donation amount may be zero and is voluntary;

158 (b) Clearly and conspicuously disclose in its service
159 contract with the consumer and elsewhere that tips,
160 gratuities, or donations are voluntary and that the offering
161 of earned wage access services, including the amount of the
162 proceeds a consumer is eligible to request and the frequency
163 with which proceeds are provided to a consumer, is not
164 contingent on whether the consumer pays any tip, gratuity,
165 or donation or on the size of any tip, gratuity, or donation;

166 (c) Refrain from misleading or deceiving consumers
167 about the voluntary nature of such tips, gratuities, or
168 donations; and

169 (d) Refrain from making representations that tips or
170 gratuities will benefit any specific, individual person.

171 5. A provider shall not:

172 (1) Share with an employer any fees, voluntary tips,
173 gratuities, or other donations that were received from or
174 charged to a consumer for earned wage access services;

175 (2) Charge interest for failure to repay outstanding
176 proceeds, fees, voluntary tips, gratuities, or other
177 donations;

178 (3) Report any information about the consumer
179 regarding the inability of the provider to be repaid
180 outstanding proceeds, fees, voluntary tips, gratuities, or

181 other donations to a consumer credit reporting agency or a
182 debt collector;

183 (4) Require a consumer's credit report or credit score
184 to determine a consumer's eligibility for earned wage access
185 services;

186 (5) Accept payment from a consumer of outstanding
187 proceeds, fees, voluntary tips, gratuities, or other
188 donations via credit card or charge card; or

189 (6) Compel or attempt to compel repayment by a
190 consumer of outstanding proceeds, fees, voluntary tips,
191 gratuities, or other donations through any of the following
192 means:

193 (a) A suit against the consumer in a court of
194 competent jurisdiction;

195 (b) Use of a third party to pursue collection from the
196 consumer on the provider's behalf; or

197 (c) Sale of outstanding amounts to a third-party
198 collector or debt buyer for collection from the consumer.

199 The provisions of this subdivision shall not apply to
200 payments of outstanding proceeds, fees, tips, gratuities, or
201 other donations incurred by a consumer through fraudulent or
202 other means or preclude a provider from pursuing an employer
203 for breach of its contractual obligations to the provider.

204 6. For purposes of the laws of this state:

205 (1) Earned wage access services offered and provided
206 by a registered provider shall not be considered to be any
207 of the following:

208 (a) A violation of or noncompliance with the laws
209 governing the sale or assignment of or an order for earned
210 but unpaid income;

211 (b) A loan or other form of credit, and the provider
212 shall not be considered a creditor or a lender;

213 (c) Money transmission, and the provider shall not be
214 considered a money transmitter;

215 (2) Fees, voluntary tips, gratuities, or other
216 donations shall not be considered interest or finance
217 charges.

218 7. The director, or his or her duly authorized
219 representative, may make such investigation as is deemed
220 necessary and, to the extent necessary for this purpose, may
221 examine the registrant or any other person having personal
222 knowledge of the matters under investigation, and shall have
223 the power to compel the production of all relevant books,
224 records, accounts, and documents by registrants.

225 8. (1) An earned wage access services provider shall
226 maintain records of its earned wage access services
227 transactions and shall preserve its records for at least two
228 years after the final date on which it provides proceeds to
229 a consumer.

230 (2) Records required by this section may be maintained
231 electronically.

232 9. The division may promulgate rules as may be
233 necessary for the administration of this section. Any rule
234 or portion of a rule, as that term is defined in section
235 536.010, that is created under the authority delegated in
236 this section shall become effective only if it complies with
237 and is subject to all of the provisions of chapter 536 and,
238 if applicable, section 536.028. This section and chapter
239 536 are nonseverable and if any of the powers vested with
240 the general assembly pursuant to chapter 536 to review, to
241 delay the effective date, or to disapprove and annul a rule
242 are subsequently held unconstitutional, then the grant of
243 rulemaking authority and any rule proposed or adopted after
244 August 28, 2023, shall be invalid and void.

245 10. (1) Any provider registered pursuant to this
246 section who fails, refuses, or neglects to comply with the
247 provisions of this section or commits any criminal act may
248 have its registration suspended or revoked by the director,
249 after a hearing before the director on an order of the
250 director to show cause why such order of suspension or
251 revocation should not be entered specifying the grounds
252 therefor, which shall be served on the registrant at least
253 ten days prior to the hearing.

254 (2) Whenever it shall appear to the director that any
255 provider registered pursuant to this section is failing,
256 refusing, or neglecting to make a good faith effort to
257 comply with the provisions of this section, the director may
258 issue an order to cease and desist, which order may be
259 enforceable by a civil penalty of not more than one thousand
260 dollars per day for each day that the neglect, failure, or
261 refusal shall continue. The penalty shall be assessed and
262 collected by the director. In determining the amount of the
263 penalty, the director shall take into account the
264 appropriateness of the penalty with respect to the gravity
265 of the violation, the history of previous violations, and
266 such other matters as justice may require.

267 11. All revenues collected by or paid to the director
268 pursuant to this section shall be forwarded immediately to
269 the director of revenue, who shall deposit them in the
270 division of finance fund.

271 12. Any earned wage access services provider knowingly
272 and willfully violating the provisions of this section shall
273 be guilty of a class A misdemeanor.

274 13. If there is a conflict between the provisions of
275 this section and any other state statute, the provisions of
276 this section shall control.

361.900. Sections 361.900 to 361.1035 shall be known
and may be cited as the "Money Transmission Modernization
Act of 2023".

361.903. Sections 361.900 to 361.1035 are designed to
replace existing state money transmission laws currently
codified in law and to:

(1) Ensure states may coordinate in all areas of
regulation, licensing, and supervision to eliminate
unnecessary regulatory burden and more effectively utilize
regulator resources;

(2) Protect the public from financial crime;

(3) Standardize the types of activities that are
subject to licensing or otherwise exempt from licensing; and

(4) Modernize safety and soundness requirements to
ensure customer funds are protected in an environment that
supports innovative and competitive business practices.

361.906. For purposes of sections 361.900 to 361.1035,
the following terms shall mean:

(1) "Acting in concert", persons knowingly acting
together with a common goal of jointly acquiring control of
a licensee, regardless of whether under an express agreement;

(2) "Authorized delegate", a person that a licensee
designates to engage in money transmission on behalf of the
licensee;

(3) "Average daily money transmission liability", the
amount of the licensee's outstanding money transmission
obligations in this state at the end of each day in a given
period of time, added together, and divided by the total
number of days in the given period of time. For purposes of
calculating average daily money transmission liability under
sections 361.900 to 361.1035 for any licensee required to do
so, the given period of time shall be the quarters ending

17 March thirty-first, June thirtieth, September thirtieth, and
18 December thirty-first;

19 (4) "Bank Secrecy Act", the Bank Secrecy Act, 31
20 U.S.C. Section 5311 et seq., and its implementing
21 regulations, as amended and recodified from time to time;

22 (5) "Closed loop stored value", stored value that is
23 redeemable by the issuer only for goods or services provided
24 by the issuer or its affiliate or franchisees of the issuer
25 or its affiliate, except to the extent required by
26 applicable law to be redeemable in cash for its cash value;

27 (6) "Control":

28 (a) The power to vote, directly or indirectly, at
29 least twenty-five percent of the outstanding voting shares
30 or voting interests of a licensee or person in control of a
31 licensee;

32 (b) The power to elect or appoint a majority of key
33 individuals or executive officers, managers, directors,
34 trustees, or other persons exercising managerial authority
35 of a person in control of a licensee; or

36 (c) The power to exercise, directly or indirectly, a
37 controlling influence over the management or policies of a
38 licensee or person in control of a licensee.

39 A person is presumed to exercise a controlling influence if
40 the person holds the power to vote, directly or indirectly,
41 at least ten percent of the outstanding voting shares or
42 voting interests of a licensee or person in control of a
43 licensee. A person presumed to exercise a controlling
44 influence as defined under this subdivision can rebut the
45 presumption of control if the person is a passive investor.

46 For purposes of determining the percentage of a person
47 controlled by any other person, the person's interest shall
48 be aggregated with the interest of any other immediate
49 family member, including the person's spouse, parents,

50 children, siblings, mothers- and fathers-in law, sons- and
51 daughters-in-law, brothers- and sisters-in-law, and any
52 other person who shares such person's home;

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

55 (8) "Eligible rating", a credit rating of any of the
56 three highest rating categories provided by an eligible
57 rating service. Each category may include rating category
58 modifiers such as "plus" or "minus" for Standard and Poor's
59 or the equivalent for any other eligible rating service;

60 (9) "Eligible rating service", any nationally
61 recognized statistical rating organization (NRSRO) as
62 defined by the United States Securities and Exchange
63 Commission and any other organization designated by rule or
64 order;

65 (10) "Federally insured depository financial
66 institution", a bank, credit union, savings and loan
67 association, trust company, savings association, savings
68 bank, industrial bank, or industrial loan company organized
69 under the laws of the United States or any state of the
70 United States if such bank, credit union, savings and loan
71 association, trust company, savings association, savings
72 bank, industrial bank, or industrial loan company has
73 federally insured deposits;

74 (11) "In this state", at a physical location within
75 this state for a transaction requested in person. For a
76 transaction requested electronically or by phone, the
77 provider of money transmission may determine if the person
78 requesting the transaction is in this state by relying on
79 other information provided by the person regarding the
80 location of the individual's residential address or a
81 business entity's principal place of business or other
82 physical address location, and any records associated with

83 the person that the provider of money transmission may have
84 that indicate such location including, but not limited to,
85 an address associated with an account;

86 (12) "Individual", a natural person;

87 (13) "Key individual", any individual ultimately
88 responsible for establishing or directing policies and
89 procedures of the licensee, such as an executive officer,
90 manager, director, or trustee;

91 (14) "Licensee", a person licensed under sections
92 361.900 to 361.1035;

93 (15) "Material litigation", litigation that, according
94 to United States generally accepted accounting principles,
95 is significant to a person's financial health and would be
96 required to be disclosed in the person's annual audited
97 financial statements, report to shareholders, or similar
98 records;

99 (16) "Monetary value", a medium of exchange,
100 regardless of whether redeemable in money;

101 (17) "Money", a medium of exchange that is authorized
102 or adopted by the United States or a foreign government.
103 The term includes a monetary unit of account established by
104 an intergovernmental organization or by agreement between
105 two or more governments;

106 (18) "Money transmission", any of the following:

107 (a) Selling or issuing payment instruments to a person
108 located in this state;

109 (b) Selling or issuing stored value to a person
110 located in this state; or

111 (c) Receiving money for transmission from a person
112 located in this state.

113 The term includes payroll processing services. The term
114 does not include the provision solely of online or
115 telecommunications services or network access;

116 (19) "Multistate licensing process", any agreement
117 entered into by and among state regulators relating to
118 coordinated processing of applications for money
119 transmission licenses, applications for the acquisition of
120 control of a licensee, control determinations, or notice and
121 information requirements for a change of key individuals;

122 (20) "NMLS", the Nationwide Multistate Licensing
123 System and Registry developed by the Conference of State
124 Bank Supervisors and the American Association of Residential
125 Mortgage Regulators and owned and operated by the State
126 Regulatory Registry LLC or any successor or affiliated
127 entity for the licensing and registration of persons in
128 financial services industries;

129 (21) "Outstanding money transmission obligations":

130 (a) Any payment instrument or stored value issued or
131 sold by the licensee to a person located in the United
132 States or reported as sold by an authorized delegate of the
133 licensee to a person that is located in the United States
134 that has not yet been paid or refunded by or for the
135 licensee or escheated in accordance with applicable
136 abandoned property laws; or

137 (b) Any money received for transmission by the
138 licensee or an authorized delegate in the United States from
139 a person located in the United States that has not been
140 received by the payee or refunded to the sender, or
141 escheated in accordance with applicable abandoned property
142 laws.

143 For purposes of this subdivision, "in the United States"
144 shall include, to the extent applicable, a person in any
145 state, territory, or possession of the United States; the
146 District of Columbia; the Commonwealth of Puerto Rico; or a
147 U.S. military installation that is located in a foreign
148 country;

149 (22) "Passive investor", a person that:
150 (a) Does not have the power to elect a majority of key
151 individuals or executive officers, managers, directors,
152 trustees, or other persons exercising managerial authority
153 of a person in control of a licensee;
154 (b) Is not employed by and does not have any
155 managerial duties of the licensee or person in control of a
156 licensee;
157 (c) Does not have the power to exercise, directly or
158 indirectly, a controlling influence over the management or
159 policies of a licensee or person in control of a licensee;
160 and
161 (d) Either:
162 a. Attests to paragraphs (a), (b), and (c) of this
163 subdivision, in a form and in a medium prescribed by the
164 director; or
165 b. Commits to the passivity characteristics of
166 paragraphs (a), (b), and (c) of this subdivision in a
167 written document;
168 (23) "Payment instrument", a written or electronic
169 check, draft, money order, traveler's check, or other
170 written or electronic instrument for the transmission or
171 payment of money or monetary value, regardless of whether
172 negotiable. The term does not include stored value or any
173 instrument that:
174 (a) Is redeemable by the issuer only for goods or
175 services provided by the issuer or its affiliate or
176 franchisees of the issuer or its affiliate, except to the
177 extent required by applicable law to be redeemable in cash
178 for its cash value; or
179 (b) Is not sold to the public but issued and
180 distributed as part of a loyalty, rewards, or promotional
181 program;

182 (24) "Payroll processing services", receiving money
183 for transmission under a contract with a person to deliver
184 wages or salaries, make payment of payroll taxes to state
185 and federal agencies, make payments relating to employee
186 benefit plans, or make distributions of other authorized
187 deductions from wages or salaries. The term does not
188 include an employer performing payroll processing services
189 on its own behalf or on behalf of its affiliate or a
190 professional employer organization subject to regulation
191 under sections 285.700 to 285.750;

192 (25) "Person", any individual, general partnership,
193 limited partnership, limited liability company, corporation,
194 trust, association, joint stock corporation, or other
195 corporate entity identified by the director;

196 (26) "Receiving money for transmission" or "money
197 received for transmission", receiving money or monetary
198 value in the United States for transmission within or
199 outside the United States by electronic or other means;

200 (27) "Stored value", monetary value representing a
201 claim against the issuer evidenced by an electronic or
202 digital record and that is intended and accepted for use as
203 a means of redemption for money or monetary value or payment
204 for goods or services. The term includes, but is not
205 limited to, "prepaid access" as defined under 31 C.F.R.
206 Section 1010.100, as amended or recodified from time to
207 time. Notwithstanding the provisions of this subdivision,
208 the term does not include a payment instrument or closed
209 loop stored value, or stored value not sold to the public
210 but issued and distributed as part of a loyalty, rewards, or
211 promotional program;

212 (28) "Tangible net worth", the aggregate assets of a
213 licensee excluding all intangible assets, less liabilities,

214 as determined in accordance with United States generally
215 accepted accounting principles.

361.909. Sections 361.900 to 361.1035 shall not apply
2 to:

3 (1) An operator of a payment system to the extent that
4 it provides processing, clearing, or settlement services
5 between or among persons exempted under this section or
6 licensees in connection with wire transfers, credit card
7 transactions, debit card transactions, stored value
8 transactions, automated clearing house transfers, or similar
9 funds transfers;

10 (2) A person appointed as an agent of a payee to
11 collect and process a payment from a payer to the payee for
12 goods or services, other than money transmission itself,
13 provided to the payer by the payee, provided that:

14 (a) There exists a written agreement between the payee
15 and the agent directing the agent to collect and process
16 payments from a payer on the payee's behalf;

17 (b) The payee holds the agent out to the public as
18 accepting payments for goods or services on the payee's
19 behalf; and

20 (c) Payment for the goods and services is treated as
21 received by the payee upon receipt by the agent so that the
22 payer's obligation is extinguished and there is no risk of
23 loss to the payer if the agent fails to remit the funds to
24 the payee;

25 (3) A person that acts as an intermediary by
26 processing payments between an entity that has directly
27 incurred an outstanding money transmission obligation to a
28 sender and the sender's designated recipient, provided that
29 the entity:

30 (a) Is properly licensed or exempt from licensing
31 requirements under sections 361.900 to 361.1035;

32 (b) Provides a receipt, electronic record, or other
33 written confirmation to the sender identifying the entity as
34 the provider of money transmission in the transaction; and

35 (c) Bears sole responsibility to satisfy the
36 outstanding money transmission obligation to the sender,
37 including the obligation to make the sender whole in
38 connection with any failure to transmit the funds to the
39 sender's designated recipient;

40 (4) The United States or a department, agency, or
41 instrumentality thereof, or its agent;

42 (5) Money transmission by the United States Postal
43 Service or by an agent of the United States Postal Service;

44 (6) A state, county, city, or any other governmental
45 agency or governmental subdivision or instrumentality of a
46 state, or its agent;

47 (7) A federally insured depository financial
48 institution, bank holding company, office of an
49 international banking corporation, foreign bank that
50 establishes a federal branch under the International Bank
51 Act, 12 U.S.C. Section 3102, as amended or recodified from
52 time to time, corporation organized under the Bank Service
53 Corporation Act, 12 U.S.C. Sections 1861-1867, as amended or
54 recodified from time to time, or corporation organized under
55 the Edge Act, 12 U.S.C. Sections 611-633, as amended or
56 recodified from time to time, under the laws of a state or
57 the United States;

58 (8) Electronic funds transfer of governmental benefits
59 for a federal, state, county, or governmental agency by a
60 contractor on behalf of the United States or a department,
61 agency, or instrumentality thereof, or on behalf of a state
62 or governmental subdivision, agency, or instrumentality
63 thereof;

64 (9) A board of trade designated as a contract market
65 under the federal Commodity Exchange Act, 7 U.S.C. Sections
66 1-25, as amended or recodified from time to time, or a
67 person that, in the ordinary course of business, provides
68 clearance and settlement services for a board of trade to
69 the extent of its operation as or for such a board;

70 (10) A registered futures commission merchant under
71 the federal commodities laws to the extent of its operation
72 as such a merchant;

73 (11) A person registered as a securities broker-dealer
74 under federal or state securities laws to the extent of its
75 operation as such a broker-dealer;

76 (12) An individual employed by a licensee, authorized
77 delegate, or any person exempted from the licensing
78 requirements under sections 361.900 to 361.1035 if acting
79 within the scope of employment and under the supervision of
80 the licensee, authorized delegate, or exempted person as an
81 employee and not as an independent contractor; and

82 (13) A person expressly appointed as a third party
83 service provider to or agent of an entity exempt under
84 subdivision (7) of this subsection solely to the extent that:

85 (a) Such service provider or agent is engaging in
86 money transmission on behalf of and under a written
87 agreement with the exempt entity that sets forth the
88 specific functions that the service provider or agent is to
89 perform; and

90 (b) The exempt entity assumes all risk of loss and all
91 legal responsibility for satisfying the outstanding money
92 transmission obligations owed to purchasers and holders of
93 the outstanding money transmission obligations upon receipt
94 of the purchaser's or holder's money or monetary value by
95 the service provider or agent.

361.912. The director may require that any person
2 claiming to be exempt from licensing under section 361.909
3 provide information and documentation to the director
4 demonstrating that the person qualifies for any claimed
5 exemption.

361.915. 1. In order to carry out the purposes of
2 sections 361.900 to 361.1035, the director may, subject to
3 the provisions of subsections 1 and 2 of section 361.918:

4 (1) Enter into agreements or relationships with other
5 government officials or federal and state regulatory
6 agencies and regulatory associations in order to improve
7 efficiencies and reduce regulatory burden by standardizing
8 methods or procedures, and sharing resources, records, or
9 related information obtained under sections 361.900 to
10 361.1035;

11 (2) Use, hire, contract, or employ analytical systems,
12 methods, or software to examine or investigate any person
13 subject to sections 361.900 to 361.1035;

14 (3) Accept, from other state or federal government
15 agencies or officials, licensing, examination, or
16 investigation reports made by such other state or federal
17 government agencies or officials; and

18 (4) Accept audit reports made by an independent
19 certified public accountant or other qualified third-party
20 auditor for an applicant or licensee and incorporate the
21 audit report in any report of examination or investigation.

22 2. The director shall have the broad administrative
23 authority to:

24 (1) Administer, interpret, and enforce sections
25 361.900 to 361.1035 and promulgate rules or regulations
26 implementing sections 361.900 to 361.1035; and

27 (2) To recover the cost of administering and enforcing
28 sections 361.900 to 361.1035 by imposing and collecting

29 proportionate and equitable fees and costs associated with
30 applications, examinations, investigations, and other
31 actions required to achieve the purpose of sections 361.900
32 to 361.1035.

33 3. The director shall promulgate all necessary rules
34 and regulations for the administration of sections 361.900
35 to 361.1035. Any rule or portion of a rule, as that term is
36 defined in section 536.010, that is created under the
37 authority delegated in this section shall become effective
38 only if it complies with and is subject to all of the
39 provisions of chapter 536 and, if applicable, section
40 536.028. This section and chapter 536 are nonseverable and
41 if any of the powers vested with the general assembly
42 pursuant to chapter 536 to review, to delay the effective
43 date, or to disapprove and annul a rule are subsequently
44 held unconstitutional, then the grant of rulemaking
45 authority and any rule proposed or adopted after August 28,
46 2023, shall be invalid and void.

361.918. 1. Except as otherwise provided in
2 subsection 2 of this section, all information or reports
3 obtained by the director from an applicant, licensee, or
4 authorized delegate and all information contained in or
5 related to an examination, investigation, operating report,
6 or condition report prepared by, on behalf of, or for the
7 use of the director, or financial statements, balance
8 sheets, or authorized delegate information, are confidential
9 and are not subject to disclosure under chapter 610.

10 2. The director may disclose information not otherwise
11 subject to disclosure under subsection 1 of this section to
12 representatives of state or federal agencies who shall
13 confirm in writing that they will maintain the
14 confidentiality of the information.

15 3. This section does not prohibit the director from
16 disclosing to the public a list of all licensees or the
17 aggregated financial or transactional data concerning those
18 licensees.

361.921. 1. The director may conduct an examination
2 or investigation of a licensee or authorized delegate or
3 otherwise take independent action authorized by sections
4 361.900 to 361.1035 or by a rule adopted or order issued
5 under sections 361.900 to 361.1035 as reasonably necessary
6 or appropriate to administer and enforce sections 361.900 to
7 361.1035, regulations implementing sections 361.900 to
8 361.1035, and other applicable law, including the Bank
9 Secrecy Act and the USA PATRIOT Act. The director may:

10 (1) Conduct an examination either onsite or offsite as
11 the director may reasonably require;

12 (2) Conduct an examination in conjunction with an
13 examination conducted by representatives of other state
14 agencies or agencies of another state or of the federal
15 government;

16 (3) Accept the examination report of another state
17 agency or an agency of another state or of the federal
18 government, or a report prepared by an independent
19 accounting firm, which on being accepted is considered for
20 all purposes as an official report of the director; and

21 (4) Summon and examine under oath a key individual or
22 employee of a licensee or authorized delegate and require
23 the person to produce records regarding any matter related
24 to the condition and business of the licensee or authorized
25 delegate.

26 2. A licensee or authorized delegate shall provide,
27 and the director shall have full and complete access to, all
28 records the director may reasonably require to conduct a
29 complete examination. The records shall be provided at the

30 location and in the format specified by the director. The
31 director may utilize multistate record production standards
32 and examination procedures when such standards will
33 reasonably achieve the requirements of this subsection.

34 3. Unless otherwise directed by the director, a
35 licensee shall pay all costs reasonably incurred in
36 connection with an examination of the licensee or the
37 licensee's authorized delegates.

361.924. 1. To efficiently and effectively administer
2 and enforce sections 361.900 to 361.1035 and to minimize
3 regulatory burden, the director is authorized to participate
4 in multistate supervisory processes established between
5 states or coordinated through the Conference of State Bank
6 Supervisors, Money Transmitter Regulators Association, and
7 affiliates and successors thereof for all licensees that
8 hold licenses in this state and other states. As a
9 participant in multistate supervision, the director may:

10 (1) Cooperate, coordinate, and share information with
11 other state and federal regulators in accordance with
12 section 361.918;

13 (2) Enter into written cooperation, coordination, or
14 information-sharing contracts or agreements with
15 organizations the membership of which is made up of state or
16 federal governmental agencies; and

17 (3) Cooperate, coordinate, and share information with
18 organizations the membership of which is made up of state or
19 federal governmental agencies, provided that the
20 organizations agree in writing to maintain the
21 confidentiality and security of the shared information in
22 accordance with this section.

23 2. The director shall not waive and nothing in this
24 section constitutes a waiver of the director's authority to
25 conduct an examination or investigation or otherwise take

26 independent action authorized by sections 361.900 to
27 361.1035 or a rule adopted or order issued under sections
28 361.900 to 361.1035 to enforce compliance with applicable
29 state or federal law.

30 3. A joint examination or investigation, or acceptance
31 of an examination or investigation report, does not waive an
32 examination assessment provided for in sections 361.900 to
33 361.1035.

2 361.927. 1. In the event state money transmission
3 jurisdiction is conditioned on a federal law, any
4 inconsistencies between a provision of sections 361.900 to
5 361.1035 and the federal law governing money transmission
6 shall be governed by the applicable federal law to the
7 extent of the inconsistency.

8 2. In the event of any inconsistencies between
9 sections 361.900 to 361.1035 and a federal law that governs
10 under subsection 1 of this section, the director may provide
11 interpretive guidance that:

- 12 (1) Identifies the inconsistency; and
13 (2) Identifies the appropriate means of compliance
with federal law.

2 361.930. 1. A person shall not engage in the business
3 of money transmission or advertise, solicit, or hold itself
4 out as providing money transmission unless the person is
5 licensed under sections 361.900 to 361.1035.

6 2. Subsection 1 of this section shall not apply to:

- 7 (1) A person that is an authorized delegate of a
8 person licensed under sections 361.900 to 361.1035 acting
9 within the scope of authority conferred by a written
10 contract with the licensee; or
11 (2) A person that is exempt under section 361.909 and
12 does not engage in money transmission outside the scope of
such exemption.

13 3. A license issued under section 361.942 shall not be
14 transferable or assignable.

361.933. 1. To establish consistent licensing between
2 this state and other states, the director is authorized to:

3 (1) Implement those licensing provisions of sections
4 361.900 to 361.1035 in a manner that is consistent with
5 other states that have adopted the money transmission
6 modernizations act or multistate licensing processes; and

7 (2) Participate in nationwide protocols for licensing
8 cooperation and coordination among state regulators,
9 provided that such protocols are consistent with sections
10 361.900 to 361.1035.

11 2. In order to fulfill the purposes of sections
12 361.900 to 361.1035, the director is authorized to establish
13 relationships or contracts with NMLS, other entities
14 designated by NMLS, or other third parties to enable the
15 director to:

16 (1) Collect and maintain records;

17 (2) Coordinate multistate licensing processes and
18 supervision processes;

19 (3) Process fees; and

20 (4) Facilitate communication between this state and
21 licensees or other persons subject to sections 361.900 to
22 361.1035.

23 3. The director is authorized to utilize NMLS for all
24 aspects of licensing in accordance with sections 361.900 to
25 361.1035 including, but not limited to, license
26 applications, applications for acquisitions of control,
27 surety bonds, reporting, criminal history background checks,
28 credit checks, fee processing, and examinations.

29 4. The director is authorized to utilize NMLS forms,
30 processes, and functionalities in accordance with sections
31 361.900 to 361.1035.

32 5. (1) The director is authorized to establish and
33 adopt, by rule or regulation, requirements for participation
34 by applicants and licensees in NMLS upon the division of
35 finance's determination that each requirement is consistent
36 with law, public interest, and the purposes of this section.

37 (2) Any rule or portion of a rule, as that term is
38 defined in section 536.010, that is created under the
39 authority delegated in this section shall become effective
40 only if it complies with and is subject to all of the
41 provisions of chapter 536 and, if applicable, section
42 536.028. This section and chapter 536 are nonseverable and
43 if any of the powers vested with the general assembly
44 pursuant to chapter 536 to review, to delay the effective
45 date, or to disapprove and annul a rule are subsequently
46 held unconstitutional, then the grant of rulemaking
47 authority and any rule proposed or adopted after August 28,
48 2023, shall be invalid and void.

361.936. 1. Applicants for a license shall apply in a
2 form and in a medium as prescribed by the director. Each
3 such form shall contain content as set forth by rule,
4 regulation, instruction, or procedure of the director and
5 may be changed or updated by the director in accordance with
6 applicable law in order to carry out the purposes of
7 sections 361.900 to 361.1035 and maintain consistency with
8 licensing standards and practices. The application shall
9 state or contain, as applicable:

10 (1) The legal name and residential and business
11 addresses of the applicant and any fictitious or trade name
12 used by the applicant in conducting its business;

13 (2) Whether the applicant has been convicted of or
14 pled guilty or nolo contendere to a felony involving an act
15 of fraud, dishonesty, or a breach of trust or money
16 laundering;

17 (3) A description of any money transmission previously
18 provided by the applicant and the money transmission that
19 the applicant seeks to provide in this state;

20 (4) A list of the applicant's proposed authorized
21 delegates and the locations in this state where the
22 applicant and its authorized delegates propose to engage in
23 money transmission;

24 (5) A list of other states in which the applicant is
25 licensed to engage in money transmission and any license
26 revocations, suspensions, or other disciplinary action taken
27 against the applicant in another state;

28 (6) Information concerning any bankruptcy or
29 receivership proceedings affecting the licensee or a person
30 in control of a licensee;

31 (7) A sample form of contract for authorized
32 delegates, if applicable;

33 (8) A sample form of payment instrument or stored
34 value, as applicable;

35 (9) The name and address of any federally insured
36 depository financial institution through which the applicant
37 plans to conduct money transmission;

38 (10) A list of any material litigation in which the
39 applicant has been involved in the ten-year period next
40 preceding the submission of the application; and

41 (11) Any other information the director reasonably
42 requires with respect to the applicant.

43 2. If an applicant is a corporation, limited liability
44 company, partnership, or other legal entity, the applicant
45 shall also provide:

46 (1) The date of the applicant's incorporation or
47 formation and state or country of incorporation or formation;

48 (2) If applicable, a certificate of good standing from
49 the state or country in which the applicant is incorporated
50 or formed;

51 (3) A brief description of the structure or
52 organization of the applicant, including any parents or
53 subsidiaries of the applicant, and whether any parents or
54 subsidiaries are publicly traded;

55 (4) The legal name, any fictitious or trade name, all
56 business and residential addresses, and the employment, as
57 applicable, in the ten-year period next preceding the
58 submission of the application of each key individual and
59 person in control of the applicant;

60 (5) Whether the applicant has been convicted of or
61 pled guilty or nolo contendere to a felony involving an act
62 of fraud, dishonesty, or a breach of trust or money
63 laundering;

64 (6) A copy of audited financial statements of the
65 applicant for the most recent fiscal year and for the two-
66 year period next preceding the submission of the application
67 or, if determined to be acceptable to the director,
68 certified unaudited financial statements for the most recent
69 fiscal year or other period acceptable to the director;

70 (7) A certified copy of unaudited financial statements
71 of the applicant for the most recent fiscal quarter;

72 (8) If the applicant is a publicly traded corporation,
73 a copy of the most recent report filed with the United
74 States Securities and Exchange Commission under Section 13
75 of the federal Securities Exchange Act of 1934, 15 U.S.C.
76 Section 78m, as amended or recodified from time to time;

77 (9) If the applicant is a wholly owned subsidiary of:

78 (a) A corporation publicly traded in the United
79 States, a copy of audited financial statements for the
80 parent corporation for the most recent fiscal year or a copy

81 of the parent corporation's most recent report filed under
82 Section 13 of the U.S. Securities Exchange Act of 1934, 15
83 U.S.C. Section 78m, as amended or recodified from time to
84 time; or

85 (b) A corporation publicly traded outside the United
86 States, a copy of similar documentation filed with the
87 regulator of the parent corporation's domicile outside the
88 United States;

89 (10) The name and address of the applicant's
90 registered agent in this state;

91 (11) A list of any material litigation in which the
92 applicant has been involved in the ten-year period next
93 preceding the submission of the application; and

94 (12) Any other information the director reasonably
95 requires with respect to the applicant.

96 3. A nonrefundable application fee and license fee, as
97 determined by the director, shall accompany an application
98 for a license under this section.

99 4. The director may waive one or more requirements of
100 subsections 1 and 2 of this section or permit an applicant
101 to submit other information in lieu of the required
102 information.

361.939. 1. Any individual in control of a licensee
2 or applicant, any individual that seeks to acquire control
3 of a licensee, and each key individual shall furnish to the
4 director through NMLS the following:

5 (1) The individual's fingerprints for submission to
6 the Federal Bureau of Investigation and the director for
7 purposes of a national criminal history background check
8 unless the person currently resides outside of the United
9 States and has resided outside of the United States for the
10 last ten years; and

11 (2) Personal history and experience in a form and in a
12 medium prescribed by the director, to obtain the following:

13 (a) An independent credit report from a consumer
14 reporting agency unless the individual does not have a
15 Social Security number, in which case, this requirement
16 shall be waived;

17 (b) Whether the individual has been convicted of or
18 pled guilty or nolo contendere to a felony involving an act
19 of fraud, dishonesty, or a breach of trust or money
20 laundering; and

21 (c) Information related to any regulatory or
22 administrative action and any civil litigation involving
23 claims of fraud, misrepresentation, conversion,
24 mismanagement of funds, breach of fiduciary duty, or breach
25 of contract.

26 2. If the individual has resided outside of the United
27 States at any time in the last ten years, the individual
28 shall also provide an investigative background report
29 prepared by an independent search firm that meets the
30 following requirements:

31 (1) At a minimum, the search firm shall:

32 (a) Demonstrate that it has sufficient knowledge and
33 resources and employs accepted and reasonable methodologies
34 to conduct the research of the background report; and

35 (b) Not be affiliated with or have an interest with
36 the individual it is researching; and

37 (2) At a minimum, the investigative background report
38 shall be written in the English language and shall contain
39 the following:

40 (a) If available in the individual's current
41 jurisdiction of residency, a comprehensive credit report, or
42 any equivalent information obtained or generated by the
43 independent search firm to accomplish such report, including

44 a search of the court data in the countries, provinces,
45 states, cities, towns, and contiguous areas where the
46 individual resided and worked;

47 (b) Criminal records information for the past ten
48 years including, but not limited to, felonies, misdemeanors,
49 or similar convictions for violations of law in the
50 countries, provinces, states, cities, towns, and contiguous
51 areas where the individual resided and worked;

52 (c) Employment history;

53 (d) Media history, including an electronic search of
54 national and local publications, wire services, and business
55 applications; and

56 (e) Financial services-related regulatory history
57 including but not limited to, money transmission,
58 securities, banking, insurance, and mortgage-related
59 industries.

361.942. 1. If an application for an original license
2 under sections 361.900 to 361.1035 appears to include all
3 the items and addresses and all of the matters that are
4 required, the application is complete and the director shall
5 promptly notify the applicant in a record of the date on
6 which the application is determined to be complete, and:

7 (1) The director shall approve or deny the application
8 within one hundred twenty days after the completion date; or

9 (2) If the application is not approved or denied
10 within one hundred twenty days after the completion date:

11 (a) The application is approved; and

12 (b) The license takes effect as of the first business
13 day after expiration of the one hundred twenty-day period.

14 The director may for good cause extend the application
15 period.

16 2. A determination by the director that an application
17 is complete and is accepted for processing means only that

18 the application, on its face, appears to include all of the
19 items, including the Criminal Background Check response from
20 the Federal Bureau of Investigation, and address all of the
21 matters that are required, and is not an assessment of the
22 substance of the application or of the sufficiency of the
23 information provided.

24 3. If an application is filed and considered complete
25 under this section, the director shall investigate the
26 applicant's financial condition and responsibility,
27 financial and business experience, character, and general
28 fitness. The director may conduct an onsite investigation
29 of the applicant, the reasonable cost of which the applicant
30 shall pay. The director shall issue a license to an
31 applicant under this section if the director finds that all
32 of the following conditions have been fulfilled:

33 (1) The applicant has complied with the provisions of
34 sections 361.929 and 361.936; and

35 (2) The financial condition and responsibility,
36 financial and business experience, competence, character,
37 and general fitness of the applicant; and the competence,
38 experience, character, and general fitness of the key
39 individuals and persons in control of the applicant indicate
40 that it is in the interest of the public to permit the
41 applicant to engage in money transmission.

42 4. If an applicant avails itself or is otherwise
43 subject to a multistate licensing process:

44 (1) The director shall be authorized to accept the
45 investigation results of a lead investigative state for the
46 purpose of subsection 3 of this section if the lead
47 investigative state has sufficient staffing, expertise, and
48 minimum standards; or

49 (2) If this state is a lead investigative state, the
50 director shall be authorized to investigate the applicant

51 under subsection 3 of this section and the time frames
52 established by agreement through the multistate licensing
53 process, provided however, that in no case shall such time
54 frame be noncompliant with the application period in
55 subdivision (1) of subsection 1 of this section.

56 5. The director shall issue a formal written notice of
57 the denial of a license application within thirty days of
58 the decision to deny the application. The director shall
59 set forth in the notice of denial the specific reasons for
60 the denial of the application. An applicant whose
61 application is denied by the director under this subsection
62 may appeal within thirty days after receipt of the written
63 notice of the denial under chapter 536.

64 6. The initial license term shall begin on the day the
65 application is approved. The license shall expire on
66 December thirty-first of the year in which the license term
67 began unless the initial license date is between November
68 first and December thirty-first, in which instance the
69 initial license term shall run through December thirty-first
70 of the following year.

361.945. 1. A license under sections 361.900 to
2 361.1035 shall be renewed annually. An annual renewal fee
3 to be determined by the director shall be paid no more than
4 sixty days before the license expiration. The renewal term
5 shall be for a period of one year and shall begin on January
6 first of each year after the initial license term and shall
7 expire on December thirty-first of the year the renewal term
8 begins.

9 2. A licensee shall submit a renewal report with the
10 renewal fee, in a form and in a medium prescribed by the
11 director. The renewal report shall state or contain a
12 description of each material change in information submitted

13 by the licensee in its original license application that has
14 not been reported to the director.

15 3. The director for good cause may grant an extension
16 of the renewal date.

17 4. The director shall be authorized to utilize NMLS to
18 process license renewals provided that such functionality is
19 consistent with this section.

361.948. 1. If a licensee does not continue to meet
2 the qualifications or satisfy the requirements that apply to
3 an applicant for a new money transmission license, the
4 director may suspend or revoke the licensee's license in
5 accordance with the procedures established under sections
6 361.900 to 361.1035 or other applicable state law for such
7 suspension or revocation.

8 2. An applicant for a money transmission license shall
9 demonstrate that it meets or will meet, and a money
10 transmission licensee shall at all times meet, the
11 requirements in sections 361.999, 361.1002, and 361.1005.

361.951. 1. Any person, or group of persons acting in
2 concert, seeking to acquire control of a licensee shall
3 obtain the written approval of the director prior to
4 acquiring control. An individual is not deemed to acquire
5 control of a licensee and is not subject to the acquisition
6 of control provisions when that individual becomes a key
7 individual in the ordinary course of business.

8 2. A person, or group of persons acting in concert,
9 seeking to acquire control of a licensee shall, in
10 cooperation with the licensee:

11 (1) Submit an application in a form and in a medium
12 prescribed by the director; and

13 (2) Submit a nonrefundable fee to be determined by the
14 director with the request for approval.

15 3. Upon request, the director may permit a licensee or
16 a person, or group of persons acting in concert, to submit
17 some or all information required by the director under
18 subdivision (1) of subsection 2 of this section without
19 using NMLS.

20 4. The application required under subdivision (1) of
21 subsection 2 of this section shall include information
22 required under section 361.939 for any new key individuals
23 that have not previously completed the requirements of
24 section 361.939 for a licensee.

25 5. When an application for acquisition of control
26 under this section appears to include all the items and
27 address all of the matters that are required, the
28 application shall be considered complete. The director
29 shall promptly notify the applicant in a record of the date
30 on which the application was determined to be complete, and:

31 (1) The director shall approve or deny the application
32 within sixty days after the completion date; or

33 (2) If the application is not approved or denied
34 within sixty days after the completion date:

35 (a) The application is approved; and

36 (b) The person, or group of persons acting in concert,
37 are not prohibited from acquiring control; and

38 (3) The director may for good cause extend the
39 application period.

40 6. A determination by the director that an application
41 is complete and is accepted for processing means only that
42 the application, on its face, appears to include all of the
43 items and address all of the matters that are required, and
44 is not an assessment of the substance of the application or
45 of the sufficiency of the information provided.

46 7. If an application is filed and considered complete
47 under subsection 5 of this section, the director shall

48 investigate the financial condition and responsibility,
49 financial and business experience, character, and general
50 fitness of the person, or group of persons acting in
51 concert, seeking to acquire control. The director shall
52 approve an acquisition of control under this section if the
53 director finds that all of the following conditions have
54 been fulfilled:

55 (1) The requirements of subsections 2 and 4 of this
56 section have been met, as applicable; and

57 (2) The financial condition and responsibility,
58 financial and business experience, competence, character,
59 and general fitness of the person, or group of persons
60 acting in concert, seeking to acquire control and the
61 competence, experience, character, and general fitness of
62 the key individuals and persons that would be in control of
63 the licensee after the acquisition of control indicate that
64 it is in the interest of the public to permit the person, or
65 group of persons acting in concert, to control the licensee.

66 8. If an applicant avails itself or is otherwise
67 subject to a multistate licensing process:

68 (1) The director is authorized to accept the
69 investigation results of a lead investigative state for the
70 purpose of subsection 7 of this section if the lead
71 investigative state has sufficient staffing, expertise, and
72 minimum standards; or

73 (2) If this state is a lead investigative state, the
74 director is authorized to investigate the applicant under
75 subsection 7 of this section and the time frames established
76 by agreement through the multistate licensing process.

77 9. The director shall issue a formal written notice of
78 the denial of an application to acquire control within
79 thirty days of the decision to deny the application. The
80 director shall set forth in the notice of denial the

81 specific reasons for the denial of the application. An
82 applicant whose application is denied by the director under
83 this subsection may appeal within thirty days after receipt
84 of the written notice of the denial under chapter 536.

85 10. The requirements of subsections 1 and 2 of this
86 section shall not apply to any of the following:

87 (1) A person that acts as a proxy for the sole purpose
88 of voting at a designated meeting of the shareholders or
89 holders of voting shares or voting interests of a licensee
90 or a person in control of a licensee;

91 (2) A person that acquires control of a licensee by
92 devise or descent;

93 (3) A person that acquires control of a licensee as a
94 personal representative, custodian, guardian, conservator,
95 or trustee, or as an officer appointed by a court of
96 competent jurisdiction or by operation of law;

97 (4) A person that is exempt under subsection 7 of
98 section 361.909;

99 (5) A person that the director determines is not
100 subject to subsection 1 of this section based on the public
101 interest;

102 (6) A public offering of securities of a licensee or a
103 person in control of a licensee; or

104 (7) An internal reorganization of a person in control
105 of the licensee where the ultimate person in control of the
106 licensee remains the same.

107 11. Persons in subdivisions (2), (3), (4), (6), and
108 (7) of subsection 10 of this section in cooperation with the
109 licensee shall notify the director within fifteen days after
110 the acquisition of control.

111 12. (1) The requirements of subsections 1 and 2 of
112 this section shall not apply to a person that has complied
113 with and received approval to engage in money transmission

114 under sections 361.900 to 361.1035 or was identified as a
115 person in control in a prior application filed with and
116 approved by the director or by another state under a
117 multistate licensing process, provided that:

118 (a) The person has not had a license revoked or
119 suspended or controlled a licensee that has had a license
120 revoked or suspended while the person was in control of the
121 licensee in the previous five years;

122 (b) If the person is a licensee, the person is well
123 managed and has received at least a satisfactory rating for
124 compliance at its most recent examination by another state
125 if such rating was given;

126 (c) The licensee to be acquired is projected to meet
127 the requirements of sections 361.999, 361.1002, and 361.1005
128 after the acquisition of control is completed, and if the
129 person acquiring control is a licensee, that licensee is
130 also projected to meet the requirements of sections 361.999,
131 361.1002, and 361.1005 after the acquisition of control is
132 completed;

133 (d) The licensee to be acquired will not implement any
134 material changes to its business plan as a result of the
135 acquisition of control, and if the person acquiring control
136 is a licensee, that licensee also will not implement any
137 material changes to its business plan as a result of the
138 acquisition of control; and

139 (e) The person provides notice of the acquisition in
140 cooperation with the licensee and attests to paragraphs (a)
141 to (d) of this subdivision in a form and in a medium
142 prescribed by the director.

143 (2) If the notice is not disapproved within thirty
144 days after the date on which the notice was determined to be
145 complete, the notice is deemed approved.

146 13. Before filing an application for approval to
147 acquire control of a licensee, a person may request in
148 writing a determination from the director as to whether the
149 person would be considered a person in control of a licensee
150 upon consummation of a proposed transaction. If the
151 director determines that the person would not be a person in
152 control of a licensee, the proposed person and transaction
153 is not subject to the requirements of subsections 1 and 2 of
154 this subsection.

155 14. If a multistate licensing process includes a
156 determination under subsection 13 of this section and an
157 applicant avails itself or is otherwise subject to the
158 multistate licensing process:

159 (1) The director is authorized to accept the control
160 determination of a lead investigative state with sufficient
161 staffing, expertise, and minimum standards for the purpose
162 of subsection 13 of this section; or

163 (2) If this state is a lead investigative state, the
164 director is authorized to investigate the applicant under
165 subsection 13 of this section and the time frames
166 established by agreement through the multistate licensing
167 process.

361.954. 1. A licensee adding or replacing any key
2 individual shall:

3 (1) Provide notice in a manner prescribed by the
4 director within fifteen days after the effective date of the
5 key individual's appointment; and

6 (2) Provide information as required by section 361.939
7 within forty-five days of the effective date.

8 2. Within ninety days of the date on which the notice
9 provided under subsection 1 of this section was determined
10 to be complete, the director may issue a notice of
11 disapproval of a key individual if the competence,

12 experience, character, or integrity of the individual would
13 not be in the best interests of the public or the customers
14 of the licensee to permit the individual to be a key
15 individual of such licensee.

16 3. A notice of disapproval shall contain a statement
17 of the basis for disapproval and shall be sent to the
18 licensee and the disapproved individual. A licensee may
19 appeal a notice of disapproval under chapter 536 within
20 thirty days after receipt of such notice of disapproval.

21 4. If the notice provided under subsection 1 of this
22 section is not disapproved within ninety days after the date
23 on which the notice was determined to be complete, the key
24 individual is deemed approved.

25 5. If a multistate licensing process includes a key
26 individual notice review and disapproval process under this
27 section and the licensee avails itself or is otherwise
28 subject to the multistate licensing process:

29 (1) The director is authorized to accept the
30 determination of another state if the investigating state
31 has sufficient staffing, expertise, and minimum standards
32 for the purpose of this section; or

33 (2) If this state is a lead investigative state, the
34 director is authorized to investigate the applicant under
35 subsection 2 of this section and the time frames established
36 by agreement through the multistate licensing process.

361.957. 1. Each licensee shall submit a report of
2 condition within forty days of the end of the calendar
3 quarter or within any extended time as the director may
4 prescribe.

5 2. The report of condition shall include:

6 (1) Financial information at the licensee level;

7 (2) Nationwide and state-specific money transmission
8 transaction information in every jurisdiction in the United

9 States where the licensee is licensed to engage in money
10 transmission;

11 (3) Permissible investments report;

12 (4) Transaction destination country reporting for
13 money received for transmission, if applicable; and

14 (5) Any other information the director reasonably
15 requires with respect to the licensee. The director is
16 authorized to utilize NMLS for the submission of the report
17 required by subsection 1 of this section and is authorized
18 to update as necessary the requirements of this section to
19 carry out the purposes of sections 361.900 to 361.1035 and
20 maintain consistency with NMLS reporting.

21 3. The information required under subdivision (4) of
22 subsection 2 of this section shall be included only in a
23 report of condition submitted within forty-five days of the
24 end of the fourth calendar quarter.

361.960. 1. Each licensee shall, within ninety days
2 after the end of each fiscal year or within any extended
3 time as the director may prescribe, file with the director:

4 (1) An audited financial statement of the licensee for
5 the fiscal year prepared in accordance with United States
6 generally accepted accounting principles; and

7 (2) Any other information as the director may
8 reasonably require.

9 2. The audited financial statement shall be prepared
10 by an independent certified public accountant or independent
11 public accountant who is satisfactory to the director.

12 3. The audited financial statements shall include or
13 be accompanied by a certificate of opinion of the
14 independent certified public accountant or independent
15 public accountant that is satisfactory in form and content
16 to the director. If the certificate or opinion is
17 qualified, the director may order the licensee to take any

18 action as the director may find necessary to enable the
19 independent certified public accountant or independent
20 public accountant to remove the qualification.

2 361.963. 1. Each licensee shall submit a report of
3 authorized delegates within forty-five days of the end of
4 the calendar quarter. The director is authorized to utilize
5 NMLS for the submission of the report required under this
6 section, provided that such functionality is consistent with
7 the requirements of this section.

8 2. The authorized delegate report shall include, at a
9 minimum, each authorized delegate's:

- 10 (1) Company legal name;
- 11 (2) Taxpayer employer identification number;
- 12 (3) Principal provider identifier;
- 13 (4) Physical address, if any;
- 14 (5) Mailing address;
- 15 (6) Any business conducted in other states;
- 16 (7) Any fictitious or trade name;
- 17 (8) Contact person name, phone number, and email;
- 18 (9) Start date as licensee's authorized delegate;
- 19 (10) End date acting as licensee's authorized
20 delegate, if applicable; and
- 21 (11) Any other information the director reasonably
22 requires with respect to the authorized delegate.

2 361.966. 1. A licensee shall file a report with the
3 director within one business day after the licensee has
4 reason to know of the occurrence of any of the following
5 events:

- 6 (1) The filing of a petition by or against the
7 licensee under the United States Bankruptcy Code, 11 U.S.C.
8 Section 101-110, as amended or recodified from time to time,
9 for bankruptcy or reorganization;

9 (2) The filing of a petition by or against the
10 licensee for receivership, the commencement of any other
11 judicial or administrative proceeding for its dissolution or
12 reorganization, or the making of a general assignment for
13 the benefit of its creditors; or

14 (3) The commencement of a proceeding to revoke or
15 suspend its license in a state or country in which the
16 licensee engages in business or is licensed.

17 2. A licensee shall notify the director within three
18 business days after the licensee has reason to know that:

19 (1) The licensee, or a key individual or person in
20 control of the licensee, has been convicted of or pled
21 guilty or nolo contendere to a felony involving an act of
22 fraud, dishonesty, or a breach of trust or money laundering;
23 or

24 (2) An authorized delegate has been convicted of or
25 pled guilty or nolo contendere to a felony involving an act
26 of fraud, dishonesty, or a breach of trust or money
27 laundering.

361.969. A licensee and an authorized delegate shall
2 file all reports required by federal currency reporting,
3 record keeping, and suspicious activity reporting
4 requirements as set forth in the Bank Secrecy Act and other
5 federal and state laws pertaining to money laundering. The
6 timely filing of a complete and accurate report required
7 under this section with the appropriate federal agency is
8 deemed compliant with the requirements of this section.

361.972. 1. A licensee shall maintain the following
2 records for determining its compliance with sections 361.900
3 to 361.1035 for at least three years:

4 (1) A record of each outstanding money transmission
5 obligation sold;

6 (2) A general ledger posted at least monthly
7 containing all asset, liability, capital, income, and
8 expense accounts;

9 (3) Bank statements and bank reconciliation records;

10 (4) Records of outstanding money transmission
11 obligations;

12 (5) Records of each outstanding money transmission
13 obligation paid within the three-year period;

14 (6) A list of the last known names and addresses of
15 all of the licensee's authorized delegates; and

16 (7) Any other records the director reasonably requires
17 by rule.

18 2. The items specified in subsection 1 of this section
19 may be maintained in any form of record.

20 3. Records specified in subsection 1 of this section
21 may be maintained outside this state if the records are made
22 accessible to the director on seven business-days' notice
23 that is sent in a record.

24 4. All records maintained by the licensee as required
25 in subsections 1 to 3 of this section are open to inspection
26 by the director under subsection 1 of section 361.921.

361.975. 1. As used in this section, "remit" means to
2 make direct payments of money to a licensee or its
3 representative authorized to receive money or to deposit
4 money in a bank in an account specified by the licensee.

5 2. Before a licensee is authorized to conduct business
6 through an authorized delegate, or allows a person to act as
7 the licensee's authorized delegate, the licensee shall:

8 (1) Adopt, and update as necessary, written policies
9 and procedures reasonably designed to ensure that the
10 licensee's authorized delegates comply with applicable state
11 and federal law;

12 (2) Enter into a written contract that complies with
13 subsection 4 of this section; and

14 (3) Conduct a reasonable risk-based background
15 investigation sufficient for the licensee to determine
16 whether the authorized delegate has complied and will likely
17 comply with applicable state and federal law.

18 3. An authorized delegate shall operate in full
19 compliance with sections 361.900 to 361.1035.

20 4. The written contract required under subsection 2 of
21 this section shall be signed by the licensee and the
22 authorized delegate and, at a minimum, shall:

23 (1) Appoint the person signing the contract as the
24 licensee's authorized delegate with the authority to conduct
25 money transmission on behalf of the licensee;

26 (2) Set forth the nature and scope of the relationship
27 between the licensee and the authorized delegate and the
28 respective rights and responsibilities of the parties;

29 (3) Require the authorized delegate to agree to fully
30 comply with all applicable state and federal laws, rules,
31 and regulations pertaining to money transmission, including
32 sections 361.900 to 361.1035 and regulations implementing
33 sections 361.900 to 361.1035, relevant provisions of the
34 Bank Secrecy Act, and the USA PATRIOT Act;

35 (4) Require the authorized delegate to remit and
36 handle money and monetary value in accordance with the terms
37 of the contract between the licensee and the authorized
38 delegate;

39 (5) Impose a trust on money and monetary value net of
40 fees received for money transmission for the benefit of the
41 licensee;

42 (6) Require the authorized delegate to prepare and
43 maintain records as required by sections 361.900 to 361.1035

44 or regulations implementing sections 361.900 to 361.1035, or
45 as reasonably requested by the director;

46 (7) Acknowledge that the authorized delegate consents
47 to examination or investigation by the director;

48 (8) State that the licensee is subject to regulation
49 by the director and that, as part of that regulation, the
50 director may suspend or revoke an authorized delegate
51 designation or require the licensee to terminate an
52 authorized delegate designation; and

53 (9) Acknowledge receipt of the written policies and
54 procedures required under subdivision (1) of subsection 1 of
55 this section.

56 5. If the licensee's license is suspended, revoked,
57 surrendered, or expired, the licensee shall, within five
58 business days, provide documentation to the director that
59 the licensee has notified all applicable authorized
60 delegates of the licensee whose names are in a record filed
61 with the director of the suspension, revocation, surrender,
62 or expiration of a license. Upon suspension, revocation,
63 surrender, or expiration of a license, applicable authorized
64 delegates shall immediately cease to provide money
65 transmission as an authorized delegate of the licensee.

66 6. An authorized delegate of a licensee holds in trust
67 for the benefit of the licensee all money net of fees
68 received from money transmission. If any authorized
69 delegate commingles any funds received from money
70 transmission with any other funds or property owned or
71 controlled by the authorized delegate, all commingled funds
72 and other property shall be considered held in trust in
73 favor of the licensee in an amount equal to the amount of
74 money net of fees received from money transmission.

75 7. An authorized delegate shall not use a subdelegate
76 to conduct money transmission on behalf of a licensee.

2 361.978. A person shall not engage in the business of
3 money transmission on behalf of a person not licensed under
4 sections 361.900 to 361.1035 or not exempt under sections
5 361.909 and 361.912. A person that engages in such activity
6 provides money transmission to the same extent as if the
7 person were a licensee and shall be jointly and severally
8 liable with the unlicensed or nonexempt person.

2 361.981. 1. The circuit court in an action brought by
3 a licensee shall have jurisdiction to grant appropriate
4 equitable or legal relief, including without limitation
5 prohibiting the authorized delegate from directly or
6 indirectly acting as an authorized delegate for any licensee
7 in this state and the payment of restitution, damages, or
8 other monetary relief, if the circuit court finds that an
9 authorized delegate failed to remit money in accordance with
10 the written contract required by subsection 2 of section
11 361.975 or as otherwise directed by the licensee or required
12 by law.

13 2. If the circuit court issues an order prohibiting a
14 person from acting as an authorized delegate for any
15 licensee under subsection 1 of this section, the licensee
16 that brought the action shall report the order to the
17 director within thirty days and shall report the order
18 through NMLS within ninety days.

19 3. An authorized delegate who holds money in trust for
20 the benefit of a licensee and knowingly fails to remit more
21 than one thousand dollars of such money is guilty of a class
22 E felony.

23 4. An authorized delegate who holds money in trust for
24 the benefit of a licensee and knowingly fails to remit no
25 more than one thousand dollars of such money is guilty of a
class A misdemeanor.

361.984. 1. Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

2. If a licensee fails to forward money received for transmission in accordance with this section, the licensee shall respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law, rule, or regulation.

361.987. 1. This section shall not apply to:

(1) Money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, Subpart B, as amended or recodified from time to time; or

(2) Money received for transmission under a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

2. Every licensee shall refund to the sender within ten days of receipt of the sender's written request for a refund any and all money received for transmission unless any of the following occurs:

(1) The money has been forwarded within ten days of the date on which the money was received for transmission;

(2) Instructions have been given committing an equivalent amount of money to the person designated by the sender within ten days of the date on which the money was received for transmission;

(3) The agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond ten days of the date on which the money was received for transmission. If funds have not yet been

22 forwarded in accordance with the terms of the agreement
23 between the licensee and the sender, the licensee shall
24 issue a refund in accordance with the other provisions of
25 this section;

26 (4) The refund is requested for a transaction that the
27 licensee has not completed based on a reasonable belief or a
28 reasonable basis to believe that a crime or violation of
29 law, rule, or regulation has occurred, is occurring, or may
30 occur; or

31 (5) The refund request does not enable the licensee to:

32 (a) Identify the sender's name and address or
33 telephone number; or

34 (b) Identify the particular transaction to be refunded
35 in the event the sender has multiple transactions
36 outstanding.

361.990. 1. This section shall not apply to:

2 (1) Money received for transmission subject to the
3 federal Remittance Rule, 12 C.F.R. Part 1005, Subpart B, as
4 amended or recodified from time to time;

5 (2) Money received for transmission that is not
6 primarily for personal, family, or household purposes;

7 (3) Money received for transmission under a written
8 agreement between the licensee and payee to process payments
9 for goods or services provided by the payee; or

10 (4) Payroll processing services.

11 2. For purposes of this section, "receipt" means a
12 paper receipt, electronic record, or other written
13 confirmation. For a transaction conducted in person, the
14 receipt may be provided electronically if the sender
15 requests or agrees to receive an electronic receipt. For a
16 transaction conducted electronically or by phone, a receipt
17 may be provided electronically. All electronic receipts
18 shall be provided in a retainable form.

19 3. (1) Every licensee or its authorized delegate
20 shall provide the sender a receipt for money received for
21 transmission. The receipt shall contain the following
22 information, as applicable:

23 (a) The name of the sender;
24 (b) The name of the designated recipient;
25 (c) The date of the transaction;
26 (d) The unique transaction or identification number;
27 (e) The name of the licensee, NMLS unique identifier,
28 the licensee's business address, and the licensee's customer
29 service telephone number;

30 (f) The amount of the transaction in United States
31 dollars;

32 (g) Any fee charged by the licensee to the sender for
33 the transaction; and

34 (h) Any taxes collected by the licensee from the
35 sender for the transaction.

36 (2) The receipt required by this section shall be in
37 English and in the language principally used by the licensee
38 or authorized delegate to advertise, solicit, or negotiate,
39 either orally or in writing, for a transaction conducted in
40 person, electronically, or by phone, if other than English.

361.996. 1. A licensee that provides payroll
2 processing services shall:

3 (1) Issue reports to clients detailing client payroll
4 obligations in advance of the payroll funds being deducted
5 from an account; and

6 (2) Make available worker paystubs or an equivalent
7 statement to workers.

8 2. Subsection 1 of this section shall not apply to a
9 licensee providing payroll processing services if the
10 licensee's client designates the intended recipients to the

11 licensee and is responsible for providing the disclosures
12 required by subdivision (2) of subsection 1 of this section.

361.999. 1. A licensee under sections 361.900 to
2 361.1035 shall maintain at all times a tangible net worth of
3 the greater of one hundred thousand dollars or three percent
4 of total assets for the first one hundred million dollars,
5 two percent of additional assets for one hundred million
6 dollars to one billion dollars, and one-half of one percent
7 of additional assets for over one billion dollars.

8 2. Tangible net worth shall be demonstrated at initial
9 application by the applicant's most recent audited or
10 unaudited financial statements under subdivision (6) of
11 subsection 2 of section 361.936.

361.1002. 1. An applicant for a money transmission
2 license shall provide, and a licensee at all times shall
3 maintain, security consisting of a surety bond in a form
4 satisfactory to the director.

5 2. The amount of the required security shall be:

6 (1) The greater of one hundred thousand dollars or an
7 amount equal to one hundred percent of the licensee's
8 average daily money transmission liability in this state
9 calculated for the most recently completed three-month
10 period, up to a maximum of five hundred thousand dollars; or

11 (2) In the event that the licensee's tangible net
12 worth exceeds ten percent of the total assets, a surety bond
13 of one hundred thousand dollars.

14 3. A licensee that maintains a bond in the maximum
15 amount provided for in subsection 2 of this section shall
16 not be required to calculate its average daily money
17 transmission liability in this state for purposes of this
18 section.

361.1005. 1. A licensee shall maintain at all times
2 permissible investments that have a market value computed in

3 accordance with United States generally accepted accounting
4 principles of not less than the aggregate amount of all of
5 its outstanding money transmission obligations.

6 2. Except for permissible investments enumerated in
7 subsection 1 of section 361.1008, the director, with respect
8 to any licensee, may by rule limit the extent to which a
9 specific investment maintained by a licensee within a class
10 of permissible investments may be considered a permissible
11 investment if the specific investment represents undue risk
12 to customers not reflected in the market value of
13 investments.

14 3. Permissible investments, even if commingled with
15 other assets of the licensee, are held in trust for the
16 benefit of the purchasers and holders of the licensee's
17 outstanding money transmission obligations in the event of
18 insolvency, the filing of a petition by or against the
19 licensee under the United States Bankruptcy Code, 11 U.S.C.
20 Section 101-110, as amended or recodified from time to time,
21 for bankruptcy or reorganization, the filing of a petition
22 by or against the licensee for receivership, the
23 commencement of any other judicial or administrative
24 proceeding for its dissolution or reorganization, or in the
25 event of an action by a creditor against the licensee who is
26 not a beneficiary of the statutory trust. No permissible
27 investments impressed with a trust under this subsection
28 shall be subject to attachment, levy of execution, or
29 sequestration by order of any court, except for a
30 beneficiary of the statutory trust.

31 4. Upon the establishment of a statutory trust in
32 accordance with subsection 3 of this section or when any
33 funds are drawn on a letter of credit under subdivision (4)
34 of subsection 1 of section 361.1008, the director shall
35 notify the applicable regulator of each state in which the

36 licensee is licensed to engage in money transmission, if
37 any, of the establishment of the trust or the funds drawn on
38 the letter of credit, as applicable. Notice shall be deemed
39 satisfied if performed under a multistate agreement or
40 through NMLS. Funds drawn on a letter of credit, and any
41 other permissible investments held in trust for the benefit
42 of the purchasers and holders of the licensee's outstanding
43 money transmission obligations, are deemed held in trust for
44 the benefit of such purchasers and holders on a pro rata and
45 equitable basis in accordance with statutes under which
46 permissible investments are required to be held in this
47 state, and other states, as applicable. Any statutory trust
48 established under this subsection shall be terminated upon
49 extinguishment of all of the licensee's outstanding money
50 transmission obligations.

51 5. The director by rule or by order may allow other
52 types of investments that the director determines are of
53 sufficient liquidity and quality to be a permissible
54 investment. The director is authorized to participate in
55 efforts with other state regulators to determine that other
56 types of investments are of sufficient liquidity and quality
57 to be a permissible investment.

361.1008. 1. The following investments are
2 permissible under section 361.1005:

3 (1) Cash, including demand deposits, savings deposits,
4 and funds in such accounts held for the benefit of the
5 licensee's customers in a federally insured depository
6 financial institution, and cash equivalents, including
7 automated clearing house items in transit to the licensee
8 and automated clearing house items or international wires in
9 transit to a payee, cash in transit via armored car, cash in
10 smart safes, cash in licensee-owned locations, debit card or
11 credit card-funded transmission receivables owed by any

12 bank, or money market mutual funds rated AAA by Standard &
13 Poor's, or the equivalent from any eligible rating service;

14 (2) Certificates of deposit or senior debt obligations
15 of an insured depository institution, as defined under the
16 Federal Deposit Insurance Act, 12 U.S.C. Section 1813, as
17 amended or recodified from time to time, or as defined under
18 the federal Credit Union Act, 12 U.S.C. Section 1781, as
19 amended or recodified from time to time;

20 (3) An obligation of the United States or a
21 commission, agency, or instrumentality thereof; an
22 obligation that is guaranteed fully as to principal and
23 interest by the United States; or an obligation of a state
24 or a governmental subdivision, agency, or instrumentality
25 thereof;

26 (4) One hundred percent of the surety bond provided
27 for under section 361.1002 that exceeds the average daily
28 money transmission liability in this state; and

29 (5) The full drawable amount of an irrevocable standby
30 letter of credit for which the stated beneficiary is the
31 director that stipulates that the beneficiary need draw only
32 a sight draft under the letter of credit and present it to
33 obtain funds up to the letter of credit amount within seven
34 days of presentation of the items required by paragraph (d)
35 of this subdivision. The letter of credit shall:

36 (a) Be issued by a federally insured depository
37 financial institution, a foreign bank that is authorized
38 under federal law to maintain a federal agency or federal
39 branch office in a state or states, or a foreign bank that
40 is authorized under state law to maintain a branch in a
41 state that:

42 a. Bears an eligible rating or whose parent company
43 bears an eligible rating; and

44 b. Is regulated, supervised, and examined by United
45 States federal or state authorities having regulatory
46 authority over banks, credit unions, and trust companies;

47 (b) Be irrevocable, unconditional, and indicate that
48 it is not subject to any condition or qualifications outside
49 of the letter of credit;

50 (c) Not contain references to any other agreements,
51 documents or entities, or otherwise provide for any security
52 interest in the licensee; and

53 (d) Contain an issue date and expiration date, and
54 expressly provide for automatic extension, without a written
55 amendment, for an additional period of one year from the
56 present or each future expiration date unless the issuer of
57 the letter of credit notifies the director in writing by
58 certified or registered mail or courier mail or other
59 receipted means, at least sixty days prior to any expiration
60 date, that the irrevocable letter of credit will not be
61 extended.

62 2. In the event of any notice of expiration or
63 nonextension of a letter of credit issued under paragraph
64 (d) of subdivision (4) of subsection 1 of this section, the
65 licensee shall be required to demonstrate to the
66 satisfaction of the director, fifteen days prior to
67 expiration, that the licensee maintains and will maintain
68 permissible investments in accordance with subsection 1 of
69 section 361.1005 upon the expiration of the letter of
70 credit. If the licensee is not able to do so, the director
71 may draw on the letter of credit in an amount up to the
72 amount necessary to meet the licensee's requirements to
73 maintain permissible investments in accordance with
74 subsection 1 of section 361.1005. Any such draw shall be
75 offset against the licensee's outstanding money transmission
76 obligations. The drawn funds shall be held in trust by the

77 director or the director's designated agent, to the extent
78 authorized by law, as agent for the benefit of the
79 purchasers and holders of the licensee's outstanding money
80 transmission obligations.

81 3. The letter of credit shall provide that the issuer
82 of the letter of credit will honor, at sight, a presentation
83 made by the beneficiary to the issuer of the following
84 documents on or prior to the expiration date of the letter
85 of credit:

86 (1) The original letter of credit, including any
87 amendments; and

88 (2) A written statement from the beneficiary stating
89 that any of the following events have occurred:

90 (a) The filing of a petition by or against the
91 licensee under the United States Bankruptcy Code, 11 U.S.C.
92 Section 101-110, as amended or recodified from time to time,
93 for bankruptcy or reorganization;

94 (b) The filing of a petition by or against the
95 licensee for receivership, or the commencement of any other
96 judicial or administrative proceeding for its dissolution or
97 reorganization;

98 (c) The seizure of assets of a licensee by the
99 director under an emergency order issued in accordance with
100 applicable law, on the basis of an action, violation, or
101 condition that has caused or is likely to cause the
102 insolvency of the licensee; or

103 (d) The beneficiary has received notice of expiration
104 or nonextension of a letter of credit and the licensee
105 failed to demonstrate to the satisfaction of the beneficiary
106 that the licensee will maintain permissible investments in
107 accordance with subsection 1 of section 361.1005 upon the
108 expiration or nonextension of the letter of credit.

109 4. The director may designate an agent to serve on the
110 director's behalf as beneficiary to a letter of credit so
111 long as the agent and letter of credit meet requirements
112 established by the director. The director's agent may serve
113 as agent for multiple licensing authorities for a single
114 irrevocable letter of credit if the proceeds of the drawable
115 amount for the purposes of this subsection are assigned to
116 the director.

117 5. The director is authorized to participate in
118 multistate processes designed to facilitate the issuance and
119 administration of letters of credit including, but not
120 limited to, services provided by the NMLS, State Regulatory
121 Registry LLC, or other third parties.

122 6. Unless permitted by the director by rule or by
123 order to exceed the limit as set forth herein, the following
124 investments are permissible under section 361.1005 to the
125 extent specified:

126 (1) Receivables that are payable to a licensee from
127 its authorized delegates in the ordinary course of business
128 that are less than seven days old, up to fifty percent of
129 the aggregate value of the licensee's total permissible
130 investments. Of the receivables permissible under this
131 subdivision, receivables that are payable to a licensee from
132 a single authorized delegate in the ordinary course of
133 business shall not exceed ten percent of the aggregate value
134 of the licensee's total permissible investments;

135 (2) The following investments, up to twenty percent
136 per category and combined up to fifty percent of the
137 aggregate value of the licensee's total permissible
138 investments:

139 (a) A short-term investment bearing an eligible
140 rating. For purposes of this paragraph, "short-term" means
141 up to six months;

142 (b) Commercial paper bearing an eligible rating;
143 (c) A bill, note, bond, or debenture bearing an
144 eligible rating;
145 (d) United States triparty repurchase agreements
146 collateralized at one hundred percent or more with United
147 States government or agency securities, municipal bonds, or
148 other securities bearing an eligible rating;
149 (e) Money market mutual funds rated less than "AAA"
150 and equal to or higher than "A-" by Standard & Poor's, or
151 the equivalent from any other eligible rating service; and
152 (f) A mutual fund or other investment fund composed
153 solely and exclusively of one or more permissible
154 investments listed in subdivisions (1) to (3) of subsection
155 1 of this section; and
156 (3) Cash, including demand deposits, savings deposits,
157 and funds in such accounts held for the benefit of the
158 licensee's customers, at foreign depository institutions to
159 ten percent of the aggregate value of the licensee's total
160 permissible investments if the licensee has received a
161 satisfactory rating in its most recent examination and the
162 foreign depository institution:
163 (a) Has an eligible rating;
164 (b) Is registered under the Foreign Account Tax
165 Compliance Act;
166 (c) Is not located in any country subject to sanctions
167 from the Office of Foreign Asset Control; and
168 (d) Is not located in a high risk or noncooperative
169 jurisdiction as designated by the Financial Action Task
170 Force.
361.1011. 1. The director may suspend or revoke a
2 license or order a licensee to revoke the designation of an
3 authorized delegate if:

4 (1) The licensee violates sections 361.900 to 361.1035
5 or a rule adopted or an order issued under sections 361.900
6 to 361.1035;

7 (2) The licensee does not cooperate with an
8 examination or investigation by the director;

9 (3) The licensee engages in fraud, intentional
10 misrepresentation, or gross negligence;

11 (4) An authorized delegate is convicted of or enters a
12 plea of guilty or nolo contendere to a felony involving an
13 act of fraud, dishonesty, or a breach of trust or money
14 laundering or violates a rule adopted or an order issued
15 under sections 361.900 to 361.1035 as a result of the
16 licensee's willful misconduct or willful blindness;

17 (5) The competence, experience, character, or general
18 fitness of the licensee, authorized delegate, person in
19 control of a licensee, key individual, or responsible person
20 of the authorized delegate indicates that it is not in the
21 public interest to permit the person to provide money
22 transmission;

23 (6) The licensee engages in an unsafe or unsound
24 practice;

25 (7) The licensee is insolvent, suspends payment of its
26 obligations, or makes a general assignment for the benefit
27 of its creditors; or

28 (8) The licensee does not remove an authorized
29 delegate after the director issues and serves upon the
30 licensee a final order including a finding that the
31 authorized delegate has violated sections 361.900 to
32 361.1035.

33 2. In determining whether a licensee is engaging in an
34 unsafe or unsound practice, the director may consider the
35 size and condition of the licensee's money transmission, the
36 magnitude of the loss, the gravity of the violation of

37 sections 361.900 to 361.1035, and the previous conduct of
38 the person involved.

361.1014. 1. The director may issue an order
2 suspending or revoking the designation of an authorized
3 delegate, if the director finds that:

4 (1) The authorized delegate violated sections 361.900
5 to 361.1035 or a rule adopted or an order issued under
6 sections 361.900 to 361.1035;

7 (2) The authorized delegate did not cooperate with an
8 examination or investigation by the director;

9 (3) The authorized delegate engaged in fraud,
10 intentional misrepresentation, or gross negligence;

11 (4) The authorized delegate has been convicted of or
12 pled guilty or nolo contendere to a felony involving an act
13 of fraud, dishonesty, or a breach of trust or money
14 laundering;

15 (5) The competence, experience, character, or general
16 fitness of the authorized delegate or a person in control of
17 the authorized delegate indicates that it is not in the
18 public interest to permit the authorized delegate to provide
19 money transmission; or

20 (6) The authorized delegate is engaging in an unsafe
21 or unsound practice.

22 2. In determining whether an authorized delegate is
23 engaging in an unsafe or unsound practice, the director may
24 consider the size and condition of the authorized delegate's
25 provision of money transmission, the magnitude of the loss,
26 the gravity of the violation of sections 361.900 to 361.1035
27 or a rule adopted or order issued under sections 361.900 to
28 361.1035, and the previous conduct of the authorized
29 delegate.

30 3. An authorized delegate may apply for relief from a
31 suspension or revocation of designation as an authorized
32 delegate according to procedures prescribed by the director.

361.1017. 1. If the director determines that a
2 violation of sections 361.900 to 361.1035 or of a rule
3 adopted or an order issued under sections 361.900 to
4 361.1035 by a licensee or authorized delegate is likely to
5 cause immediate and irreparable harm to the licensee, its
6 customers, or the public as a result of the violation, or
7 cause insolvency or significant dissipation of assets of the
8 licensee, the director may issue an order requiring the
9 licensee or authorized delegate to cease and desist from the
10 violation. The order becomes effective upon service to the
11 licensee or authorized delegate.

12 2. The director may issue an order against a licensee
13 to cease and desist from providing money transmission
14 through an authorized delegate that is the subject of a
15 separate order by the director.

16 3. An order to cease and desist remains effective and
17 enforceable pending the completion of an administrative
18 proceeding under chapter 536.

19 4. A licensee or an authorized delegate that is served
20 with an order to cease and desist may petition the circuit
21 court with jurisdiction for a judicial order setting aside,
22 limiting, or suspending the enforcement, operation, or
23 effectiveness of the order pending the completion of an
24 administrative proceeding under chapter 536.

25 5. An order to cease and desist expires unless the
26 director commences an administrative proceeding under
27 chapter 536 within ten days after it is issued.

361.1020. The director may enter into a consent order
2 at any time with a person to resolve a matter arising under
3 sections 361.900 to 361.1035 or a rule adopted or order

4 issued under sections 361.900 to 361.1035. A consent order
5 shall be signed by the person to whom it is issued or by the
6 person's authorized representative and shall indicate
7 agreement with the terms contained in the order. A consent
8 order may provide that it does not constitute an admission
9 by a person that sections 361.900 to 361.1035 or a rule
10 adopted or an order issued under sections 361.900 to
11 361.1035 has been violated.

2 361.1023. 1. A person that intentionally makes a
3 false statement, misrepresentation, or false certification
4 in a record filed or required to be maintained under
5 sections 361.900 to 361.1035 or that intentionally makes a
6 false entry or omits a material entry in such a record is
7 guilty of a class E felony.

8 2. A person that knowingly engages in an activity for
9 which a license is required under sections 361.900 to
10 361.1035 without being licensed under sections 361.900 to
11 361.1035 and who receives more than five hundred dollars in
12 compensation within a thirty-day period for this activity is
13 guilty of a class E felony.

14 3. A person that knowingly engages in an activity for
15 which a license is required under sections 361.900 to
16 361.1035 without being licensed under sections 361.900 to
17 361.1035 and who receives no more than five hundred dollars
18 in compensation within a thirty-day period for this activity
19 is guilty of a class A misdemeanor.

2 361.1026. The director may assess a civil penalty
3 against a person that violates sections 361.900 to 361.1035
4 or a rule adopted or an order issued under sections 361.900
5 to 361.1035 in an amount not to exceed one thousand dollars
6 per day for each day the violation is outstanding, plus this
7 state's costs and expenses for the investigation and

7 prosecution of the matter, including reasonable attorney's
8 fees.

2 361.1029. 1. If the director has reason to believe
3 that a person has violated or is violating section 361.930,
4 the director may issue an order to show cause why an order
5 to cease and desist shall not be issued requiring that the
6 person cease and desist from the violation of section
7 361.930.

8 2. In an emergency, the director may petition the
9 circuit court with jurisdiction for the issuance of a
10 temporary restraining order under the rules of civil
11 procedure.

12 3. An order to cease and desist becomes effective upon
13 service to the person.

14 4. An order to cease and desist remains effective and
15 enforceable pending the completion of an administrative
16 proceeding under chapter 536.

17 5. A person that is served with an order to cease and
18 desist for violating section 361.930 may petition the
19 circuit court with jurisdiction for a judicial order setting
20 aside, limiting, or suspending the enforcement, operation,
21 or effectiveness of the order pending the completion of an
22 administrative proceeding under chapter 536.

23 6. An order to cease and desist expires unless the
24 director commences an administrative proceeding within ten
25 days after it is issued.

2 361.1032. In applying and construing sections 361.900
3 to 361.1035, consideration shall be given to the need to
4 promote uniformity of the law with respect to its subject
5 matter among states that enact it.

2 361.1035. 1. A person licensed in this state to
3 engage in the business of money transmission shall not be
4 subject to the provisions of sections 361.900 to 361.1035 to

4 the extent that they conflict with current law or establish
5 new requirements not imposed under current law, until such
6 time as the licensee renews the licensee's current license.

7 2. Notwithstanding subsection 1 of this section, a
8 licensee shall only be required to amend its authorized
9 delegate contracts for contracts entered into or amended
10 after the effective date or the completion of any transition
11 period contemplated under subsection 1 of this section.

12 Nothing herein shall be construed as limiting an authorized
13 delegate's obligations to operate in full compliance with
14 sections 361.900 to 361.1035 as required by subsection 3 of
15 section 361.975.

16 362.034. 1. Any entity that operates as a facility
17 licensed or certified under Article XIV of the Constitution
18 of Missouri may request in writing that a state or local
19 licensing authority or agency, including, but not limited
20 to, the department of health and senior services or
21 department of revenue, share the entity's application,
22 license, or other regulatory and financial information with
23 a banking institution. A state or local licensing authority
24 or agency may also share such information with the banking
25 institution's state and federal supervisory agencies.

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

34 3. This section shall only apply to the disclosure of
35 information by a state or local licensing authority or
36 agency reasonably necessary to facilitate the provision of

22 financial services by a banking institution to the entity
23 making a request pursuant to this section.

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

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

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

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

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

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

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

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

12 2. Each director shall be a citizen of the United
13 States, and, except for a private trust company as described
14 under section 361.160, at least a majority of the directors
15 must be residents of this state at the time of their
16 election and during their continuance in office; provided,
17 however, that if a director actually resides within a radius
18 of one hundred miles of the banking house of said bank or
19 trust company, even though his or her residence be in
20 another state adjoining and contiguous to the state of
21 Missouri, he or she shall for the purposes of this section
22 be considered as a resident of this state and in the event
23 such director shall be a nonresident of the state of
24 Missouri he or she shall upon his or her election as a
25 director file with the president of the banking house or
26 such other chief executive [office] officer as otherwise
27 permitted by this chapter written consent to service of
28 legal process upon him in his or her capacity as a director
29 by service of the legal process upon the president as though
30 the same were personally served upon the director in
31 Missouri.

32 3. If at a time when not more than a majority of the
33 directors are residents of this state, except for a private
34 trust company as described under section 361.160, any
35 director shall cease to be a resident of this state or
36 adjoining state as [defined] described in subsection 2 of
37 this section, he or she shall forthwith cease to be a
38 director of the bank or trust company and his or her office
39 shall be vacant.

40 4. No person shall be a director in any bank or trust
41 company against whom such bank or trust company shall hold a
42 judgment.

43 5. Cumulative voting shall only be permitted at any
44 meeting of the members or stockholders in electing directors

45 when it is provided for in the articles of incorporation or
46 bylaws.

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

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

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

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

38 5. Upon the filing of an application, and the payment
39 of the fee, the director shall issue a license to the
40 applicant to engage in the business of a financing
41 institution under and in accordance with the provisions of
42 this chapter for a period which shall expire the last day of
43 December next following the date of its issuance. The
44 license shall not be transferable or assignable. No
45 licensee shall transact any business provided for by this
46 chapter under any other name.

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

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

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

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

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

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

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

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

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

365.030. 1. No person shall engage in the business of
2 a sales finance company in this state without a license as
3 provided in this chapter; except, that no bank, trust
4 company, savings and loan association, loan and investment
5 company or registrant under the provisions of sections
6 367.100 to 367.200 authorized to do business in this state
7 is required to obtain a license under this chapter but shall
8 comply with all of the other provisions of this chapter.

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

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

25 4. Each license shall specify the location of the
26 office or branch and must be conspicuously displayed there.
27 In case the location is changed, the director shall either

28 endorse the change of location on the license or mail the
29 licensee a certificate to that effect, without charge.

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

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

23 2. Upon receipt of such fee and application for
24 registration, and provided the bond, if required by the
25 director, has been filed, the director shall issue to the
26 lender a certificate containing the lender's name and
27 address and reciting that such lender is duly and properly
28 registered to conduct the supervised business. The lender
29 shall keep this certificate of registration posted in a
30 conspicuous place at the place of business recited in the
31 registration certificate. Where the lender engages in the
32 supervised business at or from more than one office or place
33 of business, such lender shall obtain a separate certificate
34 of registration for each such office or place of business.

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

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

3 (1) "340B drug", a drug that is:

4 (a) A covered outpatient drug as defined in Section
5 340B of the Public Health Service Act, 42 U.S.C. Section
6 256b, enacted by Section 602 of the Veterans Health Care Act
7 of 1992, Pub. L. 102-585; and

8 (b) Purchased under an agreement entered into under 42
9 U.S.C. Section 256b;

10 (2) "Covered entity", the same meaning given to the
11 term in Section 340B(a) (4) of the Public Health Service
12 Act, 42 U.S.C. Section 256b(a) (4);

13 (3) "Health carrier", the same meaning given to the
14 term in section 376.1350;

15 (4) "Pharmacy", an entity licensed under chapter 338;

16 (5) "Pharmacy benefits manager", the same meaning
17 given to the term in section 376.388.

18 2. A health carrier, a pharmacy benefits manager, or
19 an agent or affiliate of such health carrier or pharmacy
20 benefits manager, not including a pharmaceutical
21 manufacturer, shall not discriminate against a covered
22 entity or a pharmacy including, but not limited to, by doing
23 any of the following:

24 (1) Reimbursing a covered entity or pharmacy for a
25 quantity of a 340B drug in an amount less than it would pay
26 to any other similarly situated pharmacy that is not a
27 covered entity or a pharmacy for such quantity of such drug
28 on the basis that the entity or pharmacy is a covered entity
29 or pharmacy or that the entity or pharmacy dispenses 340B
30 drugs;

31 (2) Imposing any terms or conditions on covered
32 entities or pharmacies that differ from such terms or
33 conditions applied to other similarly situated pharmacies or
34 entities that are not covered entities on the basis that the
35 entity or pharmacy is a covered entity or pharmacy or that
36 the entity or pharmacy dispenses 340B drugs including, but
37 not limited to, terms or conditions with respect to any of
38 the following:

39 (a) Fees, chargebacks, clawbacks, adjustments, or
40 other assessments;

41 (b) Professional dispensing fees;

42 (c) Restrictions or requirements regarding
43 participation in standard or preferred pharmacy networks;

44 (d) Requirements relating to the frequency or scope of
45 audits or to inventory management systems using generally
46 accepted accounting principles; and

47 (e) Any other restrictions, conditions, practices, or
48 policies that, as specified by the director of the

49 department of commerce and insurance, interfere with the
50 ability of a covered entity to maximize the value of
51 discounts provided under 42 U.S.C. Section 256b;

52 (3) Interfering with an individual's choice to receive
53 a 340B drug from a covered entity or pharmacy, whether in
54 person or via direct delivery, mail, or other form of
55 shipment, by any means including, but not limited to,
56 modifying a patient's payment limitations or cost-sharing
57 obligations on the basis of participation, in whole or in
58 part, in the 340B drug pricing program;

59 (4) Discriminating in reimbursement to a covered
60 entity or pharmacy based on the determination or indication
61 a drug is a 340B drug;

62 (5) Requiring a covered entity or pharmacy to
63 identify, either directly or through a third party, a 340B
64 drug sooner than forty-five days after the point of sale of
65 the 340B drug;

66 (6) Refusing to contract with a covered entity or
67 pharmacy for reasons other than those that apply equally to
68 entities that are not covered entities or similarly situated
69 pharmacies, or on the basis that:

70 (a) The entity is a covered entity; or

71 (b) The entity or pharmacy is described in any of
72 subparagraphs (A) to (O) of 42 U.S.C. Section 235b(a) (4);

73 (7) Denying the covered entity the ability to purchase
74 drugs at 340B program pricing by substituting a rebate
75 discount;

76 (8) Refusing to cover drugs purchased under the 340B
77 drug pricing program; or

78 (9) Requiring a covered entity or pharmacy to reverse,
79 resubmit, or clarify a 340B-drug pricing claim after the
80 initial adjudication unless these actions are in the normal

81 course of pharmacy business and not related to 340B drug
82 pricing, except as required by federal law.

83 3. The director of the department of commerce and
84 insurance shall impose a civil penalty on any health
85 carrier, pharmacy benefits manager, or agent or affiliate of
86 such health carrier or pharmacy benefits manager that
87 violates the requirements of this section. Such penalty
88 shall not exceed five thousand dollars per violation per
89 day.

90 4. The director of the department of commerce and
91 insurance shall promulgate rules to implement the provisions
92 of this section. Any rule or portion of a rule, as that
93 term is defined in section 536.010, that is created under
94 the authority delegated in this section shall become
95 effective only if it complies with and is subject to all of
96 the provisions of chapter 536 and, if applicable, section
97 536.028. This section and chapter 536 are nonseverable and
98 if any of the powers vested with the general assembly
99 pursuant to chapter 536 to review, to delay the effective
100 date, or to disapprove or annul a rule are subsequently held
101 unconstitutional, then the grant of rulemaking authority and
102 any rule proposed or adopted after August 28, 2023, shall be
103 invalid and void.

379.1850. 1. Sections 379.1850 to 379.1869 shall
2 apply to insurers and insurance producers engaged in any
3 transaction involving lender-placed insurance, as defined in
4 section 379.1851.

5 2. All lender-placed insurance written in connection
6 with mortgaged real property, including manufactured homes
7 and modular units, as defined in section 700.010, is subject
8 to the provisions of sections 379.1850 to 379.1869, except:

9 (1) Transactions involving extensions of credit
10 primarily for business, commercial, or agricultural purposes;

11 (2) Insurance offered by the lender or servicer and
12 elected by the mortgagor at the mortgagor's option;

13 (3) Insurance purchased by a lender or servicer on
14 real estate owned property;

15 (4) Insurance for which no specific charge is made to
16 the mortgagor or the mortgagor's account.

379.1851. As used in sections 379.1850 to 379.1869,
2 the following terms shall mean:

3 (1) "Affiliate", a person who directly, or indirectly
4 through one or more intermediaries, controls, is controlled
5 by, or is under common control with, the person specified;

6 (2) "Individual lender-placed insurance", coverage for
7 individual real property evidenced by a certificate of
8 coverage under a master lender-placed insurance policy or a
9 lender-placed insurance policy for individual real property;

10 (3) "Insurance producer", a person or entity, or its
11 affiliates, required to be licensed under the laws of this
12 state to sell, solicit, or negotiate insurance;

13 (4) "Insurer", an insurance company, association, or
14 exchange, or its affiliates, authorized to issue lender-
15 placed insurance in this state;

16 (5) "Investor", a person or entity, or its affiliates,
17 holding a beneficial interest in loans secured by real
18 property;

19 (6) "Lapse", the moment in time in which a mortgagor
20 has failed to secure or maintain valid or sufficient
21 insurance upon mortgaged real property as required by a
22 mortgage agreement;

23 (7) "Lender", a person or entity, or its affiliates,
24 making loans secured by an interest in real property;

25 (8) "Lender-placed insurance", insurance obtained by a
26 lender or servicer when a mortgagor does not maintain valid
27 or sufficient insurance upon mortgaged real property as

28 required by the terms of the mortgage agreement. Such term
29 shall include insurance purchased unilaterally by the lender
30 or servicer, who is the named insured, subsequent to the
31 date of the credit transaction, providing coverage against
32 loss, expense, or damage to collateralized property as a
33 result of fire, theft, collision, or other risks of loss
34 that would either impair a lender, servicer, or investor's
35 interest, or adversely affect the value of collateral
36 covered by limited dual interest insurance. Such term is
37 limited to insurance purchased according to the terms of a
38 mortgage agreement as a result of the mortgagor's failure to
39 provide evidence of required insurance;

40 (9) "Loss ratio", the ratio of incurred losses to
41 earned premium;

42 (10) "Master lender-placed policy", a group policy
43 issued to a lender or servicer providing coverage for all
44 loans in the lender or servicer's loan portfolio as needed;

45 (11) "Mortgage agreement", the written document that
46 sets forth an obligation or liability of any kind secured by
47 a lien on real property and due from, owing, or incurred by
48 a mortgagor to a lender on account of a mortgage loan,
49 including a security agreement, deed of trust, or any other
50 document of similar effect, and any other documents
51 incorporated by reference;

52 (12) "Mortgage loan", a loan, advance, guarantee, or
53 other extension of credit from a lender to a mortgagor;

54 (13) "Mortgage transaction", a transaction by the
55 terms of which the repayment of money loaned or payment of
56 real property sold is to be made at a future date or dates;

57 (14) "Mortgagee", the person who holds mortgaged real
58 property as security for repayment of a mortgage agreement;

59 (15) "Mortgagor", the person who is obligated on a
60 mortgage loan pursuant to a mortgage agreement;

61 (16) "Person", an individual or entity;

62 (17) "Real estate owned property", property owned or
63 held by a lender or servicer following foreclosure under the
64 related mortgage agreement or the acceptance of a deed in
65 lieu of foreclosure;

66 (18) "Replacement cost value" or "RCV", the estimated
67 cost to replace covered property at the time of the loss or
68 damage without deduction for depreciation. Replacement cost
69 value is not market value, but it is instead the cost to
70 replace covered property to its pre-loss condition, as best
71 determined under section 379.1855;

72 (19) "Servicer", a person or entity, or its
73 affiliates, contractually obligated to service one or more
74 mortgage loans for a lender or investor. Such term shall
75 include entities involved in subservicing arrangements.

379.1853. 1. Lender-placed insurance shall become
2 effective no earlier than the date of lapse of insurance
3 upon mortgaged real property subject to the terms of a
4 mortgage agreement or any other state or federal law
5 requiring the same.

6 2. Individual lender-placed insurance shall terminate
7 on the earliest of the following dates:

8 (1) The date insurance that is acceptable under the
9 mortgage agreement becomes effective, subject to the
10 mortgagor providing sufficient evidence of such acceptable
11 insurance;

12 (2) The date the applicable real property no longer
13 serves as collateral for a mortgage loan pursuant to a
14 mortgage agreement;

15 (3) Such other date as specified by the individual
16 policy or certificate of insurance;

17 (4) Such other date as specified by the lender or
18 servicer; or

19 (5) The termination date of the policy.

20 3. An insurance charge shall not be made to a
21 mortgagor for lender-placed insurance for a term longer than
22 the scheduled term of the lender-placed insurance, nor shall
23 an insurance charge be made to the mortgagor for lender-
24 placed insurance before the effective date of the lender-
25 placed insurance.

379.1855. 1. Any lender-placed insurance coverage,
2 and subsequent calculation of premium, should be based upon
3 the replacement cost value of the property. Replacement
4 cost value of the property shall be determined as follows:

5 (1) The dwelling coverage amount set forth in the most
6 recent evidence of insurance coverage provided by the
7 mortgagee ("last known coverage amount" or "LKCA"), if known
8 to the lender or servicer;

9 (2) The insurer shall inquire of the insured at least
10 once as to the LKCA, and if it is not able to obtain the
11 LKCA from the insured or in another manner, the replacement
12 cost value may be determined as set forth in subdivision (3)
13 or (4) of this subsection;

14 (3) If the LKCA is unknown and cannot be obtained from
15 the insured or in another manner, the replacement cost of
16 the property serving as collateral as calculated by the
17 insurer, unless the use of replacement cost for this purpose
18 is prohibited by other law;

19 (4) If the LKCA is unknown and cannot be obtained from
20 the insured or in another manner, and the replacement cost
21 is not available or its use is prohibited, the unpaid
22 principal balance of the mortgage loan.

23 2. In the event of a covered loss, any replacement
24 cost coverage provided by an insurer in excess of the unpaid
25 principal balance of the mortgage loan shall be paid to the
26 mortgagor.

27 3. No insurer shall write lender-placed insurance for
28 which the premium rate differs from that determined by the
29 schedules of the insurer on file with the department of
30 commerce and insurance as of the effective date of the
31 policy.

379.1857. 1. No insurer or insurance producer shall
2 issue lender-placed insurance on mortgaged property if the
3 insurer or insurance producer, or an affiliate of the
4 insurer or insurance producer, owns, performs the servicing
5 for, or owns the servicing right to, the mortgaged property.

6 2. No insurer or insurance producer shall compensate a
7 lender, insurer, investor, or servicer, including through
8 the payment of commissions, for lender-placed insurance
9 policies issued by the insurer.

10 3. No insurer or insurance producer shall share lender-
11 placed insurance premium or risk with the lender, investor,
12 or servicer that obtained the lender-placed insurance.

13 4. No insurer or insurance producer shall offer
14 contingent commissions, profit sharing, or other payments
15 dependent on profitability or loss ratios to any person
16 affiliated with a servicer or the insurer in connection with
17 lender-placed insurance.

18 5. No insurer shall provide free or below-cost
19 outsourced services to lenders, investors, or servicers, and
20 no insurer shall outsource its own functions to lenders,
21 insurance producers, investors, or servicers on an above-
22 cost basis.

23 6. No insurer or insurance producer shall make any
24 payments, including but not limited to the payment of
25 expenses to a lender, insurer, investor, or servicer, for
26 the purpose of securing lender-placed insurance business or
27 related outsourced services.

379.1859. Nothing in sections 379.1850 to 379.1869 shall be construed to allow an insurance producer or an insurer solely underwriting lender-placed insurance to circumvent the requirements set forth within those sections. Any part of any requirements, limitations, or exclusions provided in sections 379.1850 to 379.1869 shall apply in any part to any insurer or insurance producer involved in lender-placed insurance.

379.1861. Lender-placed insurance shall be set forth in an individual policy or certificate of insurance. A copy of the individual policy, certificate of insurance, or other evidence of insurance coverage shall be mailed, first class mailed, or delivered in person to the last known address of the mortgagor, or delivered in accordance with sections 432.200 to 432.295. In addition to any information otherwise required by law, the individual policy or certificate of insurance coverage shall include the following information:

- (1) The address and identification of the insured property;
- (2) The coverage amount, or amounts if multiple coverages are provided;
- (3) The effective date of the coverage;
- (4) The term of coverage;
- (5) The premium charge for the coverage;
- (6) Contact information for filing a claim; and
- (7) A complete description of the coverage provided.

379.1863. 1. All policy forms and certificates of insurance to be delivered or issued for delivery in this state, and the schedules of premium rates pertaining thereto, shall be filed with the department of commerce and insurance.

6 2. The department of commerce and insurance shall
7 review the rates to determine whether the rates are
8 excessive, inadequate, or unfairly discriminatory. This
9 analysis shall include a determination as to whether
10 expenses included by the insurer in the rate are appropriate.

11 3. All insurers shall re-file lender-placed insurance
12 rates at least once every four years.

13 4. All insurers writing lender-placed insurance shall
14 have separate rates for lender-placed insurance and
15 voluntary insurance obtained by a mortgage servicer on real
16 estate owned property.

17 5. Upon the introduction of a new lender-placed
18 insurance program, the insurer shall reference its
19 experience in existing programs in the associated filings.
20 Nothing in sections 379.1850 to 379.1869 shall limit an
21 insurer's discretion, as actuarially appropriate, to
22 distinguish different terms, conditions, exclusions,
23 eligibility criteria, or other unique or different
24 characteristics. Moreover, an insurer may, where
25 actuarially acceptable, rely upon models or, in the case of
26 flood filings where applicable experience is not credible,
27 on Federal Emergency Management Agency National Flood
28 Insurance Program data.

29 6. (1) No later than April first of each year, each
30 insurer with at least one hundred thousand dollars in direct
31 written premium for lender-placed insurance in this state
32 during the prior calendar year shall report to the
33 department of commerce and insurance the following
34 information for the prior calendar year:

35 (a) Actual loss ratio;

36 (b) Earned premium;

37 (c) Any aggregate schedule rating debit or credit to
38 earned premium;

39 (d) Itemized expenses;
40 (e) Paid losses;
41 (f) Loss reserves, including case reserves and
42 reserves for incurred but not reported losses.

43 (2) The report under subdivision (1) of this
44 subsection shall be separately produced for each lender-
45 placed program and presented on both an individual-
46 jurisdiction and countrywide basis.

47 7. If an insurer experiences an annual loss ratio of
48 less than thirty five percent in any lender-placed program
49 for two consecutive years, it shall submit a rate filing,
50 either adjusting its rates or supporting their continuance,
51 to the department of commerce and insurance no more than
52 ninety days after the submission of the data required in
53 subsection 6 of this section. This subsection shall not
54 apply with regard to lender-placed flood insurance.

55 8. Except as otherwise specifically set forth in this
56 section, rates and forms shall be filed as required under
57 the insurance laws of this state.

379.1865. 1. (1) The director of the department of
2 commerce and insurance shall have authority to enforce the
3 provisions of sections 379.1850 to 379.1869 as specified in
4 chapter 374.

5 (2) A final order of the director enforcing sections
6 379.1850 to 379.1869 shall be subject to judicial review in
7 accordance with the provisions of chapter 536 in the circuit
8 court of Cole County.

9 (3) No order of the director enforcing sections
10 379.1850 to 379.1869 or order of a court to enforce the same
11 shall in any way relieve or absolve any person affected by
12 such order from any liability under any other laws of this
13 state.

14 2. Nothing in sections 379.1850 to 379.1869 shall be
15 construed to create or imply a private cause of action for
16 violations of sections 379.1850 to 379.1869.

17 3. Nothing in sections 379.1850 to 379.1869 shall be
18 construed to extinguish any mortgagor rights otherwise
19 available under state, federal, or common law.

379.1867. An insurer that violates an order of the
2 director while the order is in effect may, after notice and
3 hearing and upon order of the director, be subject at the
4 discretion of the director to either or both of the
5 following:

6 (1) Payment of a monetary penalty of not more than one
7 thousand dollars per violation, not to exceed an aggregate
8 penalty of one hundred thousand dollars, unless the
9 violation was committed flagrantly in a conscious disregard
10 of sections 379.1850 to 379.1869, in which case the penalty
11 shall not be more than twenty-five thousand dollars for each
12 violation, not to exceed an aggregate penalty of two hundred
13 fifty thousand dollars; or

14 (2) Suspension or revocation of the insurer's license.

379.1869. The department of commerce and insurance may
2 promulgate rules as necessary for the implementation of
3 sections 379.1850 to 379.1869. Any rule or portion of a
4 rule, as that term is defined in section 536.010, that is
5 created under the authority delegated in this section shall
6 become effective only if it complies with and is subject to
7 all of the provisions of chapter 536 and, if applicable,
8 section 536.028. This section and chapter 536 are
9 nonseverable and if any of the powers vested with the
10 general assembly pursuant to chapter 536 to review, to delay
11 the effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of

13 rulemaking authority and any rule proposed or adopted after
14 August 28, 2023, shall be invalid and void.

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

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

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

11 2. The registration statement must also contain either:

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

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

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

24 4. Each credit services organization registering under
25 this section shall maintain a copy of the registration
26 statement in the office of the credit services
27 organization. The credit services organization shall allow
28 a buyer to inspect the registration statement on request.

29 5. The director of finance may charge each credit
30 services organization that files a registration statement
31 with the director of finance a reasonable fee not to exceed

32 [three] four hundred dollars to cover the cost of filing.
33 The director of finance may not require a credit services
34 organization to provide information other than that provided
35 in the registration statement as part of the registration
36 process.

407.2020. For purposes of sections 407.2020 to
2 407.2090, the following terms mean:

3 (1) "Commercial transaction", a transaction involving
4 a motor vehicle in which the motor vehicle will primarily be
5 used for business purposes rather than personal purposes;

6 (2) "Consumer", an individual purchaser of a motor
7 vehicle or a borrower under a finance agreement. The term
8 "consumer" includes any borrower, as defined in section
9 407.2030, or contract holder, as defined in section
10 407.2060, as applicable;

11 (3) "Finance agreement", a loan, retail installment
12 sales contract, or lease for the purchase, refinancing, or
13 lease of a motor vehicle;

14 (4) "Free-look period", a period of time from the
15 effective date of the motor vehicle financial protection
16 product until the date the motor vehicle financial
17 protection product may be cancelled without penalty, fees,
18 or costs. This period of time shall not be shorter than
19 thirty days;

20 (5) "Insurer", an insurance company licensed,
21 registered, or otherwise authorized to issue contractual
22 liability insurance under the insurance laws of this state;

23 (6) "Motor vehicle", any self-propelled or towed
24 vehicle designed for personal or commercial use including,
25 but not limited to, automobiles, trucks, motorcycles,
26 recreational vehicles, all-terrain vehicles, snowmobiles,
27 campers, boats, personal watercraft, and related trailers;

28 (7) "Motor vehicle financial protection product", an
29 agreement that protects a consumer's financial interest in
30 his or her current or future motor vehicle. The term "motor
31 vehicle financial protection product" includes any debt
32 waiver, as defined in section 407.2030, and any vehicle
33 value protection agreement, as defined in section 407.2060;

34 (8) "Person", an individual, company, association,
35 organization, partnership, business trust, or corporation,
36 and every form of legal entity.

407.2025. 1. Motor vehicle financial protection
2 products may be offered, sold, or given to consumers in this
3 state in compliance with sections 407.2020 to 407.2090.

4 2. Any amount charged or financed for a motor vehicle
5 financial protection product shall be separately stated and
6 shall not be considered a finance charge or interest.

7 3. Any extension of credit, terms of credit, or terms
8 of the related motor vehicle sale or lease shall not be
9 conditioned upon the consumer's payment for or financing of
10 any charge for a motor vehicle financial protection product,
11 except that motor vehicle financial protection products may
12 be discounted or given at no charge in connection with the
13 purchase of other non-credit-related goods or services.

407.2030. For purposes of sections 407.2030 to
2 407.2055, the following terms mean:

3 (1) "Administrator", any person, other than an insurer
4 or creditor, who performs administrative or operational
5 functions for debt waiver programs;

6 (2) "Borrower", a debtor or retail buyer or lessee
7 under a finance agreement;

8 (3) "Creditor":

9 (a) The lender in a loan or credit transaction;

10 (b) The lessor in a lease transaction;

11 (c) Any retail seller of motor vehicles;

12 (d) The seller in commercial retail installment
13 transactions; or
14 (e) The assignee of any person described in paragraphs
15 (a) to (d) of this subdivision to whom the credit obligation
16 is payable;
17 (4) "Debt waiver", any guaranteed asset protection
18 waiver or excess wear and use waiver;
19 (5) "Excess wear and use waiver", a contractual
20 agreement in which a creditor agrees, with or without a
21 separate charge, to cancel or waive all or part of amounts
22 that may become due under a borrower's lease agreement as a
23 result of excessive wear and use of a motor vehicle, which
24 agreement shall be part of, or a separate addendum to, the
25 lease agreement. Excess wear and use waivers may also
26 cancel or waive amounts due for excess mileage;
27 (6) "Guaranteed asset protection waiver", a
28 contractual agreement in which a creditor agrees, with or
29 without a separate charge, to cancel or waive all or part of
30 amounts due on a borrower's finance agreement in the event
31 of a total physical damage loss or unrecovered theft of the
32 motor vehicle, which agreement shall be part of, or a
33 separate addendum to, the finance agreement. A guaranteed
34 asset protection waiver may also provide, with or without a
35 separate charge, a benefit that waives an amount, or
36 provides a borrower with a credit, toward the purchase of a
37 replacement motor vehicle.

407.2035. 1. (1) A retail seller shall insure its
2 debt waiver obligations under a contractual liability or
3 other insurance policy issued by an insurer. A creditor,
4 other than a retail seller, may insure its debt waiver
5 obligations under a contractual liability policy or other
6 such policy issued by an insurer. Any such insurance policy
7 may be directly obtained by a creditor or retail seller or

8 may be procured by an administrator to cover a creditor's or
9 retail seller's obligations.

10 (2) Notwithstanding the provisions of subdivision (1)
11 of this subsection, retail sellers who are lessors on motor
12 vehicles shall not be required to insure obligations related
13 to debt waivers on such leased motor vehicles.

14 2. The debt waiver remains a part of the finance
15 agreement upon the assignment, sale, or transfer of such
16 finance agreement by the creditor.

17 3. Any creditor who offers a debt waiver shall report
18 the sale of, and forward funds due to, the designated party
19 or parties.

20 4. Funds received or held by a creditor or
21 administrator and belonging to an insurer, creditor, or
22 administrator shall be held by such creditor or
23 administrator in a fiduciary capacity.

407.2040. 1. Contractual liability or other insurance
2 policies insuring debt waivers shall state the obligation of
3 the insurer to reimburse or pay to the creditor any sums the
4 creditor is legally obligated to waive under a debt waiver.

5 2. Coverage under a contractual liability or other
6 insurance policy insuring a debt waiver shall also cover any
7 subsequent assignee upon the assignment, sale, or transfer
8 of the finance agreement.

9 3. Coverage under a contractual liability or other
10 insurance policy insuring a debt waiver shall remain in
11 effect unless cancelled or terminated in compliance with
12 applicable insurance laws of this state.

13 4. The cancellation or termination of a contractual
14 liability or other insurance policy shall not reduce the
15 insurer's responsibility for debt waivers issued by the
16 creditor before the date of cancellation or termination and
17 for which premium has been received by the insurer.

407.2045. Debt waivers shall disclose in writing and in clear, understandable language that is easy to read the following:

(1) The name and address of the initial creditor and the borrower at the time of sale, and the identity of any administrator if different from the creditor;

(2) The purchase price, if any, and the terms of the debt waiver including, but not limited to, the requirements for protection, conditions, or exclusions associated with the debt waiver;

(3) A statement that the borrower may cancel the debt waiver within a free-look period as specified in the debt waiver and, if so cancelled, shall be entitled to a full refund of the purchase price paid by the borrower, if any, so long as no benefits have been provided;

(4) The procedure the borrower is required to follow, if any, to obtain debt waiver benefits under the terms and conditions of the debt waiver, including, if applicable, a telephone number or website and address where the borrower may apply for debt waiver benefits;

(5) The terms and conditions governing cancellation consistent with all applicable Missouri laws; and

(6) A statement that any extension of credit, terms of the credit, or terms of the related motor vehicle sale or lease shall not be conditioned upon the borrower's purchase of a debt waiver.

407.2050. 1. Debt waivers shall provide that if a borrower cancels a debt waiver within the free-look period, the borrower shall be entitled to a full refund of the amount the borrower paid, if any, so long as no benefits have been provided.

2. If, after the debt waiver has been in effect beyond the free-look period, the borrower cancels the debt waiver

8 or there is an early termination of the finance agreement,
9 the borrower may be entitled to a refund of the amount the
10 borrower paid of the unearned portion of the purchase price,
11 if any, less a cancellation fee up to seventy-five dollars,
12 if no benefit has been or will be provided.

13 3. If the cancellation of a debt waiver occurs as a
14 result of a default under the finance agreement, the
15 repossession of the motor vehicle associated with the
16 finance agreement, or any other termination of the finance
17 agreement, any refund due may be paid directly to the
18 creditor or administrator and applied as a reduction of the
19 amount owed under the finance agreement unless the borrower
20 can show that the finance agreement has been paid in full.

407.2055. 1. Debt waivers offered by state or federal
2 banks or credit unions in compliance with applicable state
3 or federal law shall be exempt from the provisions of
4 sections 407.2020 to 407.2090.

5 2. The provisions of sections 407.2045 and 407.2080
6 shall not apply to debt waivers offered in connection with
7 commercial transactions.

407.2060. For purposes of sections 407.2060 to
2 407.2075, the following terms mean:

3 (1) "Administrator", any person who is responsible for
4 the administrative or operational functions of vehicle value
5 protection agreements including, but not limited to, the
6 adjudication of claims or benefit requests by contract
7 holders;

8 (2) "Contract holder", a person who is the purchaser
9 or holder of a vehicle value protection agreement;

10 (3) "Provider", a person who is obligated to provide a
11 benefit under a vehicle value protection agreement. A
12 provider may perform as an administrator or retain the
13 services of a third-party administrator;

14 (4) "Vehicle value protection agreement", a
15 contractual agreement that:

16 (a) Provides a benefit toward the reduction of some or
17 all of the contract holder's current finance agreement
18 deficiency balance or toward the purchase or lease of a
19 replacement motor vehicle or motor vehicle services upon the
20 occurrence of an adverse event to the motor vehicle
21 including, but not limited to, loss, theft, damage,
22 obsolescence, diminished value, or depreciation;

23 (b) Does not include debt waivers; and

24 (c) May include agreements such as, but not limited
25 to, trade-in-credit agreements, diminished value agreements,
26 depreciation benefit agreements, or other similarly named
27 agreements.

407.2065. 1. A provider may, but is not required to,
2 use an administrator or other designee to be responsible for
3 any and all of the administration of vehicle value
4 protection agreements in compliance with the provisions of
5 sections 407.2020 to 407.2090.

6 2. Vehicle value protection agreements shall not be
7 sold unless the contract holder has been or will be provided
8 access to a copy of the vehicle value protection agreement
9 within a reasonable time.

10 3. In order to assure the faithful performance of the
11 provider's obligations to its contract holders, each
12 provider shall comply with subdivision (1) or (2) of this
13 subsection, as follows:

14 (1) In order to satisfy the requirements of this
15 subsection under this subdivision, the provider shall insure
16 all its vehicle value protection agreements under an
17 insurance policy that pays or reimburses in the event the
18 provider fails to perform its obligations under the vehicle
19 value protection agreement and that is issued by an insurer

20 who is licensed, registered, or otherwise authorized to do
21 business in this state and who:

22 (a) Maintains surplus as to policyholders and paid-in
23 capital of at least fifteen million dollars; or

24 (b) Maintains:

25 a. Surplus as to policyholders and paid-in capital of
26 less than fifteen million dollars but at least equal to ten
27 million dollars; and

28 b. A ratio of net written premiums, wherever written,
29 to surplus as to policyholders and paid-in capital of not
30 greater than three to one; or

31 (2) In order to satisfy the requirements of this
32 subsection under this subdivision, the provider shall:

33 (a) Maintain, or together with its parent company
34 maintain, a net worth or stockholders' equity of one hundred
35 million dollars; and

36 (b) Upon request, provide the attorney general with a
37 copy of the provider's or the provider's parent company's
38 most recent Form 10-K or Form 20-F filed with the Securities
39 and Exchange Commission (SEC) within the last calendar year
40 or, if the company does not file with the SEC, a copy of the
41 company's audited financial statements, which show a net
42 worth of the provider or its parent company of at least one
43 hundred million dollars. If the provider's parent company's
44 Form 10-K, Form 20-F, or financial statements are filed to
45 meet the provider's financial security requirement, the
46 parent company shall agree to guarantee the obligations of
47 the provider relating to vehicle value protection agreements
48 sold by the provider in this state.

49 4. Except for the requirements specified in subsection
50 3 of this section, no other financial security requirements
51 shall be required for vehicle value protection agreement
52 providers.

407.2070. Vehicle value protection agreements shall disclose in writing and in clear, understandable language that is easy to read the following:

(1) The name and address of the provider, contract holder, and administrator, if any;

(2) The terms of the vehicle value protection agreement including, but not limited to, the purchase price to be paid by the contract holder, if any, the requirements for eligibility, the conditions of coverage, and any exclusions;

(3) A statement that the vehicle value protection agreement may be cancelled by the contract holder within a free-look period as specified in the vehicle value protection agreement and that in such event the contract holder shall be entitled to a full refund of the purchase price paid by the contract holder, if any, so long as no benefits have been provided;

(4) The procedure the contract holder shall follow, if any, to obtain a benefit under the terms and conditions of the vehicle value protection agreement, including, if applicable, a telephone number or website and address where the contract holder may apply for a benefit;

(5) A statement that indicates whether the vehicle value protection agreement may be cancelled after the free-look period and the conditions under which it may be cancelled, including the procedures for requesting any refund of the unearned purchase price paid by the contract holder;

(6) If the vehicle value protection agreement is cancellable after the free-look period, a statement that any refund of the unearned purchase price of the vehicle value protection agreement shall be calculated on a pro rata basis;

33 (7) A statement that any extension of credit, terms of
34 the credit, or terms of the related motor vehicle sale or
35 lease, shall not be conditioned upon the purchase of the
36 vehicle value protection agreement;

37 (8) The terms, restrictions, or conditions governing
38 cancellation of the vehicle value protection agreement
39 before the termination or expiration date of the vehicle
40 value protection agreement by either the provider or the
41 contract holder. The provider of the vehicle value
42 protection agreement shall mail a written notice to the
43 contract holder at the last known address of the contract
44 holder contained in the records of the provider at least
45 five days before cancellation by the provider. Prior notice
46 shall not be required if the reason for cancellation is
47 nonpayment of the provider fee, a material misrepresentation
48 by the contract holder to the provider or administrator, or
49 a substantial breach of duties by the contract holder
50 relating to the covered product or its use. The notice
51 shall state the effective date of the cancellation and the
52 reason for the cancellation. If a vehicle value protection
53 agreement is cancelled by the provider for a reason other
54 than nonpayment of the provider fee, the provider shall
55 refund to the contract holder one hundred percent of the
56 unearned pro rata provider fee paid by the contract holder,
57 if any. If coverage under the vehicle value protection
58 agreement continues after a claim, any refund may deduct
59 claims paid. A reasonable administrative fee may be charged
60 by the provider up to seventy-five dollars; and

61 (9) A statement that the agreement is not an insurance
62 contract.

407.2075. The provisions of sections 407.2070 and
2 407.2080 shall not apply to vehicle value protection

3 agreements offered in connection with a commercial
4 transaction.

407.2080. The attorney general may take action that is
2 necessary or appropriate to enforce the provisions of
3 sections 407.2020 to 407.2090 and to protect motor vehicle
4 financial protection product consumers in this state. After
5 proper notice and opportunity for hearing, the attorney
6 general may:

7 (1) Order the creditor, provider, administrator, or
8 any other person not in compliance with the provisions of
9 sections 407.2020 to 407.2090 to cease and desist from
10 product-related operations that are in violation of the
11 provisions of sections 407.2020 to 407.2090; and

12 (2) Impose a penalty of not more than five hundred
13 dollars for each violation of the provisions of sections
14 407.2020 to 407.2090 and not more than ten thousand dollars
15 in the aggregate for all violations of a similar nature. A
16 violation shall be considered of a similar nature to another
17 violation if the violation consists of the same or similar
18 course of conduct, action, or practice, irrespective of the
19 number of times the action, conduct, or practice that is
20 determined to be a violation of the provisions of sections
21 407.2020 to 407.2090 occurred.

407.2085. Notwithstanding the provisions of section
2 407.2090, all motor vehicle financial protection products
3 issued before and on and after August 28, 2023, shall not be
4 considered insurance.

407.2090. The provisions of sections 407.2020 to
2 407.2090 shall apply to all motor vehicle financial
3 protection products that become effective after February 23,
4 2024.

 408.010. [The silver coins of the United States are
2 hereby declared a legal tender, at their par value, fixed by

3 the laws of the United States , and shall be receivable in
4 payment of all debts, public or private, hereafter
5 contracted in the state of Missouri; provided, however, that
6 no person shall have the right to pay, upon any one debt,
7 dimes and half dimes to an amount exceeding ten dollars, or
8 of twenty and twenty-five cent pieces exceeding twenty
9 dollars] 1. The state of Missouri shall accept gold and

10 silver coinage as legal tender, at spot price plus market
11 premium, for payment of any debt, tax, fee, or obligation
12 owed. Costs incurred in the course of verification of the
13 weight and purity of any gold or silver coinage during any
14 such transaction shall be borne by the receiving entity.

15 2. No person or entity shall be required to use gold
16 or silver coinage in the payment of any debt.

17 3. Nothing in this section shall prohibit the use of
18 federal reserve notes in the payment of any debt.

19 4. Except as otherwise provided in section 513.607,
20 under no circumstance shall the state of Missouri or any
21 department, agency, political subdivision, or
22 instrumentality thereof seize from any person any gold or
23 silver that is owned by such person. Any person who has his
24 or her gold or silver seized in violation of this section
25 shall have a cause of action in a court of competent
26 jurisdiction. Any successful cause of action shall result
27 in an award of attorney's fees.

408.012. 1. The state of Missouri shall not require
2 payment in the form of any digital currency.

3 2. For purposes of this section, "digital currency"
4 means any currency or money that is primarily stored,
5 managed, or transferred by electronic means.

408.145. 1. To encourage competitive equality,
2 lenders issuing credit cards in this state pursuant to the
3 authority of section 408.100 or 408.200[,] may [in addition

4 to lawful interest, contract for, charge and collect fees
5 for] issue such credit cards [which] under such terms and
6 conditions that any lender in any contiguous state is
7 permitted to [charge] utilize for credit cards issued in
8 such contiguous state by such state's statutes. State-
9 chartered lenders [charging such fees] issuing credit cards
10 in reliance on this subsection shall file a copy of the
11 pertinent statutes of one contiguous state authorizing
12 credit card [fees] terms and conditions with the director of
13 finance or such lender's principal state regulator. The
14 director of finance or other principal state regulator
15 shall, within thirty days after receipt of the filing,
16 approve or disapprove of such [fees] terms and conditions on
17 the sole basis of whether the statutes of such contiguous
18 state permit such [fees,] terms and conditions and without
19 regard to the restrictions placed upon credit cards by
20 subsection 2 of this section. When the lender is chartered
21 by the federal government, or any agency thereunder, or is
22 unregulated, such lender shall file with and be approved by
23 the Missouri attorney general under the same provision as
24 provided a state-chartered lender.

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

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

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

35 3. "Lender" as used in this section shall mean any
36 category of depository or nondepository creditor.

37 Notwithstanding the provisions of [section 408.140] sections
38 408.100 to 408.190 to the contrary, the lender shall declare
39 on each credit card contract whether the credit card [fees
40 are governed by section 408.140, or by] is issued pursuant
41 to this section.

408.500. 1. Lenders, other than banks, trust
2 companies, credit unions, savings banks and savings and loan
3 companies, in the business of making unsecured loans of five
4 hundred dollars or less shall obtain a license from the
5 director of the division of finance. An annual license fee
6 of [five] six hundred dollars per location shall be
7 required. The license year shall commence on January first
8 each year and the license fee may be prorated for expired
9 months. The director may establish a biennial licensing
10 arrangement, but in no case shall the fees be payable for
11 more than one year at a time. The provisions of this
12 section shall not apply to pawnbroker loans, consumer credit
13 loans as authorized under chapter 367, nor to a check
14 accepted and deposited or cashed by the payee business on
15 the same or the following business day. The disclosures
16 required by the federal Truth in Lending Act and regulation
17 Z shall be provided on any loan, renewal or extension made
18 pursuant to this section and the loan, renewal or extension
19 documents shall be signed by the borrower.

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

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

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

37 NOTICE:

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

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

45 (1) This lender offers short-term loans. Please read
46 and understand the terms of the loan agreement before
47 signing.

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

51 6. The lender shall renew the loan upon the borrower's
52 written request and the payment of any interest and fees due
53 at the time of such renewal; however, upon the first renewal
54 of the loan agreement, and each subsequent renewal
55 thereafter, the borrower shall reduce the principal amount
56 of the loan by not less than five percent of the original
57 amount of the loan until such loan is paid in full.

58 However, no loan may be renewed more than six times.

59 7. When making or negotiating loans, a licensee shall
60 consider the financial ability of the borrower to reasonably

61 repay the loan in the time and manner specified in the loan
62 contract. All records shall be retained at least two years.

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

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

76 10. Whenever it shall appear to the director that any
77 lender licensed pursuant to this section is failing,
78 refusing or neglecting to make a good faith effort to comply
79 with the provisions of this section, or any laws relating to
80 consumer loans, the director may issue an order to cease and
81 desist which order may be enforceable by a civil penalty of
82 not more than one thousand dollars per day for each day that
83 the neglect, failure or refusal shall continue. The penalty
84 shall be assessed and collected by the director. In
85 determining the amount of the penalty, the director shall
86 take into account the appropriateness of the penalty with
87 respect to the gravity of the violation, the history of
88 previous violations, and such other matters as justice may
89 require.

2 408.900. 1. For purposes of this section, the
following terms shall mean:

3 (1) "Blockchain network", a group of computers working
4 together to run a consensus mechanism to agree upon and
5 verify data in a digital record;

6 (2) "Digital asset", any cryptocurrencies, natively
7 electronic assets, including stable coins, nonfungible
8 tokens, and other digital-only assets that confer economic,
9 proprietary, or access rights or powers;

10 (3) "Digital asset mining", using electricity to power
11 a computer for the purpose of securing a blockchain network;

12 (4) "Digital asset mining business", a group of
13 computers working at a single site that consumes more than
14 one megawatt of energy for the purpose of generating digital
15 assets by securing a blockchain network;

16 (5) "Discriminatory rates", electricity rates
17 substantially different from other industrial uses of
18 electricity in similar geographic areas;

19 (6) "Home digital asset mining", mining digital assets
20 in areas zoned for residential use;

21 (7) "Money transmitter", any person, as that term is
22 defined in section 361.700;

23 (8) "Node", a computational device that contains a
24 copy of a blockchain ledger.

25 2. The public service commission may set rates
26 reflective of cost to serve, but shall not establish a rate
27 schedule for digital asset mining that creates
28 discriminatory rates for digital asset mining businesses.

427.300. 1. This section shall be known, and may be
2 cited as, the "Commercial Financing Disclosure Law".

3 2. For purposes of this section, the following terms
4 mean:

5 (1) "Account":

6 (a) Includes:

7 a. A right to payment of a monetary obligation,
8 whether or not earned by performance, for one of the
9 following:

10 (i) Property that has been or is to be sold, leased,
11 licensed, assigned, or otherwise disposed of;

12 (ii) Services rendered or to be rendered;

13 (iii) A policy of insurance issued or to be issued;

14 (iv) A secondary obligation incurred or to be incurred;

15 (v) Energy provided or to be provided;

16 (vi) The use or hire of a vessel under a charter or
17 other contract;

18 (vii) Arising out of the use of a credit or charge
19 card or information contained on or for use with the card; or

20 (viii) As winnings in a lottery or other game of
21 chance operated or sponsored by a state, governmental unit
22 of a state, or person licensed or authorized to operate the
23 game by a state or governmental unit of a state; and

24 b. Health care insurance receivables; and

25 (b) Shall not include:

26 a. Rights to payment evidenced by chattel paper or an
27 instrument;

28 b. Commercial tort claims;

29 c. Deposit accounts;

30 d. Investment property;

31 e. Letter-of-credit rights or letters of credit; or

32 f. Rights to payment for moneys or funds advanced or
33 sold, other than rights arising out of the use of a credit
34 or charge card or information contained on or for use with
35 the card;

36 (2) "Accounts receivable purchase transaction", any
37 transaction in which the business forwards or otherwise
38 sells to the provider all or a portion of the business's
39 accounts or payment intangibles at a discount to their

40 expected value. For purposes of this section, the
41 provider's characterization of an accounts receivable
42 purchase transaction as a purchase is conclusive that the
43 accounts receivable purchase transaction is not a loan or a
44 transaction for the use, forbearance, or detention of moneys;

45 (3) "Broker", any person who, for compensation or the
46 expectation of compensation, obtains a commercial financing
47 product or an offer for a commercial financing product from
48 a third party that would, if executed, be binding upon that
49 third party and communicates that offer to a business
50 located in this state. The term "broker" excludes a
51 "provider", or any individual or entity whose compensation
52 is not based or dependent upon the terms of the specific
53 commercial financing product obtained or offered;

54 (4) "Business", an individual or group of individuals,
55 sole proprietorship, corporation, limited liability company,
56 trust, estate, cooperative, association, or limited or
57 general partnership engaged in a business activity;

58 (5) "Business purpose transaction", any transaction
59 where the proceeds are provided to a business or are
60 intended to be used to carry on a business and not for
61 personal, family, or household purposes. For purposes of
62 determining whether a transaction is a business purpose
63 transaction, the provider may rely on any written statement
64 of intended purpose signed by the business. The statement
65 may be a separate statement or may be contained in an
66 application, agreement, or other document signed by the
67 business or the business owner or owners;

68 (6) "Commercial financing product", any commercial
69 loan, accounts receivable purchase transaction, commercial
70 open-end credit plan, or each to the extent the transaction
71 is a business purpose transaction;

72 (7) "Commercial loan", a loan to a business, whether
73 secured or unsecured;

74 (8) "Commercial open-end credit plan", commercial
75 financing extended by any provider under a plan in which:

76 (a) The provider reasonably contemplates repeat
77 transactions; and

78 (b) The amount of financing that may be extended to
79 the business during the term of the plan, up to any limit
80 set by the provider, is generally made available to the
81 extent that any outstanding balance is repaid;

82 (9) "Depository institution", any of the following:

83 (a) A bank, trust company, or industrial loan company
84 doing business under the authority of, or in accordance
85 with, a license, certificate, or charter issued by the
86 United States, this state, or any other state, district,
87 territory, or commonwealth of the United States that is
88 authorized to transact business in this state;

89 (b) A federally chartered savings and loan
90 association, federal savings bank, or federal credit union
91 that is authorized to transact business in this state; and

92 (c) A savings and loan association, savings bank, or
93 credit union organized under the laws of this or any other
94 state that is authorized to transact business in this state;

95 (10) "General intangible", any personal property,
96 including things in action, other than accounts, chattel
97 paper, commercial tort claims, deposit accounts, documents,
98 goods, instruments, investment property, letter-of-credit
99 rights, letters of credit, moneys, and oil, gas, or other
100 minerals before extraction. "General intangible" also
101 includes payment intangibles and software;

102 (11) "Payment intangible", a general intangible under
103 which the account debtor's principal obligation is a
104 monetary obligation;

105 (12) "Provider", a person who consummates more than
106 five commercial financing products to a business located in
107 this state in any calendar year. "Provider" also includes a
108 person who enters into a written agreement with a depository
109 institution to arrange for the extension of a commercial
110 financing product by the depository institution to a
111 business via an online lending platform administered by the
112 person. The fact that a provider extends a specific offer
113 for a commercial financing product on behalf of a depository
114 institution shall not be construed to mean that the provider
115 engaged in lending or financing or originated such loan or
116 financing.

117 3. (1) A provider who consummates a commercial
118 financing product shall disclose the terms of the commercial
119 financing product as required by this section. The
120 disclosures shall be provided at or before consummation of
121 the transaction. Only one disclosure is required for each
122 commercial financing product, and a disclosure is not
123 required as a result of the modification, forbearance, or
124 change to a consummated commercial financing product.

125 (2) A provider shall disclose the following in
126 connection with each commercial financing product:

127 (a) The total amount of funds provided to the business
128 under the terms of the commercial financing product. This
129 disclosure shall be labeled "Total Amount of Funds Provided";

130 (b) The total amount of funds disbursed to the
131 business under the terms of the commercial financing
132 product, if less than the total amount of funds provided, as
133 a result of any fees deducted or withheld at disbursement
134 and any amount paid to a third party on behalf of the
135 business. This disclosure shall be labeled "Total Amount of
136 Funds Disbursed";

137 (c) The total amount to be paid to the provider
138 pursuant to the commercial financing product agreement.
139 This disclosure shall be labeled "Total of Payments";

140 (d) The total dollar cost of the commercial financing
141 product under the terms of the agreement, derived by
142 subtracting the total amount of funds provided from the
143 total of payments. This calculation shall include any fees
144 or charges deducted by the provider from the "Total Amount
145 of Funds Provided". This disclosure shall be labeled "Total
146 Dollar Cost of Financing";

147 (e) The manner, frequency, and amount of each
148 payment. This disclosure shall be labeled "Payments". If
149 the payments may vary, the provider shall instead disclose
150 the manner, frequency, and the estimated amount of the
151 initial payment labeled "Estimated Payments", and the
152 commercial financing product agreement shall include a
153 description of the methodology for calculating any variable
154 payment and the circumstances when payments may vary; and

155 (f) A statement of whether there are any costs or
156 discounts associated with prepayment of the commercial
157 financing product, including a reference to the paragraph in
158 the agreement that creates the contractual rights of the
159 parties related to prepayment. This disclosure shall be
160 labeled "Prepayment".

161 4. This section shall not apply to the following:

162 (1) A provider that is a depository institution or a
163 subsidiary or service corporation that is:

164 (a) Owned and controlled by a depository institution;
165 and

166 (b) Regulated by a federal banking agency;

167 (2) A provider that is a lender regulated under the
168 federal Farm Credit Act, 12 U.S.C. Sec. 2001 et seq.;

169 (3) A commercial financing product that is:

170 (a) Secured by real property;
171 (b) A lease; or
172 (c) A purchase-money obligation that is incurred as
173 all or part of the price of the collateral or for value
174 given to enable the business to acquire rights in or the use
175 of the collateral if the value is in fact so used;
176 (4) A commercial financing product in which the
177 recipient is a motor vehicle dealer or an affiliate of such
178 a dealer, or a vehicle rental company, or an affiliate of
179 such a company, pursuant to a commercial loan or commercial
180 open-end credit plan of at least fifty thousand dollars or a
181 commercial financing product offered by a person in
182 connection with the sale or lease of products or services
183 that such person manufactures, licenses, or distributes, or
184 whose parent company or any of its directly or indirectly
185 owned and controlled subsidiaries manufactures, licenses, or
186 distributes;
187 (5) A commercial financing product that is a factoring
188 transaction, purchase, sale, advance, or similar of accounts
189 receivables owed to a health care provider because of a
190 patient's personal injury treated by the health care
191 provider;
192 (6) A provider who is licensed as a money transmitter
193 in accordance with a license, certificate, or charter issued
194 by this state, or any other state, district, territory, or
195 commonwealth of the United States; or
196 (7) A provider who consummates no more than five
197 commercial financing products in this state in a twelve-
198 month period.
199 5. (1) No person shall engage in business as a broker
200 for commercial financing within this state, for
201 compensation, unless prior to conducting such business, the
202 person has filed a registration with the division of finance

203 within the department of commerce and insurance and has on
204 file a good and sufficient bond as specified in this
205 subsection. The registration shall be effective upon
206 receipt by the division of finance of a completed
207 registration form and the required registration fee, and
208 shall remain effective until the time of renewal.

209 (2) After filing an initial registration form, a
210 broker shall file, on or before January thirty-first of each
211 year, a renewal registration form along with the required
212 renewal registration fee.

213 (3) The broker shall pay a one-hundred-dollar
214 registration fee upon the filing of an initial registration
215 and a fifty-dollar renewal fee upon the filing of a renewal
216 registration.

217 (4) The registration form required by this subsection
218 shall include:

219 (a) The name of the broker;

220 (b) The name in which the broker is transacted if
221 different from that stated in paragraph (a) of this
222 subdivision;

223 (c) The address of the broker's principal office,
224 which may be outside this state;

225 (d) Whether any officer, director, manager, operator,
226 or principal of the broker has been convicted of a felony
227 involving an act of fraud, dishonesty, breach of trust, or
228 money laundering; and

229 (e) The name and address in this state of a designated
230 agent upon whom service of process may be made.

231 (5) If information in a registration form changes or
232 otherwise becomes inaccurate after filing, the broker shall
233 not be required to file a further registration form prior to
234 the time of renewal.

235 (6) Each broker shall obtain a surety bond issued by a
236 surety company authorized to do business in this state. The
237 amount of the bond shall be ten thousand dollars. The bond
238 shall be in favor of the state of Missouri. Any person
239 damaged by the broker's breach of contract or of any
240 obligation arising therefrom, or by any violation of this
241 section, may bring an action against the bond to recover
242 damages suffered. The aggregate liability of the surety
243 shall be only for actual damages and in no event shall
244 exceed the amount of the bond.

245 (7) Employees regularly employed by a broker who has
246 complied with this subsection shall not be required to file
247 a registration or obtain a surety bond when acting within
248 the scope of their employment for the broker.

249 6. (1) Any person who violates any provision of this
250 section shall be punished by a fine of five hundred dollars
251 per incident, not to exceed twenty thousand dollars for all
252 aggregated violations arising from the use of the
253 transaction documentation or materials found to be in
254 violation of this section. Any person who violates any
255 provision of this section after receiving written notice of
256 a prior violation from the attorney general shall be
257 punished by a fine of one thousand dollars per incident, not
258 to exceed fifty thousand dollars for all aggregated
259 violations arising from the use of the transaction
260 documentation or materials found to be in violation of this
261 section.

262 (2) Violation of any provision of this section shall
263 not affect the enforceability or validity of the underlying
264 agreement.

265 (3) This section shall not create a private right of
266 action against any person or other entity based upon
267 compliance or noncompliance with its provisions.

268 (4) Authority to enforce compliance with this section
269 is vested exclusively in the attorney general of this state.

270 7. The requirements of subsections 3 and 5 of this
271 section shall take effect upon the earlier of:

272 (1) Six months after the division of finance finalizes
273 promulgating rules, if the division intends to promulgate
274 rules; or

275 (2) February 28, 2024, if the division does not
276 promulgate rules.

277 8. The division of finance may promulgate rules
278 implementing this section. If the division of finance
279 intends to promulgate rules, it shall declare its intent to
280 do so no later than February 28, 2024. Any rule or portion
281 of a rule, as that term is defined in section 536.010, that
282 is created under the authority delegated in this section
283 shall become effective only if it complies with and is
284 subject to all of the provisions of chapter 536 and, if
285 applicable, section 536.028. This section and chapter 536
286 are nonseverable and if any of the powers vested with the
287 general assembly pursuant to chapter 536 to review, to delay
288 the effective date, or to disapprove and annul a rule are
289 subsequently held unconstitutional, then the grant of
290 rulemaking authority and any rule proposed or adopted after
291 August 28, 2023, shall be invalid and void.

431.204. 1. A reasonable covenant in writing
2 promising not to solicit, recruit, hire, induce, persuade,
3 encourage, or otherwise interfere with, directly or
4 indirectly, the employment of one or more employees or
5 owners of a business entity shall be presumed to be
6 enforceable and not a restraint of trade pursuant to
7 subsection 1 of section 416.031 if it is between a business
8 entity and the owner of the business entity and does not

9 continue for more than two years following the end of the
10 owner's business relationship with the business entity.

11 2. A reasonable covenant in writing promising not to
12 solicit, induce, direct, or otherwise interfere with,
13 directly or indirectly, a business entity's customers,
14 including any reduction, termination, or transfer of any
15 customer's business, in whole or in part, for the purposes
16 of providing any product or any service that is competitive
17 with those provided by the business entity shall be presumed
18 to be enforceable and not a restraint of trade pursuant to
19 subsection 1 of section 416.031 if the covenant is limited
20 to customers with whom the owner dealt and if the covenant
21 is between a business entity and an owner, so long as the
22 covenant does not continue for more than five years
23 following the end of the owner's business relationship with
24 the business entity.

25 3. A provision in writing by which an owner promises
26 to provide prior notice of the owner's intent to terminate,
27 sell, or otherwise dispose of such owner's ownership
28 interest in the business entity shall be presumed to be
29 enforceable and not a restraint of trade pursuant to
30 subsection 1 of section 416.031.

31 4. If a covenant is overbroad, overlong, or otherwise
32 not reasonably necessary to protect the protectable business
33 interests of the business entity seeking enforcement of the
34 covenant, a court shall modify the covenant, enforce the
35 covenant as modified, and grant only the relief reasonably
36 necessary to protect such interests.

37 5. Nothing in this section is intended to create or to
38 affect the validity or enforceability of covenants not to
39 compete, other types of covenants, or nondisclosure or
40 confidentiality agreements, except as expressly provided in
41 this section.

42 6. Except as provided in subsection 3 of this section,
43 nothing in this section shall be construed to limit an
44 owner's ability to seek or accept employment with another
45 business entity immediately upon, or at any time subsequent
46 to, termination of the owner's business relationship with
47 the business entity, whether such termination was voluntary
48 or nonvoluntary.

436.550. Sections 436.550 to 436.572 shall be known
2 and may be cited as the "Consumer Legal Funding Act".

436.552. As used in sections 436.550 to 436.572, the
2 following terms mean:

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

12 (2) "Affiliate", as defined in section 515.505;

13 (3) "Charges", the amount of moneys to be paid to the
14 consumer legal funding company by or on behalf of the
15 consumer above the funded amount provided by or on behalf of
16 the company to a consumer under sections 436.550 to
17 436.572. Charges include all administrative, origination,
18 underwriting, or other fees, no matter how denominated;

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

21 (5) "Consumer legal funding company" or "company", a
22 person or entity that enters into a consumer legal funding
23 contract with a consumer for an amount less than five
24 hundred thousand dollars. The term shall not include:

- 25 (a) An immediate family member of the consumer;
- 26 (b) A bank, lender, financing entity, or other special
27 purpose entity:
- 28 a. That provides financing to a consumer legal funding
29 company; or
- 30 b. To which a consumer legal funding company grants a
31 security interest or transfers any rights or interest in a
32 consumer legal funding; or
- 33 (c) An attorney or accountant who provides services to
34 a consumer;
- 35 (6) "Consumer legal funding contract", a nonrecourse
36 contractual transaction in which a consumer legal funding
37 company purchases and a consumer assigns to the company a
38 contingent right to receive an amount of the potential
39 proceeds of a settlement, judgment, award, or verdict
40 obtained in the consumer's legal claim, so long as all of
41 the following apply:
- 42 (a) The consumer, at their sole discretion, shall use
43 the funds to address personal needs or household expenses;
- 44 (b) The consumer shall not use the funds to pay for
45 attorneys' fees, legal filings, legal marketing, legal
46 document preparation or drafting, appeals, expert testimony,
47 or other litigation-related expenses;
- 48 (7) "Director", the director of the division of
49 finance within the department of commerce and insurance;
- 50 (8) "Division", the division of finance within the
51 department of commerce and insurance;
- 52 (9) "Funded amount", the amount of moneys provided to
53 or on behalf of the consumer in the consumer legal funding
54 contract. "Funded amount" shall not include charges;
- 55 (10) "Funding date", the date on which the funded
56 amount is transferred to the consumer by the consumer legal
57 funding company either by personal delivery, via wire,

58 automated clearing house transfer, or other electronic
59 means, or by insured, certified, or registered United States
60 mail;

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

64 (12) "Legal claim", a bona fide civil claim or cause
65 of action;

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

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

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

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

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

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

14 (b) Mails a notice of cancellation by insured,
15 certified, or registered United States mail to the address

16 specified in the contract and includes a return of the full
17 amount of disbursed funds in such mailing in the form of the
18 company's uncashed check or a registered or certified check
19 or money order;

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

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

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

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

436.556. No consumer legal funding company shall:

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

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

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

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

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

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

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

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

41 (9) Sell a consumer litigation funding contract in
42 whole or in part to a third party. However, if the consumer

43 legal funding company retains responsibility for collecting
44 payment, administering, and otherwise enforcing the consumer
45 legal funding contract, the provisions of this subdivision
46 shall not apply to any of the following:

47 (a) An assignment to a wholly owned subsidiary of the
48 consumer legal funding company;

49 (b) An assignment to an affiliate of the consumer
50 legal funding company that is under common control;

51 (c) The granting of a security interest under Article
52 9 of the Uniform Commercial Code, or as otherwise permitted
53 by law.

436.558. 1. The contracted amount to be paid to the
2 consumer legal funding company shall be set as a
3 predetermined amount based upon intervals of time from the
4 funding date to the resolution date and shall not be
5 determined as a percentage of the recovery from the legal
6 claim.

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

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

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

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

11 (b) An itemization of one-time charges;

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

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

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

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

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

35 (3) Within the body of the contract, a statement that
36 the company has no influence over any aspect of the
37 consumer's legal claim or any settlement or resolution of
38 the consumer's legal claim and that all decisions related to
39 the consumer's legal claim remain solely with the consumer
40 and the consumer's attorney;

41 (4) Within the body of the contract, in all capital
42 letters and in at least twelve-point bold-type font
43 contained within a box: "THE FUNDED AMOUNT AND AGREED-UPON
44 CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL

45 CLAIM AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE
46 AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. IF THERE IS NO
47 RECOVERY OF ANY DAMAGES FROM YOUR LEGAL CLAIM OR IF THERE IS
48 NOT ENOUGH MONEY TO PAY BACK THE CONSUMER LEGAL FUNDING
49 COMPANY IN FULL, YOU WILL NOT BE OBLIGATED TO PAY THE
50 CONSUMER LEGAL FUNDING COMPANY ANYTHING IN EXCESS OF YOUR
51 RECOVERY UNLESS YOU HAVE VIOLATED THIS CONTRACT. YOU WILL
52 NOT OWE (INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY)
53 ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM
54 UNLESS YOU OR YOUR ATTORNEY HAVE VIOLATED ANY MATERIAL TERM
55 OF THIS CONTRACT OR UNLESS YOU HAVE COMMITTED FRAUD AGAINST
56 THE CONSUMER LEGAL FUNDING COMPANY."; and

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

436.562. 1. Nothing in sections 436.550 to 436.572
2 shall be construed to restrict the exercise of powers or the
3 performance of the duties of the state attorney general that
4 he or she is authorized to exercise or perform by law.

5 2. If a court of competent jurisdiction determines
6 that a consumer legal funding company has intentionally
7 violated the provisions of sections 436.550 to 436.572 in a
8 consumer legal funding contract, the consumer legal funding
9 contract shall be voided.

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

2. Nothing contained in sections 436.550 to 436.572 shall be construed to cause any consumer legal funding contract conforming to sections 436.550 436.572 to be deemed a loan or to be subject to any of the provisions governing loans. A consumer legal funding contract that complies with sections 436.550 to 436.572 is not subject to any other statutory or regulatory provisions governing loans or investment contracts. To the extent that sections 436.550 to 436.572 conflict with any other law, such sections shall supersede the other law for the purposes of regulating consumer legal funding in this state.

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

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

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

436.568. No communication between the consumer's attorney in the legal claim and the consumer legal funding company necessary to ascertain the status of a legal claim or a legal claim's expected value shall be discoverable by a

5 party with whom the claim is filed or against whom the claim
6 is asserted. This section does not limit, waive, or
7 abrogate the scope or nature of any statutory or common-law
8 privilege, including the work-product doctrine and attorney-
9 client privilege.

2 436.570. 1. A consumer legal funding company shall
3 not engage in the business of consumer legal funding in this
4 state unless it has first obtained a license from the
5 division of finance.

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

9 3. Every consumer legal funding company, at the time
10 of filing a license application, shall pay the sum of five
11 hundred fifty dollars for the period ending the thirtieth
12 day of June next following the date of payment; thereafter,
13 a like fee shall be paid on or before June thirtieth of each
14 year and shall be credited to the division of finance fund
15 established under section 361.170.

16 4. A consumer legal funding license shall not be
17 issued unless the division of finance, upon investigation,
18 finds that the character and fitness of the applicant
19 company, and of the officers and directors thereof, are such
20 as to warrant belief that the business shall operate
21 honestly and fairly within the purposes of sections 436.550
22 to 436.572.

23 5. Every applicant shall also, at the time of filing
24 such application, file a bond satisfactory to the division
25 of finance in an amount not to exceed fifty thousand
26 dollars. The bond shall provide that the applicant shall
27 faithfully conform to and abide by the provisions of
28 sections 436.550 to 436.572, to all rules lawfully made by
the director under sections 436.550 to 436.572, and the bond

29 shall act as a surety for any person or the state for any
30 and all amount of moneys that may become due or owing from
31 the applicant under and by virtue of sections 436.550 to
32 436.572, which shall include the result of any action that
33 occurred while the bond was in place for the applicable
34 period of limitations under statute and so long as the bond
35 is not exhausted by valid claims.

36 6. If an action is commenced on a licensee's bond, the
37 director may require the filling of a new bond. Immediately
38 upon any recovery on the bond, the licensee shall file a new
39 bond.

40 7. To ensure the effective supervision and enforcement
41 of sections 436.550 to 436.572, the director may, under
42 chapter 536:

43 (1) Deny, suspend, revoke, condition, or decline to
44 renew a license for a violation of sections 436.550 to
45 436.572, rules issued under sections 436.550 to 436.572, or
46 order or directive entered under sections 436.550 to 436.572;

47 (2) Deny, suspend, revoke, condition, or decline to
48 renew a license if an applicant or licensee fails at any to
49 time meet the requirements of sections 436.550 to 436.572,
50 or withholds information or makes a material misstatement in
51 an application for a license or renewal of a license;

52 (3) Order restitution against persons subject to
53 sections 436.550 to 436.572 for violations of sections
54 436.550 to 436.572; and

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

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

62 9. Notwithstanding the prior approval requirement of
63 subsection 1 of this section, a consumer legal funding
64 company that has applied with the division of finance
65 between the effective date of sections 436.550 to 436.572,
66 or when the division of finance has made applications
67 available to the public, whichever is later, and six months
68 thereafter may engage in consumer legal funding while the
69 license application of the company or an affiliate of the
70 company is awaiting approval by the division of finance and
71 until such time as the applicant has pursued all appellate
72 remedies and procedures for any denial of such application.
73 All funding contracts in effect prior to the effective date
74 of sections 436.550 to 436.572 are not subject to the terms
75 of sections 436.550 to 436.572.

76 10. If it appears to the director that any consumer
77 legal funding company is failing, refusing, or neglecting to
78 make a good faith effort to comply with the provisions of
79 sections 436.550 to 436.572, or any laws or rules relating
80 to consumer legal funding, the director may issue an order
81 to cease and desist, which may be enforceable by a civil
82 penalty of not more than one thousand dollars per day for
83 each day that the neglect, failure, or refusal continues.
84 The penalty shall be assessed and collected by the
85 director. In determining the amount of the penalty, the
86 director shall take into account the appropriateness of the
87 penalty with respect to the gravity of the violation, any
88 history of previous violations, and any other matters
89 justice may require.

90 11. If any consumer legal funding company fails,
91 refuses, or neglects to comply with the provisions of
92 sections 436.550 to 436.572, or of any laws or rules
93 relating to consumer legal funding, its license may be
94 suspended or revoked by order of the director after a

95 hearing before said director on any order to show cause why
96 such order of suspension or revocation should not be entered
97 and that specifies the grounds therefor. Such an order
98 shall be served on the particular consumer legal funding
99 company at least ten days prior to the hearing. Any order
100 made and entered by the director may be appealed to the
101 circuit court of Cole County.

102 12. (1) The division shall conduct an examination of
103 each consumer funding company at least once every twenty-
104 four months and at such other times as the director may
105 determine.

106 (2) For any such investigation or examination, the
107 director and his or her representatives shall have free and
108 immediate access to the place or places of business and the
109 books and records, and shall have the authority to place
110 under oath all persons whose testimony may be required
111 relative to the affairs and business of the consumer legal
112 funding company.

113 (3) The director may also make such special
114 investigations or examination as the director deems
115 necessary to determine whether any consumer legal funding
116 company has violated any of the provisions of sections
117 436.550 to 436.572 or rules promulgated thereunder, and the
118 director may assess the reasonable costs of any
119 investigation or examination incurred by the division to the
120 company.

121 13. The division of finance shall have the authority
122 to promulgate rules to carry out the provisions of sections
123 436.550 to 436.572. Any rule or portion of a rule, as that
124 term is defined in section 536.010, that is created under
125 the authority delegated in this section shall become
126 effective only if it complies with and is subject to all of
127 the provisions of chapter 536 and, if applicable, section

128 536.028. This section and chapter 536 are nonseverable and
129 if any of the powers vested with the general assembly
130 pursuant to chapter 536 to review, to delay the effective
131 date, or to disapprove and annul a rule are subsequently
132 held unconstitutional, then the grant of rulemaking
133 authority and any rule proposed or adopted after August 28,
134 2023, shall be invalid and void.

436.572. A consumer legal funding contract is a fact
2 subject to the usual rules of discovery.

469.399. Sections 469.399 to 469.487 shall be known
2 and may be cited as the "Missouri Uniform Fiduciary Income
3 and Principal Act".

469.401. As used in sections [469.401] 469.399 to
2 [469.467] 469.487, the following terms mean:

3 (1) "Accounting period", a calendar year unless
4 [another twelve-month period is selected by] a fiduciary
5 selects another period of twelve calendar months or
6 approximately twelve calendar months. The term includes a
7 [portion] part of a calendar year or [other twelve-month]
8 another period [that] of twelve calendar months or
9 approximately twelve calendar months that begins when an
10 income interest begins or ends when an income interest ends;

11 (2) "Asset-backed security", a security that is
12 serviced primarily by the cash flows of a discrete pool of
13 fixed or revolving receivables or other financial assets
14 that by their terms convert into cash within a finite time.
15 The term includes rights or other assets that ensure the
16 servicing or timely distribution of proceeds to the holder
17 of the asset-backed security. The term does not include an
18 asset to which section 469.423, 469.437, or 469.447 applies;

19 (3) "Beneficiary" [,] includes:

20 (a) For a trust:

21 a. A current beneficiary, including a current income
22 beneficiary and a beneficiary that may receive only
23 principal;

24 b. A remainder beneficiary; and

25 c. Any other successor beneficiary;

26 (b) For an estate, an heir, legatee, and devisee [of a
27 decedent's estate, and an income beneficiary and a remainder
28 beneficiary of a trust, including any type of entity that
29 has a beneficial interest in either an estate or a trust];
30 and

31 (c) For a life estate or term interest, a person that
32 holds a life estate, term interest, or remainder or other
33 interest following a life estate or term interest;

34 (4) "Court", any court in this state having
35 jurisdiction relating to a trust, estate, life estate, or
36 other term interest described in subdivision (2) of
37 subsection 1 of section 469.402;

38 (5) "Current income beneficiary", a beneficiary to
39 which a fiduciary may distribute net income, whether or not
40 the fiduciary also may distribute principal to the
41 beneficiary;

42 (6) "Distribution", a payment or transfer by a
43 fiduciary to a beneficiary in the beneficiary's capacity as
44 a beneficiary, made under the terms of the trust, without
45 consideration other than the beneficiary's right to receive
46 the payment or transfer under the terms of the trust.
47 "Distribute", "distributed", and "distributee" have
48 corresponding meanings;

49 (7) "Estate", a decedent's estate. The term includes
50 the property of the decedent as the estate is originally
51 constituted and the property of the estate as it exists at
52 any time during administration;

53 [(3)] (8) "Fiduciary" [,] includes a trustee, trust
54 protector determined under section 456.8-808, personal
55 representative, [trustee, executor, administrator, successor
56 personal representative, special administrator and any other
57 person performing substantially the same function] life
58 tenant, holder of a term interest, and person acting under a
59 delegation from a fiduciary. The term includes a person
60 that holds property for a successor beneficiary whose
61 interest may be affected by an allocation of receipts and
62 expenditures between income and principal. If there are two
63 or more co-fiduciaries, the term includes all co-fiduciaries
64 acting under the terms of the trust and applicable law;

65 [(4)] (9) "Income", money or other property [that] a
66 fiduciary receives as current return from [a] principal
67 [asset, including a portion]. The term includes a part of
68 receipts from a sale, exchange, or liquidation of a
69 principal asset, [as] to the extent provided in sections
70 469.423 to [469.449] 469.450;

71 [(5) "Income beneficiary", a person to whom net income
72 of a trust is or may be payable;

73 [(6)] (10) "Income interest", the right of [an] a
74 current income beneficiary to receive all or part of net
75 income, whether the terms of the trust require [it] the net
76 income to be distributed or authorize [it] the net income to
77 be distributed in the [trustee's] fiduciary's discretion.
78 The term includes the right of a current beneficiary to use
79 property held by a fiduciary;

80 (11) "Independent person", a person that is not:

81 (a) For a trust:

82 a. A qualified beneficiary as defined under section
83 456.1-103;

84 b. A settlor of the trust; or

85 c. An individual whose legal obligation to support a
86 beneficiary may be satisfied by a distribution from the
87 trust;
88 (b) For an estate, a beneficiary;
89 (c) A spouse, parent, brother, sister, or issue of an
90 individual described in paragraph (a) or (b) of this
91 subdivision;
92 (d) A corporation, partnership, limited liability
93 company, or other entity in which persons described in
94 paragraphs (a) to (c) of this subdivision, in the aggregate,
95 have voting control; or
96 (e) An employee of a person described in paragraph
97 (a), (b), (c), or (d) of this subdivision;
98 [(7)] (12) "Mandatory income interest", the right of
99 [an] a current income beneficiary to receive net income that
100 the terms of the trust require the fiduciary to distribute;
101 [(8)] (13) "Net income", [if section 469.411 applies
102 to the trust, the unitrust amount, or if section 469.411
103 does not apply to the trust,] the total [receipts allocated
104 to income] allocations during an accounting period to income
105 under the terms of a trust and sections 469.399 to 469.487
106 minus the disbursements [made from income during the same
107 period, plus or minus transfers pursuant to sections 469.401
108 to 469.467 to or from income during the same period] during
109 the period, other than distributions, allocated to income
110 under the terms of the trust and sections 469.399 to
111 469.487. To the extent the trust is a unitrust under
112 sections 469.471 to 469.487, "net income" means the unitrust
113 amount determined thereunder. "Net income" includes an
114 adjustment from principal to income under section 469.405.
115 The term does not include an adjustment from income to
116 principal under section 469.405;

117 [(9)] (14) "Person", an individual, [corporation,
118 business trust,] estate, trust, [partnership, limited
119 liability company, association, joint venture] business or
120 nonprofit entity, public corporation, government[,] or
121 governmental subdivision, agency, or instrumentality,
122 [public corporation] or [any] other legal [or commercial]
123 entity;

124 (15) "Personal representative", an executor,
125 administrator, successor personal representative, special
126 administrator, or person that performs substantially the
127 same function with respect to an estate under the law
128 governing the person's status;

129 [(10)] (16) "Principal", property held in trust for
130 distribution to [a remainder], production of income for, or
131 use by a current or successor beneficiary [when the trust
132 terminates];

133 [(11) "Qualified beneficiary", a beneficiary defined
134 in section 456.1-103;

135 (12) "Remainder beneficiary", a person entitled to
136 receive principal when an income interest ends;

137 [(13)] (17) "Record", information that is inscribed on
138 a tangible medium or that is stored in an electronic or
139 other medium and is retrievable in perceivable form;

140 (18) "Settlor", a person, including a testator, that
141 creates or contributes property to a trust. If more than
142 one person creates or contributes property to a trust, the
143 term includes each person, to the extent of the trust
144 property attributable to that person's contribution, except
145 to the extent another person has the power to revoke or
146 withdraw that portion;

147 (19) "Special tax benefit":

148 (a) Exclusion of a transfer to a trust from gifts
149 described in 26 U.S.C. Section 2503(b), as amended, because

150 of the qualification of an income interest in the trust as a
151 present interest in property;

152 (b) Status as a qualified subchapter S trust described
153 in 26 U.S.C. Section 1361(d) (3), as amended, at a time the
154 trust holds stock of an S corporation described in 26 U.S.C.
155 Section 1361(a) (1), as amended;

156 (c) An estate or gift tax marital deduction for a
157 transfer to a trust under 26 U.S.C. Section 2056 or 2523, as
158 amended, which depends or depended in whole or in part on
159 the right of the settlor's spouse to receive the net income
160 of the trust;

161 (d) Exemption in whole or in part of a trust from the
162 federal generation-skipping transfer tax imposed by 26
163 U.S.C. Section 2601, as amended, because the trust was
164 irrevocable on September 25, 1985, if there is any
165 possibility that:

166 a. A taxable distribution, as defined in 26 U.S.C.
167 Section 2612(b), as amended, could be made from the trust; or

168 b. A taxable termination, as defined in 26 U.S.C.
169 Section 2612(a), as amended, could occur with respect to the
170 trust; or

171 (e) An inclusion ratio, as defined in 26 U.S.C.
172 Section 2642(a), as amended, of the trust which is less than
173 one, if there is any possibility that:

174 a. A taxable distribution, as defined in 26 U.S.C.
175 Section 2612(b), as amended, could be made from the trust; or

176 b. A taxable termination, as defined in 26 U.S.C.
177 Section 2612(a), as amended, could occur with respect to the
178 trust;

179 (20) "Successive interest", the interest of a
180 successor beneficiary;

181 (21) "Successor beneficiary", a person entitled to
182 receive income or principal or to use property when an
183 income interest or other current interest ends;

184 (22) "Terms of a trust":

185 (a) Except as otherwise provided in paragraph (b) of
186 this subdivision, the manifestation of the settlor's [or
187 decedent's] intent regarding a trust's provisions as:

188 a. Expressed in [a manner which is] the trust
189 instrument; or

190 b. Established by other evidence that would be
191 admissible [as proof] in a judicial proceeding[, whether by
192 written or spoken words or by conduct];

193 (b) The trust's provisions as established, determined,
194 or amended by:

195 a. A trustee or trust director in accordance with
196 applicable law;

197 b. Court order; or

198 c. A nonjudicial settlement agreement under section
199 456.1-111;

200 (c) For an estate, a will; or

201 (d) For a life estate or term interest, the
202 corresponding manifestation of the rights of the
203 beneficiaries;

204 (23) "Trust":

205 (a) Includes:

206 a. An express trust, private or charitable, with
207 additions to the trust, wherever and however created; and

208 b. A trust created or determined by judgment or decree
209 under which the trust is to be administered in the manner of
210 an express trust; and

211 (b) Does not include:

212 a. A constructive trust;

213 b. A resulting trust, conservatorship, guardianship,
214 multi-party account, custodial arrangement for a minor,
215 business trust, voting trust, security arrangement,
216 liquidation trust, or trust for the primary purpose of
217 paying debts, dividends, interest, salaries, wages, profits,
218 pensions, retirement benefits, or employee benefits of any
219 kind; or

220 c. An arrangement under which a person is a nominee,
221 escrowee, or agent for another;

222 [(14)] (24) "Trustee", a person, other than a personal
223 representative, that owns or holds property for the benefit
224 of a beneficiary. The term includes an original,
225 additional, or successor trustee, whether or not appointed
226 or confirmed by a court;

227 [(15) "Unitrust amount", net income as defined by
228 section 469.411] (25) "Will", any testamentary instrument
229 recognized by applicable law that makes a legally effective
230 disposition of an individual's property, effective at the
231 individual's death. The term includes a codicil or other
232 amendment to a testamentary instrument.

469.402. [The provisions of sections 456.3-301 to
2 456.3-305 shall apply to sections 469.401 to 469.467 for all
3 purposes.] 1. Except as otherwise provided in the terms of

4 a trust or sections 469.399 to 469.487, sections 469.399 to
5 469.487 apply to:

6 (1) A trust or estate; and

7 (2) A life estate or other term interest in which the
8 interest of one or more persons will be succeeded by the
9 interest of one or more other persons.

10 2. Except as otherwise provided in the terms of a
11 trust or sections 469.399 to 469.487, sections 469.399 to
12 469.487 apply when this state is the principal place of
13 administration of a trust or estate or the situs of property

14 that is not held in a trust or estate and is subject to a
15 life estate or other term interest described in subdivision
16 (2) of subsection 1 of this section. By accepting the
17 trusteeship of a trust having its principal place of
18 administration in this state or by moving the principal
19 place of administration of a trust to this state, the
20 trustee submits to the application of sections 469.399 to
21 469.487 to any matter within the scope of sections 469.399
22 to 469.487 involving the trust.

469.403. 1. [In allocating receipts and disbursements
2 to or between principal and income, and with respect to any
3 matter within the scope of] In making an allocation or
4 determination or exercising discretion under sections
5 469.413 to 469.421, a fiduciary shall:

6 (1) [Shall] Act in good faith, based on what is fair
7 and reasonable to all beneficiaries;

8 (2) Administer a trust or estate [under] impartially,
9 except to the extent the terms of the trust manifest an
10 intent that the fiduciary shall or [the will] may favor one
11 or more beneficiaries;

12 (3) Administer the trust or estate in accordance with
13 the terms of the trust, even if there is a different
14 provision in sections [469.401] 469.399 to [469.467]
15 469.487; and

16 [(2) May] (4) Administer [a] the trust or estate [by
17 exercising] in accordance with sections 469.399 to 469.487,
18 except to the extent the terms of the trust provide
19 otherwise or authorize the fiduciary to determine otherwise.

20 2. A fiduciary's allocation, determination, or
21 exercise of discretion under sections 469.399 to 409.487 is
22 presumed to be fair and reasonable to all beneficiaries. A
23 fiduciary may exercise a discretionary power of
24 administration given to the fiduciary by the terms of the

25 trust [or the will, even if the] , and an exercise of the
26 power that produces a result different from a result
27 required or permitted by sections [469.401] 469.399 to
28 [469.467;] 469.487 does not create an inference that the
29 fiduciary abused the fiduciary's discretion.

30 [(3) Shall administer a trust or estate pursuant] 3.
31 A fiduciary shall:

32 (1) Add a receipt to [sections 469.401 to 469.467 if]
33 principal, to the extent neither the terms of the trust [or
34 the will do not contain a different provision or do not
35 give] nor sections 469.399 to 469.487 allocate the
36 [fiduciary a discretionary power of administration] receipt
37 between income and principal; and

38 [(4) Shall add a receipt or] (2) Charge a
39 disbursement to principal, to the extent [that the terms of
40 the trust and sections 469.401 to 469.467 do not provide a
41 rule for allocating the receipt or disbursement to or
42 between principal and income.

43 2. In exercising the power to adjust pursuant to
44 section 469.405 or a discretionary power of administration
45 regarding a matter within the scope of sections 469.401 to
46 469.467, whether granted by the terms of a trust, a will, or
47 sections 469.401 to 469.467, a fiduciary shall administer a
48 trust or estate impartially, based on what is fair and
49 reasonable to all of the beneficiaries, except to the extent
50 that the terms of the trust or the will clearly manifest an
51 intent that the fiduciary shall or may favor one or more of
52 the beneficiaries. A determination in accordance with
53 sections 469.401 to 469.467 is presumed to be fair and
54 reasonable to all of the beneficiaries] neither the terms of
55 the trust nor sections 469.399 to 469.487 allocate the
56 disbursement between income and principal.

57 4. A fiduciary may exercise the power to adjust under
58 section 469.405, convert an income trust to a unitrust under
59 subdivision (1) of subsection 1 of section 469.475, change
60 the percentage or method used to calculate a unitrust amount
61 under subdivision (2) of subsection 1 of section 469.475, or
62 convert a unitrust to an income trust under subdivision (3)
63 of subsection 1 of section 469.475, if the fiduciary
64 determines the exercise of the power will assist the
65 fiduciary to administer the trust or estate impartially.

66 5. Factors the fiduciary shall consider in making the
67 determination under subsection 4 of this section include:

68 (1) The terms of the trust;

69 (2) The nature, distribution standards, and expected
70 duration of the trust;

71 (3) The effect of the allocation rules, including
72 specific adjustments between income and principal, under
73 sections 407.413 to 407.461;

74 (4) The desirability of liquidity and regularity of
75 income;

76 (5) The desirability of the preservation and
77 appreciation of principal;

78 (6) The extent to which an asset is used or may be
79 used by a beneficiary;

80 (7) The increase or decrease in the value of principal
81 assets, reasonably determined by the fiduciary;

82 (8) Whether and to what extent the terms of the trust
83 give the fiduciary power to accumulate income or invade
84 principal or prohibit the fiduciary from accumulating income
85 or invading principal;

86 (9) The extent to which the fiduciary has accumulated
87 income or invaded principal in preceding accounting periods;

88 (10) The effect of current and reasonably expected
89 economic conditions; and

90 (11) The reasonably expected tax consequences of the
91 exercise of the power.

469.404. 1. In this section, "fiduciary decision"
2 means:

3 (1) A fiduciary's allocation between income and
4 principal or other determination regarding income and
5 principal required or authorized by the terms of the trust
6 or sections 469.399 to 469.487;

7 (2) The fiduciary's exercise or nonexercise of a
8 discretionary power regarding income and principal granted
9 by the terms of the trust or sections 469.399 to 469.487,
10 including the power to adjust under section 469.405, convert
11 an income trust to a unitrust under subdivision (1) of
12 subsection 1 of section 469.475, change the percentage or
13 method used to calculate a unitrust amount under subdivision
14 (2) of subsection 1 of section 469.475, or convert a
15 unitrust to an income trust under subdivision (3) of
16 subsection 1 section 469.475; or

17 (3) The fiduciary's implementation of a decision
18 described in subdivision (1) or (2) of this subsection.

19 2. The court shall not order a fiduciary to change a
20 fiduciary decision unless the court determines that the
21 fiduciary decision was an abuse of the fiduciary's
22 discretion.

23 3. If the court determines that a fiduciary decision
24 was an abuse of the fiduciary's discretion, the court may
25 order a remedy authorized by law, including under section
26 456.10-1001. To place the beneficiaries in the positions
27 the beneficiaries would have occupied if there had not been
28 an abuse of the fiduciary's discretion, the court may order:

29 (1) The fiduciary to exercise or refrain from
30 exercising the power to adjust under section 469.405;

31 (2) The fiduciary to exercise or refrain from
32 exercising the power to convert an income trust to a
33 unitrust under subdivision (1) of subsection 1 of section
34 469.475, change the percentage or method used to calculate a
35 unitrust amount under subdivision (2) of subsection 1 of
36 section 469.475, or convert a unitrust to an income trust
37 under subdivision (3) of subsection 1 of section 469.475;

38 (3) The fiduciary to distribute an amount to a
39 beneficiary;

40 (4) A beneficiary to return some or all of a
41 distribution; or

42 (5) The fiduciary to withhold an amount from one or
43 more future distributions to a beneficiary.

44 4. On petition by a fiduciary for instruction, the
45 court may determine whether a proposed fiduciary decision
46 will result in an abuse of the fiduciary's discretion. If
47 the petition describes the proposed decision, contains
48 sufficient information to inform the beneficiary of the
49 reasons for making the proposed decision and the facts on
50 which the fiduciary relies, and explains how the beneficiary
51 will be affected by the proposed decision, a beneficiary
52 that opposes the proposed decision has the burden to
53 establish that it will result in an abuse of the fiduciary's
54 discretion.

 469.405. 1. [A trustee may adjust between principal
2 and income to the extent the trustee considers necessary if
3 the trustee invests and manages trust assets as a prudent
4 investor, the terms of the trust describe the amount that
5 may or shall be distributed to a beneficiary by referring to
6 the trust's income, and the trustee determines, after
7 applying subsection 1 of section 469.403, that the trustee
8 is unable to comply with subsection 2 of section 469.403.]
9 Except as otherwise provided in the terms of a trust or this

10 section, a fiduciary, in a record, without court approval,
11 may adjust between income and principal if the fiduciary
12 determines the exercise of the power to adjust will assist
13 the fiduciary to administer the trust or estate impartially.

14 2. This section does not create a duty to exercise or
15 consider the power to adjust under subsection 1 of this
16 section or to inform a beneficiary about the applicability
17 of this section.

18 3. A fiduciary that in good faith exercises or fails
19 to exercise the power to adjust under subsection 1 of this
20 section is not liable to a person affected by the exercise
21 or failure to exercise.

22 [2.] 4. In deciding whether and to what extent to
23 exercise the power [conferred by] to adjust under subsection
24 1 [of this section, a trustee] , a fiduciary shall consider
25 all factors the fiduciary considers relevant [to the trust
26 and its beneficiaries], including [the following] relevant
27 factors [to the extent relevant:] in subsection 5 of section
28 469.403 and the application of sections 469.423, 469.435,
29 and 469.445.

30 [(1) The nature, purpose and expected duration of the
31 trust;

32 (2) The intent of the settlor;

33 (3) The identity and circumstances of the
34 beneficiaries;

35 (4) The needs for liquidity, regularity of income, and
36 preservation and appreciation of capital;

37 (5) The assets held in the trust, including the extent
38 to which such assets consist of financial assets, interests
39 in closely held enterprises, tangible and intangible
40 personal property, or real property, and the extent to which
41 such assets are used by a beneficiary, and whether such

42 assets were purchased by the trustee or received from the
43 settlor;

44 (6) The net amount allocated to income pursuant to
45 sections 469.401 to 469.467, other than this section, and
46 the increase or decrease in the value of the principal
47 assets, which the trustee may estimate as to assets for
48 which market values are not readily available;

49 (7) Whether and to what extent the terms of the trust
50 give the trustee the power to invade principal or accumulate
51 income, or prohibit the trustee from invading principal or
52 accumulating income, and the extent to which the trustee has
53 exercised a power from time to time to invade principal or
54 accumulate income;

55 (8) The actual and anticipated effect of economic
56 conditions on principal and income and effects of inflation
57 and deflation; and

58 (9) The anticipated tax consequences of an adjustment.

59 3.] 5. A [trustee may] fiduciary shall not exercise
60 the power under subsection 1 of this section to make an
61 adjustment or under section 469.435 to make a determination
62 that an allocation is insubstantial if:

63 (1) [That diminishes the income interest in a trust
64 which requires all of the income to be paid at least
65 annually to a spouse and for which an estate tax or gift tax
66 marital deduction would be allowed, in whole or in part, if
67 the trustee did not have the power to make the adjustment;

68 (2) That reduces the actuarial value of the income
69 interest in a trust to which a person transfers property
70 with the intent to qualify for a gift tax exclusion;

71 (3) That changes] The adjustment or determination
72 would reduce the amount payable to a [beneficiary] current
73 income beneficiary from a trust that qualifies for a special
74 tax benefit, except to the extent the adjustment is made to

75 provide for a reasonable apportionment of the total return
76 of the trust between the current income beneficiary and
77 successor beneficiaries;

78 (2) The adjustment or determination would change the
79 amount payable to a beneficiary, as a fixed annuity or a
80 fixed fraction of the value of the trust assets, under the
81 terms of the trust;

82 [(4) From any] (3) The adjustment or determination
83 would reduce an amount that is permanently set aside for a
84 charitable [purposes] purpose under [a will or] the terms of
85 [a] the trust [to the extent that the existence of the power
86 to adjust would change the character of the amount] , unless
87 both income and principal are set aside for [federal income,
88 gift or estate tax purposes] the charitable purpose;

89 [(5) If] (4) Possessing or exercising the power [to
90 make an adjustment causes an individual] would cause a
91 person to be treated as the owner of all or part of the
92 trust for [income tax purposes, and the individual would not
93 be treated as the owner if the trustee did not possess the
94 power to make an adjustment] federal income tax purposes;

95 [(6) If] (5) Possessing or exercising the power [to
96 make an adjustment causes] would cause all or part of the
97 value of the trust assets to be included [for estate tax
98 purposes] in the gross estate of an individual [who has] for
99 federal estate tax purposes;

100 (6) Possessing or exercising the power [to remove or
101 appoint a trustee, or both,] would cause an individual to be
102 treated as making a gift for federal gift tax purposes;

103 (7) The fiduciary is not an independent person;

104 (8) The trust is irrevocable and [the assets would not
105 be included in the estate of the individual if the trustee
106 did not possess] provides for income to be paid to the
107 settlor and possessing or exercising the power [to make an

108 adjustment] would cause the adjusted principal or income to
109 be considered an available resource or available income
110 under a public-benefit program; or

111 [(7) If the trustee is a beneficiary of the trust; or
112 (8) If the trustee is not a beneficiary, but the
113 adjustment would benefit the trustee directly or indirectly]
114 (9) The trust is a unitrust under sections 469.471 to
115 469.487.

116 [4.] 6. If [subdivision (5), (6), (7) or (8) of]
117 subsection [3] 5 of this section applies to a [trustee and
118 there is more than one trustee, a cotrustee to whom the
119 provision does] fiduciary:

120 (1) A co-fiduciary to which subdivisions (4) to (7) of
121 subsection 5 of this section do not apply may [make]
122 exercise the [adjustment] power to adjust unless the
123 exercise of the power by the remaining [trustee or trustees]
124 co-fiduciary or co-fiduciaries is not permitted by the terms
125 of the trust or law other than sections 469.399 to 469.487;
126 and

127 (2) If there is no co-fiduciary to which subdivisions
128 (4) to (7) of subsection 5 of this section do not apply, the
129 fiduciary may appoint a co-fiduciary to which subdivisions
130 (4) to (7) of subsection 5 of this section do not apply,
131 which may be a special fiduciary with limited powers, and
132 the appointed co-fiduciary may exercise the power to adjust
133 under subsection 1 of this section, unless the appointment
134 of a co-fiduciary or the exercise of the power by a co-
135 fiduciary is not permitted by the terms of the trust or law
136 other than under sections 469.399 to 469.487.

137 [5.] 7. A [trustee] fiduciary may release [the entire
138 power conferred by subsection 1 of this section, or may
139 release only the power to adjust from income to principal or
140 the power to adjust from principal to income if the trustee

141 is uncertain about whether possessing or exercising the
142 power will] or delegate to a co-fiduciary the power to
143 adjust under subsection 1 of this section if the fiduciary
144 determines that the fiduciary's possession or exercise of
145 the power will or may:

146 (1) Cause a result described in subdivisions (1) to
147 (6) or subdivision (8) of subsection [3] 5 of this section
148 [,]; or [if the trustee determines that possessing or
149 exercising the power will or may]

150 (2) Deprive the trust of a tax benefit or impose a tax
151 burden not described in subdivisions (1) to (6) of
152 subsection [3] 5 of this section.

153 8. A fiduciary's release or delegation to a co-
154 fiduciary under subsection 7 of this section of the power to
155 adjust under subsection 1 of this section:

156 (1) Shall be in a record;

157 (2) Applies to the entire power, unless the release or
158 delegation provides a limitation, which may be a limitation
159 to the power to adjust:

160 (a) From income to principal;

161 (b) From principal to income;

162 (c) For specified property; or

163 (d) In specified circumstances;

164 (3) For a delegation, may be modified by a re-
165 delegation under this subsection by the co-fiduciary to
166 which the delegation is made; and

167 (4) Subject to subdivision (3) of this subsection, is
168 [may be] permanent [or for] unless the release or delegation
169 provides a specified period, including a period measured by
170 the life of an individual or the lives of more than one
171 individual.

172 [6.] 9. Terms of a trust that deny or limit the power
173 [of a trustee] to [make an adjustment] adjust between income

174 and principal [and income] do not affect the application of
175 this section unless [it is clear from] the terms of the
176 trust [that the terms are intended to] expressly deny [the
177 trustee] or limit the power [of adjustment conferred by] to
178 adjust under subsection 1 of this section.

179 10. The exercise of the power to adjust under
180 subsection 1 of this section in any accounting period may
181 apply to the current period, the immediately preceding
182 period, and one or more subsequent periods.

183 11. A description of the exercise of the power to
184 adjust under subsection 1 of this section shall be:

185 (1) Included in a report, if any, sent to
186 beneficiaries under subsection 3 of section 456.8-813; or

187 (2) Communicated at least annually to the qualified
188 beneficiaries defined under section 456.1-103 other than all
189 beneficiaries that receive or are entitled to receive income
190 from the trust or would be entitled to receive a
191 distribution of principal if the trust were terminated at
192 the time the notice is sent, assuming no power of
193 appointment is exercised.

469.413. [After a decedent dies, in the case] 1. This
2 section applies when:

3 (1) The death of an individual results in the creation
4 of an estate[, or after] or trust; or

5 (2) An income interest in a trust [ends, the following
6 rules apply:] terminates, whether the trust continues or is
7 distributed.

8 [(1)] 2. A fiduciary of an estate or [of a
9 terminating] trust with an income interest that terminates
10 shall determine, under subsection 7 of this section and
11 sections 469.417 to 469.462, the amount of net income and
12 net principal receipts received from property specifically
13 given to a beneficiary [pursuant to the rules in sections

14 469.417 to 469.461 which apply to trustees and the rules in
15 subdivision (5) of this section]. The fiduciary shall
16 distribute the net income and net principal receipts to the
17 beneficiary [who] that is to receive the specific
18 property[;].

19 [(2)] 3. A fiduciary shall determine the [remaining]
20 income and net income of [a decedent's] an estate or [a
21 terminating] income interest [pursuant to the rules in] in a
22 trust that terminates, other than the amount of net income
23 determined under subsection 2 of this section, under
24 sections 469.417 to [469.461 which apply to trustees]
25 469.462 and by:

26 [(a)] (1) Including in net income all income from
27 property used or sold to discharge liabilities;

28 [(b)] (2) Paying from income or principal, in the
29 fiduciary's discretion, fees of attorneys, accountants, and
30 fiduciaries; court costs and other expenses of
31 administration; and interest on [death] estate and
32 inheritance taxes and other taxes imposed because of the
33 decedent's death, but the fiduciary may pay [those] the
34 expenses from income of property passing to a trust for
35 which the fiduciary claims [an] a federal estate tax marital
36 or charitable deduction only to the extent [that]:

37 (a) The payment of [those] the expenses from income
38 will not cause the reduction or loss of the deduction; [and]
39 or

40 (b) The fiduciary makes an adjustment under subsection
41 2 of section 469.462; and

42 [(c)] (3) Paying from principal [all] other
43 disbursements made or incurred in connection with the
44 settlement of [a decedent's] the estate or the winding up of
45 [a terminating] an income interest[,], that terminates,
46 including:

47 (a) To the extent authorized by the decedent's will,
48 the terms of the trust, or applicable law, debts, funeral
49 expenses, disposition of remains, family allowances, [and
50 death taxes] estate and inheritance taxes, and other taxes
51 imposed because of the decedent's death; and

52 (b) Related penalties that are apportioned, by the
53 decedent's will, the terms of the trust, or applicable law,
54 to the estate or [terminating] income interest [by the will,
55 the terms of the trust, or applicable law;] that terminates.

56 [(3) A fiduciary shall distribute to a beneficiary who
57 receives a pecuniary amount outright the interest or any
58 other amount provided by the will, the terms of the trust,
59 or in the absence of any such provisions, the provisions of
60 section 473.633, from net income determined pursuant to
61 subdivision (2) of this section or from principal to the
62 extent that net income is insufficient.] 4. If a decedent's
63 will, the terms of a trust, or applicable law provides for
64 the payment of interest or the equivalent of interest to a
65 beneficiary that receives a pecuniary amount outright, the
66 fiduciary shall make the payment from net income determined
67 under subsection 3 of this section or from principal to the
68 extent net income is insufficient.

69 5. If a beneficiary is to receive a pecuniary amount
70 outright from a trust after an income interest ends because
71 of an income beneficiary's death, and no payment of interest
72 or [other amount] the equivalent of interest is provided for
73 by the terms of the trust or applicable law, the fiduciary
74 shall [distribute] pay the interest or [other amount] the
75 equivalent of interest to which the beneficiary would be
76 entitled under applicable law if the pecuniary amount were
77 required to be paid under a will[;].

78 [(4)] 6. A fiduciary shall distribute [the] net income
79 remaining after [distributions] payments required by

80 [subdivision (3)] subsections 4 and 5 of this section in the
81 manner described in section 469.415 to all other
82 beneficiaries, including a beneficiary [who] that receives a
83 pecuniary amount in trust, even if the beneficiary holds an
84 unqualified power to withdraw assets from the trust or other
85 presently exercisable general power of appointment over the
86 trust[;].

87 [(5)] 7. A fiduciary [may] shall not reduce principal
88 or income receipts from property described in [subdivision
89 (1)] subsection 2 of this section because of a payment
90 described in sections 469.451 and 469.453 to the extent
91 [that] the decedent's will, the terms of the trust, or
92 applicable law requires the fiduciary to make the payment
93 from assets other than the property or to the extent [that]
94 the fiduciary recovers or expects to recover the payment
95 from a third party. The net income and principal receipts
96 from the property [are] shall be determined by including
97 [all of] the amounts the fiduciary receives or pays [with
98 respect to] regarding the property, whether [those amounts]
99 the amount accrued or became due before, on, or after the
100 date of [a decedent's] the decedent's death or an income
101 interest's terminating event, and [by] making a reasonable
102 provision for [amounts that the fiduciary believes] an
103 amount the estate or [terminating] income interest may
104 become obligated to pay after the property is distributed.

469.415. 1. [Each] Except to the extent sections
2 469.471 to 469.487 apply for a beneficiary that is a trust,
3 each beneficiary described in subdivision [(4)] (6) of
4 section 469.413 is entitled to receive a [portion] share of
5 the net income equal to the beneficiary's fractional
6 interest in undistributed principal assets, using values as
7 of the distribution date. If a fiduciary makes more than
8 one distribution of assets to beneficiaries to [whom] which

9 this section applies, each beneficiary, including [one who]
10 a beneficiary that does not receive part of the
11 distribution, is entitled, as of each distribution date, to
12 a share of the net income the fiduciary [has] received after
13 the [date of] decedent's death [or] , an income interest's
14 other terminating event, or [earlier] the preceding
15 distribution [date but has not distributed as of the current
16 distribution date] by the fiduciary.

17 2. In determining a beneficiary's share of net income
18 under subsection 1 of this section, the following rules
19 apply:

20 (1) The beneficiary is entitled to receive a [portion]
21 share of the net income equal to the beneficiary's
22 fractional interest in the undistributed principal assets
23 immediately before the distribution date[, including assets
24 that later may be sold to meet principal obligations];

25 (2) The beneficiary's fractional interest [in the
26 undistributed principal assets shall] under subdivision (1)
27 of this subsection shall be calculated [without regard to
28 property specifically given to a beneficiary and property
29 required to pay pecuniary amounts not in trust;

30 (3) The beneficiary's fractional interest in the
31 undistributed principal assets shall be calculated] :

32 (a) On the [basis of the] aggregate value of [those]
33 the assets as of the distribution date without reducing the
34 value by any unpaid principal obligation; and

35 (b) Without regard to:

36 a. Property specifically given to a beneficiary under
37 the decedent's will or the terms of the trust; and

38 b. Property required to pay pecuniary amounts not in
39 trust; and

40 [(4)] (3) The distribution date [for purposes of this
41 section] under subdivision (1) of this subsection may be the

42 date as of which the fiduciary calculates the value of the
43 assets if that date is reasonably near the date on which the
44 assets are actually distributed.

45 3. [If] To the extent a fiduciary does not distribute
46 under this section all [of] the collected but undistributed
47 net income to each [person] beneficiary as of a distribution
48 date, the fiduciary shall maintain [appropriate] records
49 showing the interest of each beneficiary in [that] the net
50 income.

51 4. If this section applies to income from an asset, a
52 fiduciary may apply the rules in this section [, to the
53 extent that the fiduciary considers it appropriate,] to net
54 gain or loss realized from the disposition of the asset
55 after the [date of death or] decedent's death, an income
56 interest's terminating event, or [earlier] the preceding
57 distribution [date from the disposition of a principal asset
58 if this section applies to the income from the asset] by the
59 fiduciary.

469.417. 1. An income beneficiary is entitled to net
2 income in accordance with the terms of the trust from the
3 date [on which the] an income interest begins. [An] The
4 income interest begins on the date specified in the terms of
5 the trust or, if no date is specified, on the date an asset
6 becomes subject to [a trust or successive income interest] :
7 (1) The trust for the current income beneficiary; or
8 (2) A successive interest for a successor beneficiary.

9 2. An asset becomes subject to a trust under
10 subdivision (1) of subsection 1 of this section:

11 (1) [On the date it is transferred to the trust in the
12 case of] For an asset that is transferred to [a] the trust
13 during the [transferor's] settlor's life, on the date the
14 asset is transferred;

15 (2) [On the date of a testator's death in the case of]
16 For an asset that becomes subject to [a] the trust [by
17 reason] because of a [will] decedent's death, on the date of
18 the decedent's death, even if there is an intervening period
19 of administration of the [testator's] decedent's estate; or

20 (3) [On the date of an individual's death in the case
21 of] For an asset that is transferred to a fiduciary by a
22 third party because of [the individual's] a decedent's
23 death, on the date of the decedent's death.

24 3. An asset becomes subject to a successive [income]
25 interest under subdivision (2) of subsection 1 of this
26 section on the day after the preceding income interest ends,
27 as determined [pursuant to] under subsection 4 of this
28 section, even if there is an intervening period of
29 administration to wind up the preceding income interest.

30 4. An income interest ends on the day before an income
31 beneficiary dies or another terminating event occurs[,] or
32 on the last day of a period during which there is no
33 beneficiary to [whom] which a [trustee] fiduciary may or
34 shall distribute income.

469.419. 1. A [trustee] fiduciary shall allocate an
2 income receipt or disbursement, other than [one] a receipt
3 to which [subdivision (1)] subsection 2 of section 469.413
4 applies, to principal if its due date occurs before [a
5 decedent dies in the case of] the date on which:

6 (1) For an estate, the decedent died; or [before]

7 (2) For a trust or successive interest, an income
8 interest begins [in the case of a trust or successive income
9 interest].

10 2. [A trustee shall allocate an income receipt or
11 disbursement to income if its] If the due date of a periodic
12 income receipt or disbursement occurs on or after the date
13 on which a decedent [dies] died or an income interest

14 [begins and it is a periodic due date. An income] began, a
15 fiduciary shall allocate the receipt or disbursement to
16 income.

17 3. If an income receipt or disbursement is not
18 periodic or has no due date, a fiduciary shall [be treated]
19 treat the receipt or disbursement under this section as
20 accruing from day to day [if its due date is not periodic or
21 it has no due date]. The fiduciary shall allocate to
22 principal the portion of the receipt or disbursement
23 accruing before the date on which a decedent [dies] died or
24 an income interest [begins shall be allocated to principal]
25 began, and to income the balance [shall be allocated to
26 income].

27 [3.] 4. A receipt or disbursement is periodic under
28 subsections 2 and 3 of this section if:

29 (1) The receipt or disbursement shall be paid at
30 regular intervals under an obligation to make payments; or

31 (2) The payer customarily makes payments at regular
32 intervals.

33 5. An item of income or [an] obligation is due under
34 this section on the date [a payment] the payer is required
35 to make a payment. If a payment date is not stated, there
36 is no due date [for the purposes of sections 469.401 to
37 469.467].

38 6. Distributions to shareholders or other owners from
39 an entity to which section 469.423 applies are [deemed to
40 be] due:

41 (1) On the date fixed by or on behalf of the entity
42 for determining [who is] the persons entitled to receive the
43 distribution [or,];

44 (2) If no date is fixed, on the [declaration] date
45 [for] of the decision by or on behalf of the entity to make
46 the distribution[. A due date is periodic for receipts or

47 disbursements that shall be paid at regular intervals under
48 a lease or an obligation to pay interest or if an entity
49 customarily makes distributions at regular intervals]; or

50 (3) If no date is fixed and the fiduciary does not
51 know the date of the decision by or on behalf of the entity
52 to make the distribution, on the date the fiduciary learns
53 of the decision.

469.421. 1. [For purposes of] In this section, [the
2 phrase] "undistributed income" means net income received on
3 or before the date on which an income interest ends. The
4 [phrase] term does not include an item of income or expense
5 that is due or accrued[,] or net income that has been added
6 or is required to be added to principal under the terms of
7 the trust.

8 2. Except as otherwise provided in subsection 3 of
9 this section, when a mandatory income interest of a
10 beneficiary ends, the [trustee] fiduciary shall pay [to a
11 mandatory income beneficiary who survives that date, or the
12 estate of a deceased mandatory income beneficiary whose
13 death causes the interest to end,] the beneficiary's share
14 of the undistributed income that is not disposed of under
15 the terms of the trust [unless the] to the beneficiary or,
16 if the beneficiary does not survive the date the interest
17 ends, to the beneficiary's estate.

18 3. If a beneficiary has an unqualified power to
19 [revoke] withdraw more than five percent of the value of a
20 trust immediately before [the] an income interest ends[. In
21 the latter case,]:

22 (1) The fiduciary shall allocate to principal the
23 undistributed income from the portion of the trust that may
24 be [revoked shall be added to principal] withdrawn; and

25 (2) Subsection 2 of this section applies only to the
26 balance of the undistributed income.

27 [3.] 4. When a [trustee's] fiduciary's obligation to
28 pay a fixed annuity or a fixed fraction of the value of [the
29 trust's] assets ends, the [trustee] fiduciary shall prorate
30 the final payment [if and to the extent] as required [by
31 applicable law to accomplish a purpose of the trust or its
32 settlor relating] to preserve an income tax, gift tax,
33 estate tax, or other tax [requirements] benefit.

469.423. 1. [For purposes of] In this section[, the
2 term]:

3 (1) "Capital distribution" means an entity
4 distribution of money that is a:

5 (a) Return of capital; or

6 (b) Distribution in total or partial liquidation of
7 the entity;

8 (2) "Entity":

9 (a) Means a corporation, partnership, limited
10 liability company, regulated investment company, real estate
11 investment trust, common trust fund, or any other
12 organization [in which a trustee has an interest, other than
13 a trust or estate to which section 469.425 applies, a
14 business or activity to which section 469.427 applies, or an
15 asset-backed security to which section 469.449 applies.] or
16 arrangement in which a fiduciary owns or holds an interest,
17 whether or not the entity is a taxpayer for federal income
18 tax purposes; and

19 (b) Does not include:

20 a. A trust or estate to which section 469.425 applies;

21 b. A business or other activity to which section
22 469.427 applies that is not conducted by an entity described
23 in paragraph (a) of this subdivision;

24 c. An asset-backed security; or

25 d. An instrument or arrangement to which section
26 469.450 applies;

27 (3) "Entity distribution" means a payment or transfer
28 by an entity made to a person in the person's capacity as an
29 owner or holder of an interest in the entity.

30 2. In this section, an attribute or action of an
31 entity includes an attribute or action of any other entity
32 in which the entity owns or holds an interest, including an
33 interest owned or held indirectly through another entity.

34 [2.] 3. Except as otherwise provided in [this section]
35 subdivisions (2) to (4) of subsection 4 of this section, a
36 [trustee] fiduciary shall allocate to income:

37 (1) Money received [from] in an entity[.

38 3. A trustee shall allocate the following receipts
39 from an entity to principal:

40 (1) Property other than money;

41 (2) Money received in one distribution or a series of
42 related distributions in exchange for part or all of a
43 trust's interest in the entity;

44 (3) Money received in total or partial liquidation of
45 the entity; and

46 (4) Money received from an entity that is]
47 distribution; and

48 (2) Tangible personal property of nominal value
49 received from the entity.

50 4. A fiduciary shall allocate to principal:

51 (1) Property received in an entity distribution that
52 is not:

53 (a) Money; or

54 (b) Tangible personal property of nominal value;

55 (2) Money received in an entity distribution in an
56 exchange for part or all of the fiduciary's interest in the
57 entity, to the extent the entity distribution reduces the
58 fiduciary's interest in the entity relative to the interests
59 of other persons that own or hold interests in the entity;

60 (3) Money received in an entity distribution that the
61 fiduciary determines or estimates is a capital distribution;
62 and

63 (4) Money received in an entity distribution from an
64 entity that is:

65 (a) A regulated investment company or [a] real estate
66 investment trust if the money [distributed] received is a
67 capital gain dividend for federal income tax purposes[.

68 4. Money is received in partial liquidation:

69 (1) To the extent that the entity, at or near the time
70 of a distribution, indicates that such money is a
71 distribution in partial liquidation; or

72 (2) If]; or

73 (b) Treated for federal income tax purposes comparably
74 to the treatment described in paragraph (a) of this
75 subdivision.

76 5. A fiduciary may determine or estimate that money
77 received in an entity distribution is a capital distribution:

78 (1) By relying, without inquiry or investigation, on a
79 characterization of the entity distribution provided by or
80 on behalf of the entity unless the fiduciary:

81 (a) Determines, on the basis of information known to
82 the fiduciary, that the characterization is or may be
83 incorrect; or

84 (b) Owns or holds more than fifty percent of the
85 voting interest in the entity;

86 (2) By determining or estimating, on the basis of
87 information known to the fiduciary or provided to the
88 fiduciary by or on behalf of the entity, that the total
89 amount of money and property received by the fiduciary in
90 [a] the entity distribution or a series of related entity
91 distributions is or will be greater than twenty percent of
92 the [entity's gross assets, as shown by the entity's year-

93 end financial statements immediately preceding the initial
94 receipt.

95 5. Money is not received in partial liquidation, nor
96 may it be taken into account pursuant to subdivision (2) of
97 subsection 4 of this section, to the extent that such money
98 does not exceed the amount of income tax that a trustee or
99 beneficiary shall pay on taxable income of the entity that
100 distributes the money.

101 6. A trustee may rely upon a statement made by an
102 entity about the source or character of a distribution if
103 the statement is made at or near the time of distribution by
104 the entity's board of directors or other person or group of
105 persons authorized to exercise powers to pay money or
106 transfer property comparable to those of a corporation's
107 board of directors.] fair market value of the fiduciary's
108 interest in the entity; or

109 (3) If neither subdivision (1) nor (2) of this
110 subsection applies, by considering the factors in subsection
111 6 of this section and the information known to the fiduciary
112 or provided to the fiduciary by or on behalf of the entity.

113 6. In making a determination or estimate under
114 subdivision (3) of subsection 5 of this section, a fiduciary
115 may consider:

116 (1) A characterization of an entity distribution
117 provided by or on behalf of the entity;

118 (2) The amount of money or property received in:

119 (a) The entity distribution; or

120 (b) What the fiduciary determines is or will be a
121 series of related entity distributions;

122 (3) The amount described in subdivision (2) of this
123 subsection compared to the amount the fiduciary determines
124 or estimates is, during the current or preceding accounting
125 periods:

126 (a) The entity's operating income;
127 (b) The proceeds of the entity's sale or other
128 disposition of:
129 a. All or part of the business or other activity
130 conducted by the entity;
131 b. One or more business assets that are not sold to
132 customers in the ordinary course of the business or other
133 activity conducted by the entity; or
134 c. One or more assets other than business assets,
135 unless the entity's primary activity is to invest in assets
136 to realize gain on the disposition of all or some of the
137 assets;
138 (c) If the entity's primary activity is to invest in
139 assets to realize gain on the disposition of all or some of
140 the assets, the gain realized on the disposition;
141 (d) The entity's regular, periodic entity
142 distributions;
143 (e) The amount of money the entity has accumulated;
144 (f) The amount of money the entity has borrowed;
145 (g) The amount of money the entity has received from
146 the sources described in sections 469.433, 469.439, 469.441,
147 and 469.443; and
148 (h) The amount of money the entity has received from a
149 source not otherwise described in this paragraph; and
150 (4) Any other factor the fiduciary determines is
151 relevant.
152 7. If, after applying subsections 3 to 6 of this
153 section, a fiduciary determines that a part of an entity
154 distribution is a capital distribution but is in doubt about
155 the amount of the entity distribution that is a capital
156 distribution, the fiduciary shall allocate to principal the
157 amount of the entity distribution that is in doubt.

158 8. If a fiduciary receives additional information
159 about the application of this section to an entity
160 distribution before the fiduciary has paid part of the
161 entity distribution to a beneficiary, the fiduciary may
162 consider the additional information before making the
163 payment to the beneficiary and may change a decision to make
164 the payment to the beneficiary.

165 9. If a fiduciary receives additional information
166 about the application of this section to an entity
167 distribution after the fiduciary has paid part of the entity
168 distribution to a beneficiary, the fiduciary is not required
169 to change or recover the payment to the beneficiary but may
170 consider that information in determining whether to exercise
171 the power to adjust under section 469.405.

 469.425. A [trustee] fiduciary shall allocate to
2 income an amount received as a distribution of income,
3 including a unitrust distribution under sections 469.471 to
4 469.487, from a trust or [an] estate in which the [trust]
5 fiduciary has an interest, other than [a] an interest the
6 fiduciary purchased [interest] in a trust that is an
7 investment entity, and shall allocate to principal an amount
8 received as a distribution of principal from [such a] the
9 trust or estate. If a [trustee] fiduciary purchases, or
10 receives from a settlor, an interest in a trust that is an
11 investment entity, [or a decedent or donor transfers an
12 interest in such a trust to a trustee,] section 469.423
13 [or], 469.449 [shall apply], or 469.450 applies to a receipt
14 from the trust.

 469.427. 1. [If a trustee who conducts] This section
2 applies to a business or other activity conducted by a
3 fiduciary if the fiduciary determines that it is in the
4 [best interest] interests of [all] the beneficiaries to

5 account separately for the business or other activity
6 instead of:

7 (1) Accounting for [it] the business or other activity
8 as part of the [trust's] fiduciary's general accounting
9 records~~[,]~~; or

10 (2) Conducting the [trustee] business or other
11 activity through an entity described in paragraph (a) of
12 subdivision (2) of subsection 1 of section 469.423.

13 2. A fiduciary may [maintain separate accounting
14 records] account separately under this section for [its] the
15 transactions of a business or other activity, whether or not
16 [its] assets of the business or other activity are
17 segregated from other [trust] assets held by the fiduciary.

18 [2.] 3. A [trustee who] fiduciary that accounts
19 separately under this section for a business or other
20 activity:

21 (1) May determine:

22 (a) The extent to which the net cash receipts [shall]
23 of the business or other activity shall be retained for:

24 a. Working capital~~[,]~~;

25 b. The acquisition or replacement of fixed assets~~[,]~~;

26 and

27 c. Other reasonably foreseeable needs of the business
28 or other activity~~[,]~~; and

29 (b) The extent to which the remaining net cash
30 receipts are accounted for as principal or income in the
31 [trust's] fiduciary's general accounting records~~[. If a~~
32 ~~trustee sells assets of the business or other activity,~~
33 ~~other than in the ordinary course of the business or~~
34 ~~activity, the trustee]~~ for the trust;

35 (2) May make a determination under subdivision (1) of
36 this subsection separately and differently from the

37 fiduciary's decisions concerning distributions of income or
38 principal; and

39 (3) Shall account for the net amount received from the
40 sale of an asset of the business or other activity, other
41 than a sale in the ordinary course of the business or other
42 activity, as principal in the [trust's] fiduciary's general
43 accounting records for the trust, to the extent the
44 [trustee] fiduciary determines that the net amount received
45 is no longer required in the conduct of the business or
46 other activity.

47 [3.] 4. Activities for which a [trustee may maintain
48 separate accounting records] fiduciary may account
49 separately under this section include:

- 50 (1) Retail, manufacturing, service, and other
51 traditional business activities;
- 52 (2) Farming;
- 53 (3) Raising and selling livestock and other animals;
- 54 (4) [Management of] Managing rental properties;
- 55 (5) [Extraction of] Extracting minerals, water, and
56 other natural resources;
- 57 (6) Growing and cutting timber [operations]; [and]
- 58 (7) [Activities] An activity to which section 469.447,
59 469.449, or 469.450 applies[.]; and
- 60 (8) Any other business conducted by the fiduciary.

469.429. A [trustee] fiduciary shall allocate to
2 principal:

3 (1) To the extent not allocated to income [pursuant
4 to] under sections [469.401] 469.399 to [469.467] 469.487,
5 [assets] an asset received from [a transferor]:

6 (a) An individual during the [transferor's]
7 individual's lifetime[, a decedent's];

8 (b) An estate[,];

9 (c) A trust [with a terminating] on termination of an
10 income interest[,]; or

11 (d) A payer under a contract naming the [trust or its
12 trustee] fiduciary as beneficiary;

13 (2) Except as otherwise provided in sections 469.423
14 to 469.450, money or other property received from the sale,
15 exchange, liquidation, or change in form of a principal
16 asset[, including realized profit, subject to sections
17 469.423 to 469.467];

18 (3) [Amounts] An amount recovered from a third
19 [parties] party to reimburse the [trust] fiduciary because
20 of [disbursements] a disbursement described in [subdivision
21 (7) of] subsection 1 of section 469.453 or for [other
22 reasons] another reason to the extent not based on [the]
23 loss of income;

24 (4) Proceeds of property taken by eminent domain, [but
25 a separate award made] except that proceeds awarded for
26 [the] loss of income [with respect to] in an accounting
27 period [during which] are income if a current income
28 beneficiary had a mandatory income interest [is income]
29 during the period;

30 (5) Net income received in an accounting period during
31 which there is no beneficiary to [whom] which a [trustee]
32 fiduciary may or shall distribute income; and

33 (6) Other receipts as provided in sections 469.435 to
34 [469.449] 469.450.

469.431. To the extent [that a trustee accounts] a
2 fiduciary does not account for [receipts from] the
3 management of rental property [pursuant to this section] as
4 a business under section 469.427, the [trustee] fiduciary
5 shall allocate to income an amount received as rent of real
6 or personal property, including an amount received for
7 cancellation or renewal of a lease. An amount received as a

8 refundable deposit, including a security deposit or a
9 deposit that is to be applied as rent for future periods[,
10 shall be added to principal and held subject to the terms of
11 the lease and is not available for distribution to a
12 beneficiary until the trustee's contractual obligations have
13 been satisfied with respect to that amount.]:

14 (1) Shall be added to principal and held subject to
15 the terms of the lease, except as otherwise provided by law
16 other than sections 469.399 to 469.487; and

17 (2) Is not allocated to income or available for
18 distribution to a beneficiary until the fiduciary's
19 contractual obligations have been satisfied with respect to
20 that amount.

469.432. 1. This section does not apply to an
2 obligation to which section 469.437, 469.439, 469.441,
3 469.443, 469.447, 469.449, or 469.450 applies.

4 2. A fiduciary shall allocate to income, without
5 provision for amortization of premium, an amount received as
6 interest[, whether determined at a fixed, variable or
7 floating rate,] on an obligation to pay money to the
8 [trustee] fiduciary, including an amount received as
9 consideration for prepaying principal[, shall be allocated
10 to income without any provision for amortization of premium].

11 [2.] 3. A [trustee] fiduciary shall allocate to
12 principal an amount received from the sale, redemption, or
13 other disposition of an obligation to pay money to the
14 [trustee more than one year after it is purchased or
15 acquired by the trustee, including an obligation whose
16 purchase price or value when it is acquired is less than its
17 value at maturity. If the obligation matures within one
18 year after it is purchased or acquired by the trustee, an
19 amount received in excess of its purchase price or its value
20 when acquired by the trust shall be allocated to income]

21 fiduciary. A fiduciary shall allocate to income the
22 increment in value of a bond or other obligation for the
23 payment of money bearing no stated interest but payable or
24 redeemable, at maturity or another future time, in an amount
25 that exceeds the amount in consideration of which it was
26 issued.

27 [3. This section does not apply to an obligation to
28 which section 469.437, 469.439, 469.441, 469.443, 469.447 or
29 469.449 applies.]

469.433. 1. This section does not apply to a contract
2 to which section 469.437 applies.

3 2. Except as otherwise provided in subsection [2] 3 of
4 this section, a [trustee] fiduciary shall allocate to
5 principal the proceeds of a life insurance policy or other
6 contract [in which the trust or its trustee is named]
7 received by the fiduciary as beneficiary, including a
8 contract that insures [the trust or its trustee] against
9 [loss for] damage to, destruction of, or loss of title to [a
10 trust] an asset. The [trustee] fiduciary shall allocate
11 dividends on an insurance policy to income [if] to the
12 extent premiums on the policy are paid from income[,] and to
13 principal [if] to the extent premiums on the policy are paid
14 from principal.

15 [2.] 3. A [trustee] fiduciary shall allocate to income
16 proceeds of a contract that insures the [trustee] fiduciary
17 against loss of:

18 (1) Occupancy or other use by [an income beneficiary,
19 loss of] a current income[,] beneficiary;

20 (2) Income; or[,]

21 (3) Subject to section 469.427, [loss of] profits from
22 a business.

23 [3. This section does not apply to a contract to which
24 section 469.437 applies.]

469.435. 1. If a [trustee] fiduciary determines that
an allocation between income and principal [and income]
required by section 469.437, 469.439, 469.441, 469.443 or
469.449 is insubstantial, the [trustee] fiduciary may
allocate the entire amount to principal, unless [one of the
circumstances described in] subsection [3] 5 of section
469.405 applies to the allocation. [This power]

2. A fiduciary may [be exercised by a cotrustee in the
circumstances described in subsection 4 of section 469.405
and may be released for the reasons and in the manner
described in subsection 5 of section 469.405.] presume an
allocation is [presumed to be] insubstantial under
subsection 1 of this section if:

(1) The amount of the allocation would increase or
decrease net income in an accounting period, as determined
before the allocation, by less than ten percent; [or] and

(2) [The value of] The asset producing the receipt
[for which the allocation would] to be [made is] allocated
has a fair market value less than ten percent of the total
fair market value of the [trust's] assets owned or held by
the fiduciary at the beginning of the accounting period.

3. The power to make a determination under subsection
1 of this section may be:

(1) Exercised by a co-fiduciary in the manner
described in subsection 6 of section 469.405; or

(2) Released or delegated for a reason described in
subsection 7 of section 469.405 and in the manner described
in subsection 8 of section 469.405.

469.437. 1. As used in this section, the following
terms mean:

(1) ["Payment", an amount that is:

(a) Received or withdrawn from a plan; or

5 (b) One of a series of distributions that have been or
6 will be received over a fixed number of years or during the
7 life of one or more individuals under any contractual or
8 other arrangement, or is a single payment from a plan that
9 the trustee could have received over a fixed number of years
10 or during the life of one or more individuals;

11 (2) "Plan", a contractual, custodial, trust or other
12 arrangement that provides for distributions to the trust,
13 including, but not limited to, qualified retirement plans,
14 Individual Retirement Accounts, Roth Individual Retirement
15 Accounts, public and private annuities, and deferred
16 compensation, including payments received directly from an
17 entity as defined in section 469.423 regardless of whether
18 or not such distributions are made from a specific fund or
19 account.

20 2. If any portion of a payment is characterized as a
21 distribution to the trustee of interest, dividends or a
22 dividend equivalent, the trustee shall allocate the portion
23 so characterized to income. The trustee shall allocate the
24 balance of that payment to principal.

25 3. If no part of a payment is allocated to income
26 pursuant to subsection 2 of this section, then for each
27 accounting period of the trust that any payment is received
28 by the trust with respect to the trust's interest in a plan,
29 the trustee shall allocate to income that portion of the
30 aggregate value of all payments received by the trustee in
31 that accounting period equal to the amount of plan income
32 attributable to the trust's interest in the plan for that
33 calendar year. The trustee shall allocate the balance of
34 that payment to principal.

35 4. For purposes of this section, if a payment is
36 received from a plan that maintains a separate account or
37 fund for its participants or account holders, including, but

38 not limited to, defined contribution retirement plans,
39 Individual Retirement Accounts, Roth Individual Retirement
40 Accounts, and some types of deferred compensation plans, the
41 phrase "plan income" shall mean either the amount of the
42 plan account or fund held for the benefit of the trust that,
43 if the plan account or fund were a trust, would be allocated
44 to income pursuant to sections 469.401 to 469.467 for that
45 accounting period, or four percent of the value of the plan
46 account or fund on the first day of that accounting period.
47 The method of determining plan income pursuant to this
48 subsection shall be chosen by the trustee in the trustee's
49 discretion. The trustees may change the method of
50 determining plan income pursuant to this subsection for any
51 future accounting period.

52 5. For purposes of this section if the payment is
53 received from a plan that does not maintain a separate
54 account or fund for its participants or account holders,
55 including by way of example and not limitation defined
56 benefit retirement plans and some types of deferred
57 compensation plans, the term "plan income" shall mean four
58 percent of the total present value of the trust's interest
59 in the plan as of the first day of the accounting period,
60 based on reasonable actuarial assumptions as determined by
61 the trustee.

62 6. Notwithstanding subsections 1 to 5 of this section,
63 with respect to a trust where an election to qualify for a
64 marital deduction under Section 2056(b)(7) or Section
65 2523(f) of the Internal Revenue Code of 1986, as amended,
66 has been made, or a trust that qualified for the marital
67 deduction under either Section 2056(b)(5) or Section 2523(e)
68 of the Internal Revenue Code of 1986, as amended, a trustee
69 shall determine the plan income for the accounting period as
70 if the plan were a trust subject to sections 469.401 to

71 469.467. Upon request of the surviving spouse, the trustee
72 shall demand that the person administering the plan
73 distribute the plan income to the trust. The trustee shall
74 allocate a payment from the plan to income to the extent of
75 the plan income and distribute that amount to the surviving
76 spouse. The trustee shall allocate the balance of the
77 payment to principal. Upon request of the surviving spouse,
78 the trustee shall allocate principal to income to the extent
79 the plan income exceeds payments made from the plan to the
80 trust during the accounting period.

81 7. If, to obtain an estate or gift tax marital
82 deduction for a trust, a trustee shall allocate more of a
83 payment to income than provided for by this section, the
84 trustee shall allocate to income the additional amount
85 necessary to obtain the marital deduction.] "Internal income
86 of a separate fund", the amount determined under subsection
87 2 of this section;

88 (2) "Marital trust", a trust:

89 (a) Of which the settlor's surviving spouse is the
90 only current income beneficiary and is entitled to a
91 distribution of all the current net income of the trust; and

92 (b) That qualifies for a marital deduction with
93 respect to the settlor's estate under 26 U.S.C. Section
94 2056, as amended, because:

95 a. An election to qualify for a marital deduction
96 under 26 U.S.C. Section 2056(b) (7), as amended, has been
97 made; or

98 b. The trust qualifies for a marital deduction under
99 26 U.S.C. Section 2056(b) (5), as amended;

100 (3) "Payment", an amount a fiduciary may receive over
101 a fixed number of years or during the life of one or more
102 individuals because of services rendered or property
103 transferred to the payer in exchange for future amounts the

104 fiduciary may receive. The term includes an amount received
105 in money or property from the payer's general assets or from
106 a separate fund created by the payer;

107 (4) "Separate fund" includes a private or commercial
108 annuity, an individual retirement account, and a pension,
109 profit-sharing, stock bonus, or stock ownership plan.

110 2. For each accounting period, the following rules
111 apply to a separate fund:

112 (1) The fiduciary shall determine the internal income
113 of the separate fund as if the separate fund was a trust
114 subject to sections 469.399 to 469.487;

115 (2) If the fiduciary cannot determine the internal
116 income of the separate fund under subdivision (1) of this
117 subsection, the internal income of the separate fund is
118 deemed to equal three percent of the value of the separate
119 fund, according to the most recent statement of value
120 preceding the beginning of the accounting period; and

121 (3) If the fiduciary cannot determine the value of the
122 separate fund under subdivision (2) of this subsection, the
123 value of the separate fund is deemed to equal the present
124 value of the expected future payments, as determined under
125 26 U.S.C. Section 7520, as amended, for the month preceding
126 the beginning of the accounting period for which the
127 computation is made.

128 3. A fiduciary shall allocate a payment received from
129 a separate fund during an accounting period to income, to
130 the extent of the internal income of the separate fund
131 during the period, and the balance to principal.

132 4. The fiduciary of a marital trust shall:

133 (1) Withdraw from a separate fund the amount the
134 current income beneficiary of the trust requests the
135 fiduciary to withdraw, not greater than the amount by which
136 the internal income of the separate fund during the

137 accounting period exceeds the amount the fiduciary otherwise
138 receives from the separate fund during the period;

139 (2) Transfer from principal to income the amount the
140 current income beneficiary requests the fiduciary to
141 transfer, not greater than the amount by which the internal
142 income of the separate fund during the period exceeds the
143 amount the fiduciary receives from the separate fund during
144 the period after the application of subdivision (1) of this
145 subsection; and

146 (3) Distribute to the current income beneficiary as
147 income:

148 (a) The amount of the internal income of the separate
149 fund received or withdrawn during the period; and

150 (b) The amount transferred from principal to income
151 under subdivision (2) of this subsection.

152 5. For a trust, other than a marital trust, of which
153 one or more current income beneficiaries are entitled to a
154 distribution of all the current net income, the fiduciary
155 shall transfer from principal to income the amount by which
156 the internal income of a separate fund during the accounting
157 period exceeds the amount the fiduciary receives from the
158 separate fund during the period.

469.439. 1. **[As used]** In this section, **[the phrase]**
2 "liquidating asset" means an asset whose value will diminish
3 or terminate because the asset is expected to produce
4 receipts for a **[period of]** limited **[duration]** time. The
5 **[phrase]** term includes a leasehold, patent, copyright,
6 royalty right, and right to receive payments during a period
7 of more than one year under an arrangement that does not
8 provide for the payment of interest on the unpaid balance.

9 **[The phrase]**

10 2. This section does not **[include a payment]** apply to
11 a receipt subject to section 469.423, 469.437, [resources

12 subject to section] 469.441, [timber subject to section]
13 469.443, [an activity subject to section] 469.447, [an asset
14 subject to section] 469.449, 469.450, or [any asset for
15 which the trustee establishes a reserve for depreciation
16 pursuant to section] 469.455.

17 [2.] 3. A [trustee] fiduciary shall allocate:

18 (1) To income [ten percent of the receipts from]:

19 (a) A receipt produced by a liquidating asset [and the
20 balance], to the extent the receipt does not exceed three
21 percent of the value of the asset; or

22 (b) If the fiduciary cannot determine the value of the
23 asset, ten percent of the receipt; and

24 (2) To principal, the balance of the receipt.

469.441. 1. To the extent [that a trustee accounts
2 for receipts] a fiduciary does not account for a receipt
3 from an interest in minerals, water, or other natural
4 resources [pursuant to this section] as a business under
5 section 469.427, the [trustee] fiduciary shall allocate
6 [them as follows] the receipt:

7 (1) [If] To income, to the extent received:

8 (a) As [nominal] delay rental or [nominal] annual rent
9 on a lease[, a receipt shall be allocated to income];

10 (b) As a factor for interest or the equivalent of
11 interest under an agreement creating a production payment; or

12 (c) On account of an interest in renewable water;

13 (2) To principal, if received from a production
14 payment, [a receipt shall be allocated to income if and to
15 the extent that the agreement creating the production
16 payment provides a factor for interest or its equivalent.

17 The balance shall be allocated to principal;] to the extent
18 paragraph (b) of subdivision (1) of this subsection does not
19 apply; or

20 (3) [If an amount received] Between income and
21 principal equitably, to the extent received:
22 (a) On account of an interest in nonrenewable water;
23 (b) As a royalty, shut-in-well payment, take-or-pay
24 payment, or bonus [or delay rental is more than nominal,
25 ninety percent shall be allocated to principal and the
26 balance to income]; or
27 [(4) If an amount is received] (c) From a working
28 interest or any other interest not provided for in
29 subdivision (1) [,] or (2) [or (3)] of this subsection[,,
30 ninety percent of the net amount received shall be allocated
31 to principal and the balance to income] or paragraph (a) or
32 (b) of this subdivision.
33 2. [An amount received on account of] This section
34 applies to an interest [in water that is renewable shall be
35 allocated to income. If the water is not renewable, ninety
36 percent of the amount shall be allocated to principal and
37 the balance to income.
38 3. Sections 469.401 to 469.467 apply] owned or held by
39 a fiduciary whether or not a [decedent or donor] settlor was
40 extracting minerals, water, or other natural resources
41 before the fiduciary owned or held the interest [became
42 subject to the trust].
43 3. An allocation of a receipt under subdivision (3) of
44 subsection 1 of this section is presumed to be equitable if
45 the amount allocated to principal is equal to the amount
46 allowed by 26 U.S.C., as amended, as a deduction for
47 depletion of the interest.
48 4. If a [trust] fiduciary owns or holds an interest in
49 minerals, water, or other natural resources [on] before
50 August 28, [2001] 2023, the [trustee] fiduciary may allocate
51 receipts from the interest as provided in [sections 469.401
52 to 469.467] this section or in the manner used by the

53 [trustee] fiduciary before August 28, [2001] 2023. If the
54 [trust] fiduciary acquires an interest in minerals, water,
55 or other natural resources on or after August 28, [2001]
56 2023, the [trustee] fiduciary shall allocate receipts from
57 the interest as provided in [sections 469.401 to 469.467]
58 this section.

469.443. 1. To the extent [that a trustee accounts] a
2 fiduciary does not account for receipts from the sale of
3 timber and related products [pursuant to this section] as a
4 business under section 469.427, the [trustee] fiduciary
5 shall allocate the net receipts:

6 (1) To income, to the extent [that] the amount of
7 timber [removed] cut from the land does not exceed the rate
8 of growth of the timber [during the accounting periods in
9 which a beneficiary has a mandatory income interest];

10 (2) To principal, to the extent [that] the amount of
11 timber [removed] cut from the land exceeds the rate of
12 growth of the timber or the net receipts are from the sale
13 of standing timber;

14 (3) [To or] Between income and principal if the net
15 receipts are from the lease of [timberland] land used for
16 growing and cutting timber or from a contract to cut timber
17 from land [owned by a trust], by determining the amount of
18 timber [removed] cut from the land under the lease or
19 contract and applying the rules in subdivisions (1) and (2)
20 of this subsection; or

21 (4) To principal, to the extent [that] advance
22 payments, bonuses, and other payments are not allocated
23 [pursuant to either] under subdivision (1), (2), or (3) of
24 this subsection.

25 2. In determining net receipts to be allocated
26 [pursuant to] under subsection 1 of this section, a

27 [trustee] fiduciary shall deduct and transfer to principal a
28 reasonable amount for depletion.

29 3. [Sections 469.401 to 469.467 apply] This section
30 applies to land owned or held by a fiduciary whether or not
31 a [decedent or transferor] settlor was [harvesting] cutting
32 timber from the land before the fiduciary owned or held the
33 property [before it became subject to the trust].

34 4. If a [trust] fiduciary owns or holds an interest in
35 [timberland on] land used for growing and cutting timber
36 before August 28, [2001] 2023, the [trustee] fiduciary may
37 allocate net receipts from the sale of timber and related
38 products as provided in [sections 469.401 to 469.467] this
39 section or in the manner used by the [trustee] fiduciary
40 before August 28, [2001] 2023. If the [trust] fiduciary
41 acquires an interest in [timberland] land used for growing
42 and cutting timber on or after August 28, [2001] 2023, the
43 [trustee] fiduciary shall allocate net receipts from the
44 sale of timber and related products as provided in [sections
45 469.401 to 469.467] this section.

469.445. 1. If a trust received property for which a
2 gift or estate tax marital deduction [is allowed for all or
3 part of a trust whose] was allowed and the settlor's spouse
4 holds a mandatory income interest in the trust, the spouse
5 may require the trustee, to the extent the trust assets
6 [consist substantially of property that does] otherwise do
7 not provide the spouse with sufficient income from or use of
8 the trust assets[, and if the amounts that the trustee
9 transfers from principal to income pursuant to section
10 469.405 and distributes to the spouse from principal
11 pursuant to the terms of the trust are insufficient to
12 provide the spouse with the beneficial enjoyment required to
13 obtain the marital] to qualify for the deduction, [the
14 spouse may require the trustee] to:

- 15 (1) Make property productive of income[,];
16 (2) Convert property to property productive of income
17 within a reasonable time[,]; or
18 (3) Exercise the power [conferred by subsection 1 of]
19 to adjust under section 469.405.

20 2. The trustee may decide which action or combination
21 of actions in subsection 1 of this section to take.

22 [2. In cases not governed by subsection 1 of this
23 section, proceeds from the sale or other disposition of an
24 asset are principal without regard to the amount of income
25 the asset produces during any accounting period.]

469.447. 1. [As used] In this section, [the term]
2 "derivative" means a contract [or financial], instrument,
3 other arrangement, or a combination of contracts [and
4 financial], instruments, or other arrangements, the value,
5 rights, and obligations of which [gives a trust the right or
6 obligation to participate in some or all changes in the
7 price of a] are, in whole or in part, dependent on or
8 derived from an underlying tangible or intangible asset [or
9 group of assets, or changes in a rate, an index of prices
10 or], group of tangible or intangible assets, index, or
11 occurrence of an event. The term includes stocks, fixed
12 income securities, and financial instruments and
13 arrangements based on indices, commodities, interest rates,
14 [or other market indicator for an asset or a group of
15 assets] weather-related events, and credit default events.

16 2. To the extent [that a trustee] a fiduciary does not
17 account [pursuant to section 469.427 for transactions] for a
18 transaction in derivatives[, the trustee] as a business
19 under section 469.427, the fiduciary shall allocate [to
20 principal] ten percent of receipts from the transaction and
21 ten percent of disbursements made in connection with [those

22 transactions] the transaction to income and the balance to
23 principal.

24 3. Subsection 4 of this section applies if:

25 (1) A [trustee] fiduciary:

26 (a) Grants an option to buy property from [the] a
27 trust, whether or not the trust owns the property when the
28 option is granted[,];

29 (b) Grants an option that permits another person to
30 sell property to the trust[,]; or

31 (c) Acquires an option to buy property for the trust
32 or an option to sell an asset owned by the trust[,]; and

33 (2) The [trustee] fiduciary or other owner of the
34 asset is required to deliver the asset if the option is
35 exercised[,].

36 4. If this subsection applies, the fiduciary shall
37 allocate ten percent to income and the balance to principal
38 of the following amounts:

39 (1) An amount received for granting the option [shall
40 be allocated to principal.];

41 (2) An amount paid to acquire the option [shall be
42 paid from principal. A]; and

43 (3) Gain or loss realized [upon] on the exercise [of
44 an option, including an option granted to a settlor],
45 exchange, settlement, offset, closing, or expiration of the
46 [trust for services rendered, shall be allocated to
47 principal] option.

469.449. 1. [As used in this section, the phrase
2 "asset-backed security" means an asset whose value is based
3 upon the right it gives the owner to receive distributions
4 from the proceeds of financial assets that provide
5 collateral for the security. The phrase includes an asset
6 that gives the owner the right to receive from the
7 collateral financial assets only the interest or other

8 current return or only the proceeds other than interest or
9 current return. The phrase does not include an asset to
10 which section 469.423 or 469.437 applies.

11 2. If a trust receives a payment from interest or
12 other current return and from other proceeds of the
13 collateral financial assets, the trustee] Except as
14 otherwise provided in subsection 2 of this section, a
15 fiduciary shall allocate to income [the portion of] a
16 receipt from or related to an asset-backed security, to the
17 extent the [payment which the] payer identifies the payment
18 as being from interest or other current return, and [shall
19 allocate] to principal the balance of the [payment to
20 principal] receipt.

21 [3.] 2. If a [trust] fiduciary receives one or more
22 payments in exchange for part or all of the [trust's entire]
23 fiduciary's interest in an asset-backed security [in one
24 accounting period, the trustee shall allocate the payments
25 to principal. If a payment is one of a series of payments
26 that will result in the], including a liquidation or
27 redemption of the [trust's] fiduciary's interest in the
28 security [over more than one accounting period], the
29 [trustee] fiduciary shall allocate [ten] to income ten
30 percent of receipts from the [payment to income] transaction
31 and [the balance to principal] ten percent of disbursements
32 made in connection with the transaction, and to principal
33 the balance of the receipts and disbursements.

469.450. A fiduciary shall allocate receipts from or
2 related to a financial instrument or arrangement not
3 otherwise addressed by sections 469.399 to 469.487. The
4 allocation shall be consistent with sections 469.447 and
5 469.449.

469.451. [A trustee shall make the following
2 disbursements from income to the extent that they are not

3 ~~disbursements to which paragraph (b) or (c) of]~~ Subject to
4 section 469.456, and except as otherwise provided in
5 subdivision (2) or (3) of subsection 3 of section 469.413
6 [applies], a fiduciary shall disburse from income:

7 (1) One-half of:

8 (a) The regular compensation of the [trustee]
9 fiduciary and [of] any person providing investment advisory
10 [or], custodial, or other services to the [trustee]
11 fiduciary, to the extent income is sufficient; and

12 ~~[(2) One-half of all expenses]~~ (b) An expense for
13 [accountings] an accounting, judicial [proceedings] or
14 nonjudicial proceeding, or other [matters] matter that
15 [involve] involves both [the] income and [remainder]
16 successive interests, to the extent income is sufficient;

17 ~~[(3) All of the other]~~ (2) The balance of the
18 disbursements described in subdivision (1) of this section,
19 to the extent a fiduciary that is an independent person
20 determines that making those disbursements from income would
21 be in the interests of the beneficiaries;

22 (3) Another ordinary [expenses] expense incurred in
23 connection with [the] administration, management, or
24 preservation of [trust] property and [the] distribution of
25 income, including interest, an ordinary [repairs] repair,
26 regularly recurring [taxes] tax assessed against principal,
27 and [expenses] an expense of [a] an accounting, judicial or
28 nonjudicial proceeding, or other matter that [concerns]
29 involves primarily [the] an income interest, to the extent
30 income is sufficient; and

31 (4) ~~[Recurring premiums]~~ A premium on insurance
32 covering [the] loss of a principal asset or [the loss of]
33 income from or use of the asset.

469.453. 1. ~~[A trustee shall make the following~~
2 ~~disbursements]~~ Subject to section 469.457, and except as

3 otherwise provided in subdivision (2) of subsection 3 of
4 section 469.413, a fiduciary shall disburse from principal:

5 (1) The [remaining one-half] balance of the
6 disbursements described in [subdivisions (1) and (2)]
7 subsections 1 and 3 of section 469.451, after application of
8 subsection 2 of section 469.451;

9 (2) [All of] The [trustee's] fiduciary's compensation
10 calculated on principal as a fee for acceptance,
11 distribution, or termination[, and disbursements made to
12 prepare property for sale];

13 (3) [Payments] A payment of an expense to prepare for
14 or execute a sale or other disposition of property;

15 (4) A payment on the principal of a trust debt;

16 [(4) Expenses of a] (5) A payment of an expense of an
17 accounting, judicial or nonjudicial proceeding, or other
18 matter that [concerns] involves primarily [an interest in]
19 principal, including a proceeding to construe the terms of
20 the trust or protect property;

21 [(5) Premiums paid on a policy of] (6) A payment of a
22 premium for insurance, including title insurance, not
23 described in subdivision (4) of section 469.451 of which the
24 [trust] fiduciary is the owner and beneficiary;

25 [(6)] (7) A payment of an estate[,] or inheritance
26 [and other transfer taxes] tax or other tax imposed because
27 of the death of a decedent, including penalties, apportioned
28 to the trust; and

29 [(7) Extraordinary expenses incurred in connection
30 with the management and preservation of trust property;

31 (8) Expenses for a capital improvement to a principal
32 asset, whether in the form of changes to an existing asset
33 or the construction of a new asset, including special
34 assessments; and

35 (9) Disbursements] (8) A payment:

36 (a) Related to environmental matters, including:
37 a. Reclamation[**,**];
38 b. Assessing environmental conditions[**,**];
39 c. Remedying and removing environmental
40 contamination[**,**];
41 d. Monitoring remedial activities and the release of
42 substances[**,**];
43 e. Preventing future releases of substances[**,**];
44 f. Collecting amounts from persons liable or
45 potentially liable for the costs of [**those**] activities[**,**]
46 described in subparagraphs a. to e. of this paragraph;
47 g. Penalties imposed under environmental laws or
48 regulations [**and**];
49 h. Other [**payments made**] actions to comply with
50 [**those**] environmental laws or regulations[**,**];
51 i. Statutory or common law claims by third parties[**,**];
52 and
53 j. Defending claims based on environmental matters[**.**];
54 and
55 (b) For a premium for insurance for matters described
56 in paragraph (a) of this subdivision.

57 2. If a principal asset is encumbered with an
58 obligation that requires income from [**that**] the asset to be
59 paid directly to [**the**] a creditor, the [**trustee**] fiduciary
60 shall transfer from principal to income an amount equal to
61 the income paid to the creditor in reduction of the
62 principal balance of the obligation.

469.455. 1. [**As used**] In this section, [**the term**]
2 "depreciation" means a reduction in value due to wear, tear,
3 decay, corrosion, or gradual obsolescence of a [**fixed**]
4 tangible asset having a useful life of more than one year.

5 2. A [**trustee**] fiduciary may transfer to principal a
6 reasonable amount of the net cash receipts from a principal

7 asset that is subject to depreciation, but may shall not
8 transfer any amount for depreciation:

9 (1) Of that portion the part of real property used
10 or available for use by a beneficiary as a residence or;

11 (2) Of tangible personal property held or made
12 available for the personal use or enjoyment of a
13 beneficiary; or

14 [(2) During the administration of a decedent's estate;
15 or]

16 (3) Pursuant to Under this section if the trustee
17 is accounting pursuant to section 469.427], to the extent
18 the fiduciary accounts:

19 (a) Under section 469.439 for the asset; or

20 (b) Under section 469.427 for the business or other
21 activity in which the asset is used.

22 3. An amount transferred to principal under this
23 section need not be separately held as a separate fund.

469.456. 1. If a fiduciary makes or expects to make
2 an income disbursement described in subsection 2 of this
3 section, the fiduciary may transfer an appropriate amount
4 from principal to income in one or more accounting periods
5 to reimburse income.

6 2. To the extent the fiduciary has not been and does
7 not expect to be reimbursed by a third party, income
8 disbursements to which subsection 1 of this section applies
9 include:

10 (1) An amount chargeable to principal but paid from
11 income because principal is illiquid;

12 (2) A disbursement made to prepare property for sale,
13 including improvements and commissions; and

14 (3) A disbursement described in subsection 1 of
15 section 469.453.

16 3. If an asset whose ownership gives rise to an income
17 disbursement becomes subject to a successive interest after
18 an income interest ends, the fiduciary may continue to make
19 transfers under subsection 1 of this section.

2 469.457. 1. If a [trustee] fiduciary makes or expects
3 to make a principal disbursement described in subsection 2
4 of this section, the [trustee] fiduciary may transfer an
5 appropriate amount from income to principal in one or more
6 accounting periods to reimburse principal or [to] provide a
7 reserve for future principal disbursements.

8 2. To the extent a fiduciary has not been and does not
9 expect to be reimbursed by a third party, principal
10 disbursements to which subsection 1 of this section applies
11 include [the following, but only to the extent that the
12 trustee has not been and does not expect to be reimbursed by
13 a third party]:

14 (1) An amount chargeable to income but paid from
15 principal because [it] income is [unusually large, including
16 extraordinary repairs] not sufficient;

17 (2) [Disbursements] The cost of an improvement to
18 principal, whether a change to an existing asset or the
19 construction of a new asset, including a special assessment;

20 (3) A disbursement made to prepare property for
21 rental, including tenant allowances, leasehold improvements,
22 and [broker's] commissions;

23 [(3)] (4) A periodic [payments] payment on an
24 obligation secured by a principal asset, to the extent
25 [that] the amount transferred from income to principal for
26 depreciation is less than the periodic [payments] payment;

27 [(4) Disbursements] (5) A disbursement described in
28 [subdivision (7) of] subsection 1 of section 469.453.

29 3. If [the] an asset whose ownership gives rise to
30 [the disbursements] a principal disbursement becomes subject
31 to a successive [income] interest after an income interest
32 ends, [a trustee] the fiduciary may continue to [transfer
33 amounts from income to principal as provided in] make
34 transfers under subsection 1 of this section.

 469.459. 1. A tax required to be paid by a [trustee]
2 fiduciary that is based on receipts allocated to income
3 shall be paid from income.

4 2. A tax required to be paid by a [trustee] fiduciary
5 that is based on receipts allocated to principal shall be
6 paid from principal, even if the tax is called an income tax
7 by the taxing authority.

8 3. Subject to subsection 4 of this section and
9 sections 469.456, 469.457, and 469.462, a tax required to be
10 paid by a [trustee] fiduciary on [the trust's] a share of an
11 entity's taxable income in an accounting period shall be
12 paid from:

13 (1) [From] Income and principal proportionately to the
14 [extent that] allocation between income and principal of
15 receipts from the entity [are allocated to income] in the
16 period; and

17 (2) [From] Principal to the extent [that] the tax
18 exceeds the receipts from the entity [are allocated only to
19 principal] in the period.

20 4. After applying subsections 1 to 3 of this section,
21 [the trustee] a fiduciary shall adjust income or principal
22 receipts, to the extent [that] the [trust's] taxes the
23 fiduciary pays are reduced because [the trust receives] of a
24 deduction for a payment made to a beneficiary.

 469.462. 1. A fiduciary may make an adjustment
2 between income and principal to offset the shifting of

3 economic interests or tax benefits between current income
4 beneficiaries and successor beneficiaries that arises from:

5 (1) An election or decision the fiduciary makes
6 regarding a tax matter, other than a decision to claim an
7 income tax deduction to which subsection 2 of this section
8 applies;

9 (2) An income tax or other tax imposed on the
10 fiduciary or a beneficiary as a result of a transaction
11 involving the fiduciary or a distribution by the fiduciary;
12 or

13 (3) Ownership by the fiduciary of an interest in an
14 entity, a part of whose taxable income, whether or not
15 distributed, is includable in the taxable income of the
16 fiduciary or a beneficiary.

17 2. If the amount of an estate tax marital or
18 charitable deduction is reduced because a fiduciary deducts
19 an amount paid from principal for income tax purposes
20 instead of deducting it for estate tax purposes and, as a
21 result, estate taxes paid from principal are increased and
22 income taxes paid by the fiduciary or a beneficiary are
23 decreased, the fiduciary shall charge each beneficiary that
24 benefits from the decrease in income tax to reimburse the
25 principal from which the increase in estate tax is paid.
26 The total reimbursement shall equal the increase in the
27 estate tax, to the extent the principal used to pay the
28 increase would have qualified for a marital or charitable
29 deduction but for the payment. The share of the
30 reimbursement for each fiduciary or beneficiary whose income
31 taxes are reduced shall be the same as its share of the
32 total decrease in income tax.

33 3. A fiduciary that charges a beneficiary under
34 subsection 2 of this section may offset the charge by
35 obtaining payment from the beneficiary, withholding an

36 amount from future distributions to the beneficiary, or
37 adopting another method or combination of methods.

469.463. In applying and construing sections [469.401]
2 469.399 to [469.467] 469.487, consideration shall be given
3 to the need to promote uniformity of the law with respect to
4 its subject matter among states that enact it.

469.464. Sections 469.399 to 469.487 modify, limit, or
2 supersede the Electronic Signatures in Global and National
3 Commerce Act, 15 U.S.C. Section 7001 et seq., but do not
4 modify, limit, or supersede 15 U.S.C. Section 7001(c) or
5 authorize electronic delivery of any of the notices
6 described in 15 U.S.C. Section 7003(b).

469.465. If any provision of sections [469.401]
2 469.399 to [469.467] 469.487 or [the] its application [of
3 these sections] to any person or circumstance is held
4 invalid, the invalidity does not affect other provisions or
5 applications of sections [469.401] 469.399 to [469.467]
6 469.487 which can be given effect without the invalid
7 provision or application and to this end, the provisions of
8 sections 469.399 to 469.487 are severable.

469.467. Sections [469.401] 469.399 to [469.467]
2 469.487 apply to [every] a trust or [decedent's] estate
3 existing or created on or after August 28, [2001] 2023,
4 except as otherwise expressly provided in the [will or]
5 terms of the trust or [in] sections [469.401] 469.399 to
6 [469.467] 469.487.

469.471. As used in sections 469.471 to 469.487, the
2 following terms mean:

(1) "Applicable value", the amount of the net fair
4 market value of a trust taken into account under section
5 469.483;

(2) "Express unitrust", a trust for which, under the
7 terms of the trust without regard to sections 469.471 to

8 469.487, income or net income shall or may be calculated as
9 a unitrust amount;

10 (3) "Income trust", a trust that is not a unitrust;

11 (4) "Net fair market value of a trust", the fair
12 market value of the assets of the trust, less the
13 noncontingent liabilities of the trust;

14 (5) "Unitrust", a trust for which net income is a
15 unitrust amount. The term includes an express unitrust;

16 (6) "Unitrust amount", an amount computed by
17 multiplying a determined value of a trust by a determined
18 percentage. For a unitrust administered under a unitrust
19 policy, the term means the applicable value multiplied by
20 the unitrust rate;

21 (7) "Unitrust policy", a policy described in sections
22 469.479 to 469.487 and adopted under section 469.475;

23 (8) "Unitrust rate", the rate used to compute the
24 unitrust amount for a unitrust administered under a unitrust
25 policy.

469.473. 1. Except as otherwise provided in
2 subsection 2 of this section, sections 469.471 to 469.487
3 apply to:

4 (1) An income trust, unless the terms of the trust
5 expressly prohibit use of sections 469.471 to 469.487 by a
6 specific reference to these sections or an explicit
7 expression of intent that net income not be calculated as a
8 unitrust amount; and

9 (2) An express unitrust, except to the extent the
10 terms of the trust explicitly:

11 (a) Prohibit use of sections 469.471 to 469.487 by a
12 specific reference to such sections;

13 (b) Prohibit conversion to an income trust; or

14 (c) Limit changes to the method of calculating the
15 unitrust amount.

16 2. Sections 469.471 to 469.487 do not apply to a trust
17 described in 26 U.S.C. Section 170(f)(2)(B), 642(c)(5),
18 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b), as amended.

19 3. An income trust to which sections 469.471 to
20 469.487 apply under subdivision (1) of subsection 1 of this
21 section may be converted to a unitrust under sections
22 469.471 to 469.487 regardless of the terms of the trust
23 concerning distributions. Conversion to a unitrust under
24 sections 469.471 to 469.487 does not affect other terms of
25 the trust concerning distributions of income or principal.

26 4. Sections 469.471 to 469.487 apply to an estate only
27 to the extent a trust is a beneficiary of the estate. To
28 the extent of the trust's interest in the estate, the estate
29 may be administered as a unitrust, the administration of the
30 estate as a unitrust may be discontinued, or the percentage
31 or method used to calculate the unitrust amount may be
32 changed, in the same manner as for a trust under sections
33 469.471 to 469.487.

34 5. Sections 469.471 to 469.487 do not create a duty to
35 take or consider action under sections 469.471 to 469.487 or
36 to inform a beneficiary about the applicability of sections
37 469.471 to 469.487.

38 6. A fiduciary that in good faith takes or fails to
39 take an action under sections 469.471 to 469.487 is not
40 liable to a person affected by the action or inaction.

469.475. 1. A fiduciary, without court approval, by
2 complying with subsections 2 and 6 of this section, may:

3 (1) Convert an income trust to a unitrust if the
4 fiduciary adopts in a record a unitrust policy for the trust
5 providing:

6 (a) That in administering the trust the net income of
7 the trust will be a unitrust amount rather than net income
8 determined without regard to sections 469.471 to 469.487; and

9 (b) The percentage and method used to calculate the
10 unitrust amount;

11 (2) Change the percentage or method used to calculate
12 a unitrust amount for a unitrust if the fiduciary adopts in
13 a record a unitrust policy or an amendment or replacement of
14 a unitrust policy providing changes in the percentage or
15 method used to calculate the unitrust amount; or

16 (3) Convert a unitrust to an income trust if the
17 fiduciary adopts in a record a determination that, in
18 administering the trust, the net income of the trust will be
19 net income determined without regard to sections 469.471 to
20 469.487 rather than a unitrust amount.

21 2. A fiduciary may take an action under subsection 1
22 of this section if:

23 (1) The fiduciary determines that the action will
24 assist the fiduciary to administer a trust impartially;

25 (2) The fiduciary sends a notice in a record, in the
26 manner required by section 469.477, describing and proposing
27 to take the action;

28 (3) The fiduciary sends a copy of the notice under
29 subdivision (2) of this subsection to each settlor of the
30 trust that is:

31 (a) If an individual, living; or

32 (b) If not an individual, in existence;

33 (4) At least one member of each class of the qualified
34 beneficiaries described under section 456.1-103 receiving
35 the notice under subdivision (2) of this subsection is:

36 (a) If an individual, legally competent;

37 (b) If not an individual, in existence; or

38 (c) Represented in the manner provided in subsection 2
39 of section 469.477; and

40 (5) The fiduciary does not receive, by the date
41 specified in the notice under subdivision (5) of subsection

42 4 of section 469.477, an objection in a record to the action
43 proposed under subdivision (2) of this subsection from a
44 person to which the notice under subdivision (2) of this
45 subsection is sent.

46 3. If a fiduciary receives, not later than the date
47 stated in the notice under subdivision (5) of subsection 4
48 of section 469.477, an objection in a record described in
49 subdivision (4) of subsection 4 of section 469.477 to a
50 proposed action, the fiduciary or a beneficiary may request
51 the court to have the proposed action taken as proposed,
52 taken with modifications, or prevented. A person described
53 in subsection 1 of section 469.477 may oppose the proposed
54 action in the proceeding under this subsection, whether or
55 not the person:

56 (1) Consented under subsection 3 of section 469.477; or
57 (2) Objected under subdivision (4) of subsection 4 of
58 section 469.477.

59 4. If, after sending a notice under subdivision (2) of
60 subsection 2 of this section, a fiduciary decides not to
61 take the action proposed in the notice, the fiduciary shall
62 notify in a record each person described in subsection 1 of
63 section 469.477 of the decision not to take the action and
64 the reasons for the decision.

65 5. If a beneficiary requests in a record that a
66 fiduciary take an action described in subsection 1 of this
67 section and the fiduciary declines to act or does not act
68 within ninety days after receiving the request, the
69 beneficiary may request the court to direct the fiduciary to
70 take the action requested.

71 6. In deciding whether and how to take an action
72 authorized by subsection 1 of this section, or whether and
73 how to respond to a request by a beneficiary under
74 subsection 5 of this section, a fiduciary shall consider all

75 factors relevant to the trust and the beneficiaries,
76 including relevant factors in subsection 5 of section
77 469.403.

78 7. A fiduciary may release or delegate the power to
79 convert an income trust to a unitrust under subdivision (1)
80 of subsection 1 of this section, change the percentage or
81 method used to calculate a unitrust amount under subdivision
82 (2) of subsection 1 of this section, or convert a unitrust
83 to an income trust under subdivision (3) of subsection 1 of
84 this section, for a reason described in subsection 7 of
85 section 469.405 and in the manner described in subsection 8
86 of section 469.405.

469.477. 1. A notice required by subdivision (3) of
2 subsection 2 of section 469.475 shall be sent in a manner
3 authorized under section 456.1-109 to:

4 (1) The qualified beneficiaries defined under section
5 456.1-103;

6 (2) Each person acting as trust protector under
7 section 456.8-808; and

8 (3) Each person that is granted a power over the trust
9 by the terms of the trust, to the extent the power is
10 exercisable when the person is not then serving as a trustee:

11 (a) Including a:

12 a. Power over the investment, management, or
13 distribution of trust property or other matters of trust
14 administration; and

15 b. Power to appoint or remove a trustee or person
16 described in this paragraph; and

17 (b) Excluding a:

18 a. Power of appointment;

19 b. Power of a beneficiary over the trust, to the
20 extent the exercise or nonexercise of the power affects the
21 beneficial interest of the beneficiary or another

22 beneficiary represented by the beneficiary under sections
23 456.3-301 to 456.3-305 with respect to the exercise or
24 nonexercise of the power; and

25 c. Power over the trust if the terms of the trust
26 provide that the power is held in a nonfiduciary capacity
27 and the power shall be held in a nonfiduciary capacity to
28 achieve a tax objective under 26 U.S.C., as amended.

29 2. The representation provisions of sections 456.3-301
30 to 456.3-305 apply to notice under this section.

31 3. A person may consent in a record at any time to
32 action proposed under subdivision (2) of subsection 2 of
33 section 469.475. A notice required by subdivision (2) of
34 subsection 2 of section 469.475 need not be sent to a person
35 that consents under this subsection.

36 4. A notice required by subdivision (2) of subsection
37 2 of section 469.475 shall include:

38 (1) The action proposed under subdivision (2) of
39 subsection 2 of section 469.475;

40 (2) For a conversion of an income trust to a unitrust,
41 a copy of the unitrust policy adopted under subdivision (1)
42 of subsection 1 of section 469.475;

43 (3) For a change in the percentage or method used to
44 calculate the unitrust amount, a copy of the unitrust policy
45 or amendment or replacement of the unitrust policy adopted
46 under subdivision (2) of subsection 1 of section 469.475;

47 (4) A statement that the person to which the notice is
48 sent may object to the proposed action by stating in a
49 record the basis for the objection and sending or delivering
50 the record to the fiduciary;

51 (5) The date by which an objection under subdivision
52 (4) shall be received by the fiduciary, which shall be at
53 least thirty days after the date the notice is sent;

54 (6) The date on which the action is proposed to be
55 taken and the date on which the action is proposed to take
56 effect;

57 (7) The name and contact information of the fiduciary;
58 and

59 (8) The name and contact information of a person that
60 may be contacted for additional information.

469.479. 1. In administering a unitrust under
2 sections 469.471 to 469.487, a fiduciary shall follow a
3 unitrust policy adopted under subdivision (1) or (2) of
4 subsection 1 of section 469.475 or amended or replaced under
5 subdivision (2) of section 1 of section 469.475.

6 2. A unitrust policy shall provide:

7 (1) The unitrust rate or the method for determining
8 the unitrust rate under section 469.481;

9 (2) The method for determining the applicable value
10 under section 469.483; and

11 (3) The rules described in sections 469.481 to 469.487
12 that apply in the administration of the unitrust, whether
13 the rules are:

14 (a) Mandatory, as provided in subsection 1 of section
15 469.483 and subsection 1 of section 469.485; or

16 (b) Optional, as provided in section 469.481,
17 subsection 2 of section 469.483, subsection 2 of section
18 469.485, and subsection 1 of section 469.487, to the extent
19 the fiduciary elects to adopt such rules.

469.481. 1. Except as otherwise provided in
2 subdivision (1) of subsection 2 of section 469.487, a
3 unitrust rate may be:

4 (1) A fixed unitrust rate; or

5 (2) A unitrust rate that is determined for each period
6 using:

7 (a) A market index or other published data; or

8 (b) A mathematical blend of market indices or other
9 published data over a stated number of preceding periods.

10 2. Except as otherwise provided in subdivision (1) of
11 subsection 2 of section 469.487, a unitrust policy may
12 provide:

13 (1) A limit on how high the unitrust rate determined
14 under subdivision (2) of subsection 1 of this section may
15 rise;

16 (2) A limit on how low the unitrust rate determined
17 under subdivision (2) of subsection 1 of this section may
18 fall;

19 (3) A limit on how much the unitrust rate determined
20 under subdivision (2) of subsection 1 of this section may
21 increase over the unitrust rate for the preceding period or
22 a mathematical blend of unitrust rates over a stated number
23 of preceding periods;

24 (4) A limit on how much the unitrust rate determined
25 under subdivision (2) of subsection 1 of this section may
26 decrease below the unitrust rate for the preceding period or
27 a mathematical blend of unitrust rates over a stated number
28 of preceding periods; or

29 (5) A mathematical blend of any of the unitrust rates
30 determined under subdivision (2) of subsection 1 of this
31 section and subdivisions (1) to (4) of this subsection.

469.483. 1. A unitrust policy shall provide the
2 method for determining the fair market value of an asset for
3 the purpose of determining the unitrust amount, including:

4 (1) The frequency of valuing the asset, which need not
5 require a valuation in every period; and

6 (2) The date for valuing the asset in each period in
7 which the asset is valued.

8 2. Except as otherwise provided in subdivision (2) of
9 subsection 2 of section 469.487, a unitrust policy may

10 provide methods for determining the amount of the net fair
11 market value of the trust to take into account in
12 determining the applicable value, including:

13 (1) Obtaining an appraisal of an asset for which fair
14 market value is not readily available;

15 (2) Exclusion of specific assets or groups or types of
16 assets;

17 (3) Other exceptions or modifications of the treatment
18 of specific assets or groups or types of assets;

19 (4) Identification and treatment of cash or property
20 held for distribution;

21 (5) Use of:

22 (a) An average of fair market values over a stated
23 number of preceding periods; or

24 (b) Another mathematical blend of fair market values
25 over a stated number of preceding periods;

26 (6) A limit on how much the applicable value of all
27 assets, groups of assets, or individual assets may increase
28 over:

29 (a) The corresponding applicable value for the
30 preceding period; or

31 (b) A mathematical blend of applicable values over a
32 stated number of preceding periods;

33 (7) A limit on how much the applicable value of all
34 assets, groups of assets, or individual assets may decrease
35 below:

36 (a) The corresponding applicable value for the
37 preceding period; or

38 (b) A mathematical blend of applicable values over a
39 stated number of preceding periods;

40 (8) The treatment of accrued income and other features
41 of an asset that affect value; and

42 (9) Determining the liabilities of the trust,
43 including treatment of liabilities to conform with the
44 treatment of assets under subdivisions (1) to (8) of this
45 subsection.

2 469.485. 1. A unitrust policy shall provide the
3 period used under sections 469.481 and 469.483. Except as
4 otherwise provided in subdivision (3) of subsection 2 of
5 section 469.481, the period may be:

6 (1) A calendar year;

7 (2) A twelve-month period other than a calendar year;

8 (3) A calendar quarter;

9 (4) A three-month period other than a calendar
10 quarter; or

11 (5) Another period.

12 2. Except as otherwise provided in subsection 2 of
13 section 469.487, a unitrust policy may provide standards for:

14 (1) Using fewer preceding periods under paragraph (b)
15 of subdivision (2) of subsection 1 of section 469.481 or
16 subdivision (3) or (4) of subsection 2 of section 469.481 if:

17 (a) The trust was not in existence in a preceding
18 period; or

19 (b) Market indices or other published data are not
20 available for a preceding period;

21 (2) Using fewer preceding periods under paragraph (a)
22 or (b) of subdivision (5) of subsection 2 of section
23 469.483, paragraph (b) of subdivision (6) of subsection 2 of
24 section 469.483, or paragraph (b) of subdivision (7) of
25 subsection 2 of section 469.483 if:

26 (a) The trust was not in existence in a preceding
27 period; or

28 (b) Fair market values are not available for a
preceding period; and

29 (3) Prorating the unitrust amount on a daily basis for
30 a part of a period in which the trust or the administration
31 of the trust as a unitrust or the interest of any
32 beneficiary commences or terminates.

469.487. 1. A unitrust policy may:

2 (1) Provide methods and standards for:

3 (a) Determining the timing of distributions;

4 (b) Making distributions in cash or in kind or partly
5 in cash and partly in kind; or

6 (c) Correcting an underpayment or overpayment to a
7 beneficiary based on the unitrust amount if there is an
8 error in calculating the unitrust amount;

9 (2) Specify sources and the order of sources,
10 including categories of income for federal income tax
11 purposes, from which distributions of a unitrust amount are
12 paid; or

13 (3) Provide other standards and rules the fiduciary
14 determines serve the interests of the beneficiaries.

15 2. If a trust qualifies for a special tax benefit or a
16 fiduciary is not an independent person:

17 (1) The unitrust rate established under section
18 469.481 shall not be less than three percent or more than
19 five percent;

20 (2) The only provisions of section 469.483 that apply
21 are subsection 1 of section 469.483; subdivisions (1), (4),
22 and (9) of subsection 2 of section 469.483; and paragraph
23 (a) of subdivision (5) of subsection 2 of section 469.483;

24 (3) The only period that may be used under section
25 469.485 is a calendar year under subdivision (1) of
26 subsection 1 of section 469.485; and

27 (4) The only other provisions of section 469.485 that
28 apply are paragraph (a) of subdivision (2) of subsection 2

29 of section 469.485 and subdivision (3) of subsection 2 of
30 section 469.485.

475.040. If it appears to the court, acting on the
2 petition of the guardian, the conservator, the respondent or
3 of a ward over the age of fourteen, or on its own motion, at
4 any time before the termination of the guardianship or
5 conservatorship, that the proceeding was commenced in the
6 wrong county, or that the domicile [or residence] of the
7 ward or protectee has [been] changed to another county, or
8 in case of conservatorship of the estate that it would be
9 for the best interest of the ward or disabled person and his
10 estate, the court may order the proceeding with all papers,
11 files and a transcript of the proceedings transferred to the
12 probate division of the circuit court of another county.
13 The court to which the transfer is made shall take
14 jurisdiction of the case, place the transcript of record and
15 proceed to the final settlement of the case as if the
16 appointment originally had been made by it.

475.275. 1. The conservator, at the time of filing
2 any settlement with the court, shall exhibit all securities
3 or investments held by him to an officer of the bank or
4 other depository wherein the securities or investments are
5 held for safekeeping or to an authorized representative of
6 the corporation which is surety on his bond, or to the judge
7 or clerk of a court of record in this state, or upon request
8 of the conservator or other interested party, to any other
9 reputable person designated by the court, who shall certify
10 in writing that he has examined the securities or
11 investments and identified them with those described in the
12 account and shall note any omission or discrepancies. If
13 the depository is the conservator, the certifying officer
14 shall not be the officer verifying the account. The
15 conservator may exhibit the securities or investments to the

16 judge of the court, who shall endorse on the account and
17 copy thereof, a certificate that the securities or
18 investments shown therein as held by the conservator were
19 each in fact exhibited to him and that those exhibited to
20 him were the same as those in the account and noting any
21 omission or discrepancy. The certificate, and the
22 certificate of an official of the bank in which are
23 deposited any funds for which the conservator is
24 accountable, showing the amount on deposit, shall be
25 prepared and signed in duplicate and one of each shall be
26 filed by the conservator with his account.

27 2. (1) As used in and pursuant to this section, a
28 "pooled account" is an account within the meaning of this
29 section and means any account maintained by a fiduciary for
30 more than one principal and is established for the purpose
31 of managing and investing and to manage and invest the funds
32 of such principals. No fiduciary shall or may place funds
33 into a pooled account unless the account meets the following
34 criteria:

35 (a) The pooled account is maintained at a bank or
36 savings and loan institution;

37 (b) The pooled account is titled in such a way as to
38 reflect that the account is being held by a fiduciary in a
39 custodial capacity;

40 (c) The fiduciary maintains, or causes to be
41 maintained, records containing information as to the name
42 and ownership interest of each principal in the pooled
43 account;

44 (d) The fiduciary's records contain a statement of all
45 accretions and disbursements; and

46 (e) The fiduciary's records are maintained in the
47 ordinary course of business and in good faith.

48 (2) The public administrator of any county [with a
49 charter form of government and with more than six hundred
50 thousand but less than seven hundred thousand inhabitants]
51 serving as a conservator or personal representative and
52 using and utilizing pooled accounts for the investing[,
53 investment,] and management of [conservatorship] estate
54 funds shall have any such accounts [audited] examined on at
55 least an annual basis [and no less than one time per year]
56 by an independent certified public accountant. [The audit
57 provided shall review the records of the receipts and
58 disbursements of each estate account. Upon completion of
59 the investigation, the certified public accountant shall
60 render a report to the judge of record in this state showing
61 the receipts, disbursements, and account balances as to each
62 estate and as well as the total assets on deposit in the
63 pooled account on the last calendar day of each year.] The
64 examination shall:

65 (a) Compare the pooled account's year-end bank
66 statement and obtain the reconciliation of the pooled
67 account from the bank statement to the fiduciary's general
68 ledger balance on the same day;

69 (b) Reconcile the total of individual accounts in the
70 fiduciary's records to the reconciled pooled account's
71 balance and note any difference;

72 (c) Confirm if collateral is pledged to secure amounts
73 on deposit in the pooled account in excess of Federal
74 Deposit Insurance Corporation coverage; and

75 (d) Confirm the account balance with the financial
76 institution.

77 (3) A public administrator using and utilizing pooled
78 accounts as provided by this section shall certify by
79 affidavit that he or she has met the conditions for

80 establishing a pooled account as set forth in subdivision
81 (2) of this subsection.

82 (4) The county shall provide for the expense of [such
83 audit] the report. If and where the public administrator
84 has provided the judge with [the audit] the report pursuant
85 to and required by this subsection and section, the public
86 administrator shall not be required to obtain the written
87 [certification] verification of an officer of a bank or
88 other depository on any estate asset maintained within the
89 pooled account as otherwise required in and under subsection
90 1 of this section.

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

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

7 (2) "Enter unlawfully or remain unlawfully", a person
8 enters or remains in or upon premises when he or she is not
9 licensed or privileged to do so. A person who, regardless
10 of his or her purpose, enters or remains in or upon premises
11 which are at the time open to the public does so with
12 license and privilege unless he or she defies a lawful order
13 not to enter or remain, personally communicated to him or
14 her by the owner of such premises or by other authorized
15 person. A license or privilege to enter or remain in a
16 building which is only partly open to the public is not a
17 license or privilege to enter or remain in that part of the
18 building which is not open to the public;

19 (3) "Nuclear power plant", a power generating facility
20 that produces electricity by means of a nuclear reactor
21 owned by a utility or a consortium utility. Nuclear power

22 plant shall be limited to property within the structure or
23 fenced yard, as defined in section 563.011;

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

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

39 [(5)] (6) "Utility", an enterprise which provides gas,
40 electric, steam, water, sewage disposal, or communication,
41 video, internet, or voice over internet protocol services,
42 and any common carrier. It may be either publicly or
43 privately owned or operated.

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

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

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

8 (3) Knowingly damages a motor vehicle of another and
9 the damage occurs while such person is making entry into the
10 motor vehicle for the purpose of committing the crime of

11 stealing therein or the damage occurs while such person is
12 committing the crime of stealing within the motor vehicle; or

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

15 2. The offense of property damage in the first degree
16 committed under subdivision (1) or (2) of subsection 1 of
17 this section is a class E felony, unless the offense of
18 property damage in the first degree was committed under
19 subdivision (1) of subsection 1 of this section and the
20 victim was intentionally targeted as a law enforcement
21 officer, as defined in section 556.061, or the victim is
22 targeted because he or she is a relative within the second
23 degree of consanguinity or affinity to a law enforcement
24 officer, in which case it is a class D felony. The offense
25 of property damage in the first degree committed under
26 subdivision (3) of subsection 1 of this section is a class D
27 felony unless committed as a second or subsequent violation
28 of subdivision (3) of subsection 1 of this section in which
29 case it is a class B felony. The offense of property damage
30 in the first degree committed under subdivision (4) of
31 subsection 1 of this section is a class D felony unless
32 committed for the purpose of executing any scheme or
33 artifice to defraud or obtain any property, the value of
34 which exceeds seven hundred fifty dollars or the damage to
35 the teller machine exceeds seven hundred fifty dollars in
36 which case it is a class C felony; except that, if the
37 offense of property damage in the first degree committed
38 under subdivision (4) of subsection 1 of this section is
39 committed to obtain the personal financial credentials of
40 another person or committed as a second or subsequent
41 violation of subdivision (4) of subsection 1 of this
42 section, the offense of property damage in the first degree
43 is a class B felony.

570.010. As used in this chapter, the following terms

2 mean:

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

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

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

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

13 (a) To commit any offense; or

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

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

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

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

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

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

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

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

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

45 (8) "Deceit or deceive", making a representation which
46 is false and which the actor does not believe to be true and
47 upon which the victim relies, as to a matter of fact, law,
48 value, intention or other state of mind, or concealing a
49 material fact as to the terms of a contract or agreement.
50 The term "deceit" does not, however, include falsity as to
51 matters having no pecuniary significance, or puffing by
52 statements unlikely to deceive ordinary persons in the group
53 addressed. Deception as to the actor's intention to perform
54 a promise shall not be inferred from the fact alone that he
55 did not subsequently perform the promise;

56 (9) "Deprive":

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

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

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

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

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

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

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

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

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

81 (14) "Internet service", an interactive computer
82 service or system or an information service, system, or
83 access software provider that provides or enables computer
84 access by multiple users to a computer server, and includes,
85 but is not limited to, an information service, system, or
86 access software provider that provides access to a network
87 system commonly known as the internet, or any comparable
88 system or service and also includes, but is not limited to,
89 a world wide web page, newsgroup, message board, mailing
90 list, or chat area on any interactive computer service or
91 system or other online service;

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

94 (16) "Merchant", a person who deals in goods of the
95 kind or otherwise by his or her occupation holds oneself out
96 as having knowledge or skill peculiar to the practices or
97 goods involved in the transaction or to whom such knowledge

98 or skill may be attributed by his or her employment of an
99 agent or broker or other intermediary who by his or her
100 occupation holds oneself out as having such knowledge or
101 skill;

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

108 (18) "Pharmacy", any building, warehouse, physician's
109 office, hospital, pharmaceutical house or other structure
110 used in whole or in part for the sale, storage, or
111 dispensing of any controlled substance as defined in chapter
112 195;

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

118 (20) "Public assistance benefits", anything of value,
119 including money, food, EBT cards, food stamps, commodities,
120 clothing, utilities, utilities payments, shelter, drugs and
121 medicine, materials, goods, and any service including
122 institutional care, medical care, dental care, child care,
123 psychiatric and psychological service, rehabilitation
124 instruction, training, transitional assistance, or
125 counseling, received by or paid on behalf of any person
126 under chapters 198, 205, 207, 208, 209, and 660, or
127 benefits, programs, and services provided or administered by
128 the Missouri department of social services or any of its
129 divisions;

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

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

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

155 (24) "Video service", the provision of video
156 programming provided through wireline facilities located at
157 least in part in the public right-of-way without regard to
158 delivery technology, including internet protocol technology
159 whether provided as part of a tier, on demand, or a per-
160 channel basis. This definition includes cable service as
161 defined by 47 U.S.C. Section 522(6), but does not include
162 any video programming provided by a commercial mobile

163 service provider as "commercial mobile service" is defined
164 in 47 U.S.C. Section 332(d), or any video programming
165 provided solely as part of and via a service that enables
166 users to access content, information, electronic mail, or
167 other services offered over the public internet, and
168 includes microwave television transmission, from a
169 multipoint distribution service not capable of reception by
170 conventional television receivers without the use of special
171 equipment;

172 [(24)] (25) "Voice over internet protocol service", a
173 service that:

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

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

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

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

182 [(25)] (26) "Writing" includes printing, any other
183 method of recording information, money, coins, negotiable
184 instruments, tokens, stamps, seals, credit cards, badges,
185 trademarks and any other symbols of value, right, privilege
186 or identification.

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

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

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

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

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

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

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

23 (2) The property consists of any animal considered
24 livestock as the term livestock is defined in section
25 144.010, or any captive wildlife held under permit issued by
26 the conservation commission, and the value of the animal or
27 animals appropriated exceeds three thousand dollars and that
28 person has previously been found guilty of appropriating any
29 animal considered livestock or captive wildlife held under
30 permit issued by the conservation commission.

31 Notwithstanding any provision of law to the contrary, such
32 person shall serve a minimum prison term of not less than
33 eighty percent of his or her sentence before he or she is
34 eligible for probation, parole, conditional release, or
35 other early release by the department of corrections;

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

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

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

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

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

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

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

61 (3) The property appropriated consists of:

62 (a) Any motor vehicle, watercraft or aircraft;

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

65 (c) Any credit device, debit device or letter of
66 credit;

67 (d) Any firearms;

68 (e) Any explosive weapon as defined in section 571.010;

69 (f) Any United States national flag designed, intended
70 and used for display on buildings or stationary flagstaffs
71 in the open;

72 (g) Any original copy of an act, bill or resolution,
73 introduced or acted upon by the legislature of the state of
74 Missouri;

75 (h) Any pleading, notice, judgment or any other record
76 or entry of any court of this state, any other state or of
77 the United States;

78 (i) Any book of registration or list of voters
79 required by chapter 115;

80 (j) Any animal considered livestock as that term is
81 defined in section 144.010;

82 (k) Any live fish raised for commercial sale with a
83 value of seventy-five dollars or more;

84 (l) Any captive wildlife held under permit issued by
85 the conservation commission;

86 (m) Any controlled substance as defined by section
87 195.010;

88 (n) Ammonium nitrate;

89 (o) Any wire, electrical transformer, or metallic wire
90 associated with transmitting telecommunications, video,
91 internet, or voice over internet protocol service, or any
92 other device or pipe that is associated with conducting
93 electricity or transporting natural gas or other combustible
94 fuels; or

95 (p) Any material appropriated with the intent to use
96 such material to manufacture, compound, produce, prepare,
97 test or analyze amphetamine or methamphetamine or any of
98 their analogues.

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

100 (1) The property appropriated is an animal;

101 (2) The property is a catalytic converter; or

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

106 7. The offense of stealing is a class D misdemeanor if
107 the property is not of a type listed in subsection 2, 3, 5,

108 or 6 of this section, the property appropriated has a value
109 of less than one hundred fifty dollars, and the person has
110 no previous findings of guilt for a stealing-related offense.

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

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

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

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

2 [361.700. 1. Sections 361.700 to 361.727
3 shall be known and may be cited as the "Sale of
4 Checks Law".

5 2. For the purposes of sections 361.700 to
6 361.727, the following terms mean:

7 (1) "Check", any instrument for the
8 transmission or payment of money and shall also
9 include any electronic means of transmitting or
10 paying money;

11 (2) "Director", the director of the
12 division of finance;

13 (3) "Licensee", any person duly licensed
14 by the director pursuant to sections 361.700 to
15 361.727;

16 (4) "Person", any individual, partnership,
association, trust or corporation.]

2 [361.705. 1. No person shall issue checks
3 in this state for a consideration without first
4 obtaining a license from the director; provided,
5 however, that sections 361.700 to 361.727 shall
6 not apply to the receipt of money by an
7 incorporated telegraph company at any office or
agency of such company for immediate

8 transmission by telegraph nor to any bank, trust
9 company, savings and loan association, credit
10 union, or agency of the United States government.

11 2. Any person who violates any of the
12 provisions of sections 361.700 to 361.727 or
13 attempts to sell or issue checks without having
14 first obtained a license from the director shall
15 be deemed guilty of a class A misdemeanor.]

[361.707. 1. Each application for a
2 license pursuant to sections 361.700 to 361.727
3 shall be in writing and under oath to the
4 director in such form as he may prescribe. The
5 application shall state the full name and
6 business address of:

7 (1) The proprietor, if the applicant is an
8 individual;

9 (2) Every member, if the applicant is a
10 partnership or association;

11 (3) The corporation and each officer and
12 director thereof, if the applicant is a
13 corporation.

14 2. Each application for a license shall be
15 accompanied by an investigation fee of three
16 hundred dollars. If the license is granted the
17 investigation fee shall be applied to the
18 license fee for the first year. No
19 investigation fee shall be refunded.]

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

19 (1) For all licensees selling payment
20 instruments or stored value cards, five times
21 the high outstanding balance from the previous
22 year with a minimum of one hundred thousand
23 dollars and a maximum of one million dollars;

24 (2) For all licensees receiving money for
25 transmission, five times the greatest amount
26 transmitted in a single day during the previous
27 year with a minimum of one hundred thousand
28 dollars and a maximum of one million dollars.
29 If in the opinion of the director the bond shall
30 at any time appear to be inadequate, insecure,
31 exhausted, or otherwise doubtful, additional

32 bond in form and with surety satisfactory to the
33 director shall be filed within fifteen days
34 after notice of the requirement is given to the
35 licensee by the director. An applicant or
36 licensee may, in lieu of filing any bond
37 required under this section, provide the
38 director with an irrevocable letter of credit,
39 as defined in section 400.5-103, issued by any
40 state or federal financial institution.
41 Whenever in the director's judgment it is
42 necessary or expedient, the director may perform
43 a special examination of any person licensed
44 under sections 361.700 to 361.727 with all
45 authority under section 361.160 as though the
46 licensee were a bank. The cost of such
47 examination shall be paid by the licensee.]

2 [361.718. Every licensee shall at all
3 times have on demand deposit in a federally
4 insured depository institution or in the form of
5 cash on hand or in the hands of his agents or in
6 readily marketable securities an amount equal to
7 all outstanding unpaid checks sold by him or his
8 agents in Missouri, in addition to the amount of
9 his bond. Upon demand by the director,
10 licensees must immediately provide proof of such
11 funds or securities. The director may make such
12 demand as often as reasonably necessary and
13 shall make such demand to each licensee, without
prior notice, at least twice each license year.]

2 [361.720. Each licensee may conduct
3 business at one or more locations within this
4 state and by means of employees, agents,
5 subagents or representatives as such licensee
6 may designate. No license under sections
7 361.700 to 361.727 shall be required of any such
8 employee, agent, subagent or representative who
9 sells checks in behalf of a licensee. Each such
10 agent, subagent or representative shall upon
11 demand transfer and deliver to the licensee the
12 proceeds of the sale of licensee's checks less
13 the fees, if any, due such agent, subagent or
representative.]

2 [361.723. Each licensee shall file with
3 the director annually on or before April
4 fifteenth of each year a statement listing the
5 locations of the offices of the licensee and the
6 names and locations of the agents or subagents
7 authorized by the licensee to engage in the sale
8 of checks of which the licensee is the issuer.]

2 [361.725. The director may at any time
3 suspend or revoke a license, for any reason he
4 might refuse to grant a license, for failure to
5 pay an annual fee or for a violation of any
6 provision of sections 361.700 to 361.727. No
7 license shall be denied, revoked or suspended
8 except on ten days' notice to the applicant or
licensee. Upon receipt of such notice the

9 applicant or licensee may, within five days of
10 such receipt, make written demand for a
11 hearing. The director shall thereafter hear and
12 determine the matter in accordance with the
13 provisions of chapter 536.]

2 [361.727. The director shall issue
3 regulations necessary to carry out the intent
4 and purposes of sections 361.700 to 361.727,
5 pursuant to the provisions of section 361.105
and chapter 536.]

2 [469.409. 1. Any claim for breach of a
3 trustee's duty to impartially administer a trust
4 related, directly or indirectly, to an
5 adjustment made by a fiduciary to the allocation
6 between principal and income pursuant to
7 subsection 1 of section 469.405 or any
8 allocation made by the fiduciary pursuant to any
9 authority or discretion specified in subsection
10 1 of section 469.403, unless previously barred
11 by adjudication, consent or other limitation,
12 shall be barred as provided in this section.

13 (1) Any such claim brought by a qualified
14 beneficiary is barred if not asserted in a
15 judicial proceeding commenced within two years
16 after the trustee has sent a report to that
17 qualified beneficiary that adequately discloses
18 the facts constituting the claim.

19 (2) Any such claim brought by a
20 beneficiary (other than a qualified beneficiary)
21 with any interest whatsoever in the trust, no
22 matter how remote or contingent, or whether or
23 not the beneficiary is ascertainable or has the
24 capacity to contract, is barred if not asserted
25 in a judicial proceeding commenced within two
26 years after the first to occur of:

27 (a) The date the trustee sent a report to
28 all qualified beneficiaries that adequately
29 discloses the facts constituting the claim; or

30 (b) The date the trustee sent a report to
31 a person that represents the beneficiary under
32 the provisions of subdivision (2) of subsection
33 2 of this section.

34 2. For purposes of this section the
35 following rules shall apply:

36 (1) A report adequately discloses the
37 facts constituting a claim if it provides
38 sufficient information so that the beneficiary
39 should know of the claim or reasonably should
40 have inquired into its existence;

41 (2) Section 469.402 shall apply in
42 determining whether a beneficiary (including a
43 qualified beneficiary) has received notice for
44 purposes of this section;

45 (3) The determination of the identity of
46 all qualified beneficiaries shall be made on the
date the report is deemed to have been sent; and

47 (4) This section does not preclude an
48 action to recover for fraud or misrepresentation
49 related to the report.]

2 [469.411. 1. (1) If the provisions of
3 this section apply to a trust, the unitrust
4 amount determined for each accounting year of
5 the trust shall be a percentage between three
6 and five percent of the average net fair market
7 value of the trust, as of the first day of the
8 trust's current accounting year. The percentage
9 applicable to a trust shall be that percentage
10 specified by the terms of the governing
11 instrument or by the election made in accordance
12 with subdivision (2) of subsection 5 of this
13 section.]

14 (2) The unitrust amount for the current
15 accounting year computed pursuant to this
16 section shall be proportionately reduced for any
17 distributions, in whole or in part, other than
18 distributions of the unitrust amount, and for
19 any payments of expenses, including debts,
20 disbursements and taxes, from the trust within a
21 current accounting year that the trustee
22 determines to be material and substantial, and
23 shall be proportionately increased for the
24 receipt, other than a receipt that represents a
25 return on investment, of any additional property
26 into the trust within a current accounting year.

27 (3) For purposes of this section, the net
28 fair market values of the assets held in the
29 trust on the first business day of a prior
30 accounting quarter shall be adjusted to reflect
31 any reduction, in the case of a distribution or
32 payment, or increase, in the case of a receipt,
33 for the prior accounting year pursuant to
34 subdivision (1) of this subsection, as if the
35 distribution, payment or receipt had occurred on
36 the first day of the prior accounting year.

37 (4) In the case of a short accounting
38 period, the trustee shall prorate the unitrust
39 amount on a daily basis.

40 (5) In the case where the net fair market
41 value of an asset held in the trust has been
42 incorrectly determined in any quarter, the
43 unitrust amount shall be increased in the case
44 of an undervaluation, or be decreased in the
45 case of an overvaluation, by an amount equal to
46 the difference between the unitrust amount
47 determined based on the correct valuation of the
48 asset and the unitrust amount originally
49 determined.]

50 2. As used in this section, the following
51 terms mean:

52 (1) "Average net fair market value", a
53 rolling average of the fair market value of the
54 assets held in the trust on the first business
55 day of the lessor of the number of accounting
56 quarters of the trust from the date of inception
of the trust to the determination of the trust's

57 average net fair market value, or twelve
58 accounting quarters of the trust, regardless of
59 whether this section applied to the
60 ascertainment of net income for all valuation
61 quarters;

62 (2) "Current accounting year", the
63 accounting period of the trust for which the
64 unitrust amount is being determined.

65 3. In determining the average net fair
66 market value of the assets held in the trust,
67 there shall not be included the value of:

68 (1) Any residential property or any
69 tangible personal property that, as of the first
70 business day of the current valuation year, one
71 or more income beneficiaries of the trust have
72 or had the right to occupy, or have or had the
73 right to possess or control, other than in a
74 capacity as trustee, and instead the right of
75 occupancy or the right to possession or control
76 shall be deemed to be the unitrust amount with
77 respect to the residential property or the
78 tangible personal property; or

79 (2) Any asset specifically given to a
80 beneficiary under the terms of the trust and the
81 return on investment on that asset, which return
82 on investment shall be distributable to the
83 beneficiary.

84 4. In determining the average net fair
85 market value of the assets held in the trust
86 pursuant to subsection 1 of this section, the
87 trustee shall, not less often than annually,
88 determine the fair market value of each asset of
89 the trust that consists primarily of real
90 property or other property that is not traded on
91 a regular basis in an active market by appraisal
92 or other reasonable method or estimate, and that
93 determination, if made reasonably and in good
94 faith, shall be conclusive as to all persons
95 interested in the trust. Any claim based on a
96 determination made pursuant to this subsection
97 shall be barred if not asserted in a judicial
98 proceeding brought by any beneficiary with any
99 interest whatsoever in the trust within two
100 years after the trustee has sent a report to all
101 qualified beneficiaries that adequately
102 discloses the facts constituting the claim. The
103 rules set forth in subsection 2 of section
104 469.409 shall apply to the barring of claims
105 pursuant to this subsection.

106 5. This section shall apply to the
107 following trusts:

108 (1) Any trust created after August 28,
109 2001, with respect to which the terms of the
110 trust clearly manifest an intent that this
111 section apply;

112 (2) Any trust created under an instrument
113 that became irrevocable on, before, or after
114 August 28, 2001, if the trustee, in the
115 trustee's discretion, elects to have this

116 section apply unless the instrument creating the
117 trust specifically prohibits an election under
118 this subdivision. The trustee shall deliver
119 notice to all qualified beneficiaries and the
120 settlor of the trust, if he or she is then
121 living, of the trustee's intent to make such an
122 election at least sixty days before making that
123 election. The trustee shall have sole authority
124 to make the election. Section 469.402 shall
125 apply for all purposes of this subdivision. An
126 action or order by any court shall not be
127 required. The election shall be made by a
128 signed writing delivered to the settlor of the
129 trust, if he or she is then living, and to all
130 qualified beneficiaries. The election is
131 irrevocable, unless revoked by order of the
132 court having jurisdiction of the trust. The
133 election may specify the percentage used to
134 determine the unitrust amount pursuant to this
135 section, provided that such percentage is
136 between three and five percent, or if no
137 percentage is specified, then that percentage
138 shall be three percent. In making an election
139 pursuant to this subsection, the trustee shall
140 be subject to the same limitations and
141 conditions as apply to an adjustment between
142 income and principal pursuant to subsections 3
143 and 4 of section 469.405; and

144 (3) No action of any kind based on an
145 election made by a trustee pursuant to
146 subdivision (2) of this subsection shall be
147 brought against the trustee by any beneficiary
148 of that trust three years from the effective
149 date of that election.

150 6. (1) Once the provisions of this
151 section become applicable to a trust, the net
152 income of the trust shall be the unitrust amount.

153 (2) Unless otherwise provided by the
154 governing instrument, the unitrust amount
155 distributed each year shall be paid from the
156 following sources for that year up to the full
157 value of the unitrust amount in the following
158 order:

159 (a) Net income as determined if the trust
160 were not a unitrust;

161 (b) Other ordinary income as determined
162 for federal income tax purposes;

163 (c) Assets of the trust principal for
164 which there is a readily available market value;
165 and

166 (d) Other trust principal.

167 (3) Additionally, the trustee may allocate
168 to trust income for each taxable year of the
169 trust, or portion thereof:

170 (a) Net short-term capital gain described
171 in the Internal Revenue Code, 26 U.S.C. Section
172 1222(5), for such year, or portion thereof, but
173 only to the extent that the amount so allocated
174 together with all other amounts to trust income,

175 as determined under the provisions of this
176 chapter without regard to this section, for such
177 year, or portion thereof, does not exceed the
178 unitrust amount for such year, or portion
179 thereof;

180 (b) Net long-term capital gain described
181 in the Internal Revenue Code, 26 U.S.C. Section
182 1222(7), for such year, or portion thereof, but
183 only to the extent that the amount so allocated
184 together with all other amounts, including
185 amounts described in paragraph (a) of this
186 subdivision, allocated to trust income for such
187 year, or portion thereof, does not exceed the
188 unitrust amount for such year, or portion
189 thereof.

190 7. A trust with respect to which this
191 section applies on August 28, 2011, may
192 calculate the unitrust amount in accordance with
193 the provisions of this section, as it existed
194 either before or after such date, as the trustee
195 of such trust shall determine in a writing kept
196 with the records of the trust in the trustee's
197 discretion.]

2 [469.461. 1. A fiduciary may make
3 adjustments between principal and income to
4 offset the shifting of economic interests or tax
5 benefits between income beneficiaries and
6 remainder beneficiaries which arise from:

7 (1) Elections and decisions, other than
8 those described in subsection 2 of this section,
9 that the fiduciary makes from time to time
10 regarding tax matters;

11 (2) An income tax or any other tax that is
12 imposed upon the fiduciary or a beneficiary as a
13 result of a transaction involving or a
14 distribution from the estate or trust; or

15 (3) The ownership by an estate or trust of
16 an interest in an entity whose taxable income,
17 whether or not distributed, is includable in the
18 taxable income of the estate, trust or a
19 beneficiary.

20 2. If the amount of an estate tax marital
21 deduction or charitable contribution deduction
22 is reduced because a fiduciary deducts an amount
23 paid from principal for income tax purposes
24 instead of deducting it for estate tax purposes,
25 and as a result estate taxes paid from principal
26 are increased and income taxes paid by an
27 estate, trust or beneficiary are decreased, each
28 estate, trust or beneficiary that benefits from
29 the decrease in income tax shall reimburse the
30 principal from which the increase in estate tax
31 is paid. The total reimbursement shall equal
32 the increase in the estate tax to the extent
33 that the principal used to pay the increase
34 would have qualified for a marital deduction or
35 charitable contribution deduction but for the
36 payment. The proportionate share of the
reimbursement for each estate, trust or

37 beneficiary whose income taxes are reduced shall
38 be the same as its proportionate share of the
39 total decrease in income tax. An estate or
40 trust shall reimburse principal from income.]

✓

Justin Brown (16)

Bill Owen