

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 97

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

0676S.04P

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 362.020, 362.247, 362.275, 362.295, 362.490, 427.300, and 447.200, RSMo, and to enact in lieu thereof eight new sections relating to financial institutions, with penalty provisions.

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

Section A. Sections 362.020, 362.247, 362.275, 362.295, 362.490, 427.300, and 447.200, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 362.020, 362.247, 362.275, 362.295, 362.424, 362.490, 370.245, and 427.300, to read as follows:

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

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

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

(3) The amount of the capital stock of the corporation, the number of shares into which it is divided, and the par value thereof; that the same has been subscribed

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

12 in good faith and all thereof actually paid up in lawful
13 money of the United States and is in the custody of the
14 persons named as the first board of directors or managers;

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

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

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

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

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

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

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

7 the act of a greater number is required by the articles of
8 agreement, the bylaws or by law.

9 2. Unless otherwise prohibited by statute or
10 **[regulation] an order or memorandum of understanding entered**
11 **into with the director of finance related to bank safety and**
12 **soundness**, directors may attend board meetings by telephonic
13 conference call or video conferencing, and the bank or trust
14 company may include in a quorum directors who are not
15 physically present but are allowed to vote[, provided the
16 bank or trust company has a composite rating of 1 or 2 under
17 the Uniform Financial Institutions Rating System of the
18 Federal Financial Institution Examination Counsel (FFIEC)].

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

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

29 (2) Received the board meeting information required
30 for each board of director's meeting as provided by section
31 362.275;

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

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

37 4. The director of the division of finance may
38 promulgate additional regulations, reasonable in scope, to

39 provide for the integrity of the board of directors'
40 operations when directors attend board meetings remotely,
41 the safety and soundness of the bank or trust company's
42 operation, and the bank or trust company's interest in
43 minimizing the cost of compliance with such regulation.

362.275. 1. The board of directors of every bank and
2 trust company organized or doing business pursuant to this
3 chapter shall hold a regular meeting at least once each
4 month, or, upon application to and acceptance by the
5 director of finance, at such other times, not less
6 frequently than once each calendar quarter as the director
7 of finance shall approve, which approval may be rescinded at
8 any time. There shall be submitted to the meeting a list
9 giving the aggregate of loans, discounts, acceptances and
10 advances, including overdrafts, to each individual,
11 partnership, corporation or person whose liability to the
12 bank or trust company has been created, extended, renewed or
13 increased since the cut-off date prior to the regular
14 meeting by more than an amount to be determined by the board
15 of directors, which minimum amount shall not exceed five
16 percent of the bank's legal loan limit, except the minimum
17 amount shall in no case be less than ten thousand dollars; a
18 second list of the aggregate indebtedness of each borrower
19 whose aggregate indebtedness exceeds five times such minimum
20 amount, except the aggregate indebtedness shall in no case
21 be less than fifty thousand dollars; a third list showing
22 all paper past due thirty days or more or alternatively, the
23 third list shall report the total past-due ratio for loans
24 thirty days or more past due, nonaccrual loans divided by
25 total loans, and a listing of past-due loans in excess of
26 the minimum amount to be determined by the board of
27 directors, which minimum amount shall not exceed five

28 percent of the bank's legal loan limit, except the minimum
29 amount shall in no case be less than ten thousand dollars[;]
30 and a fourth list showing the aggregate of the then-existing
31 indebtedness and liability to the bank or trust company of
32 each of the directors, officers, and employees thereof].

33 The information called for in the second[,] and third[, and
34 fourth] lists shall be submitted as of the date of the
35 regular meeting or as of a reasonable date prior thereto.
36 No bills payable shall be made, and no bills shall be
37 rediscounted by the bank or trust company except with the
38 consent or ratification of the board of directors; provided,
39 however, that if the bank or trust company is a member of
40 the federal reserve system, rediscounts may be made to it by
41 the officers in accordance with its rules, a list of all
42 rediscounts to be submitted to the next regular meeting of
43 the board. The director of finance may require, by order,
44 that the board of directors of a bank or trust company
45 approve or disapprove every purchase or sale of securities
46 and every discount, loan, acceptance, renewal or other
47 advance including every overdraft over an amount to be
48 specified in the director's order and may also require that
49 the board of directors review, at each monthly meeting, a
50 list of the aggregate indebtedness of each borrower whose
51 aggregate indebtedness exceeds an amount to be specified in
52 the director's order. The minutes of the meeting shall
53 indicate the compliance with the requirements of this
54 section. Furthermore, the debtor's identity on the
55 information required in this subsection may be masked by
56 code to conceal the actual debtor's identity only for
57 information mailed to or otherwise provided directors who
58 are not physically present at the board meeting. The code

59 used shall be revealed to all directors at the beginning of
60 each board meeting for which this procedure is used.

61 2. For any issue in need of immediate action, the
62 board of directors or the executive committee of the board
63 as defined in section 362.253 may enter into a unanimous
64 consent agreement as permitted by subsection 2 of section
65 351.340. Such consent may be communicated by facsimile
66 transmission or by other authenticated record, separately by
67 each director, provided each consent is signed by the
68 director and the bank has no indication such signature is
69 not the director's valid consent. When the bank or trust
70 company has received unanimous consent from the board or
71 executive committee, the action voted on shall be considered
72 approved.

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

17 2. Every report shall be verified by the oaths of the
18 president or vice president and cashier or secretary or

19 assistant cashier or assistant secretary, and the
20 verification shall state that the report is true and correct
21 in all respects to the best of the knowledge and belief of
22 the persons verifying it, and the report shall be attested
23 by three directors, and shall be a report of the actual
24 condition of the bank or trust company at the close of
25 business on the day designated and which day shall be prior
26 to the call. If the director of finance obtains the data
27 pursuant to subsection 3 of section 361.130, the director
28 may rely on the verification provided to the federal
29 regulatory agency.

30 3. [Every report, exclusive of the verification,
31 shall, within thirty days after it shall have been filed
32 with the director, be published by the bank or trust company
33 in one newspaper of the place where its place of business is
34 located, or if no newspaper is published there, in a
35 newspaper of general circulation in the town and community
36 in which the bank or trust company is located; the newspaper
37 to be designated by the board of directors and a copy of the
38 publication, with the affidavit of the publisher thereto,
39 shall be attached to the report; provided, if the bank or
40 trust company is located in a town or city having a
41 population exceeding ten thousand inhabitants, then the
42 publication must be in a daily newspaper, if published in
43 that city; but if the bank or trust company is located in a
44 town or city having a population of ten thousand inhabitants
45 or less, then the publication may be in either a daily or
46 weekly newspaper published in the town or city as aforesaid;
47 and in all cases a copy of the statement shall be posted in
48 the banking house accessible to all.

49 4.] The bank and trust company shall also make such
50 other special reports to the director as he may from time to

51 time require, in such form and at such date as may be
52 prescribed by him, and the report shall, if required by him,
53 be verified in such manner as he may prescribe.

54 [5.] 4. If the bank or trust company shall fail to
55 make any report required by this section on or before the
56 day designated for the making thereof, or shall fail to
57 include therein any matter required by the director, the
58 bank or trust company shall forfeit to the state the sum of
59 one hundred dollars for every day that the report shall be
60 delayed or withheld, and for every day that it shall fail to
61 report any omitted matter, unless the time therefor shall
62 have been extended by the director. Should any president,
63 cashier or secretary of the bank or trust company or any
64 director thereof fail to make the statement so required of
65 him or them, or willfully and corruptly make a false
66 statement, he or they, and each of them, shall be deemed
67 guilty of a misdemeanor, and, upon conviction thereof, upon
68 information, punished by a fine for each offense not
69 exceeding five hundred dollars and not less than one hundred
70 dollars, or by imprisonment not less than one or more than
71 twelve months in the city or county jail, or by both such
72 fine and imprisonment.

73 [6.] 5. A bank or trust company [may provide each
74 written] **shall provide a paper or electronic copy of any**
75 **regular periodic** report required to be [published free of
76 charge to the public; and when each bank or trust company
77 notifies their customers that such information is available;
78 and when one copy of such information is available to each
79 person that requests it, the newspaper publication
80 provisions of this section shall not be enforced against
81 such bank or trust company] **filed under section 361.130 to**
82 **each customer that requests it.**

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

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

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

2. Notwithstanding any other provision of law to the contrary, any bank may report suspected fraudulent activity or financial exploitation targeting any of its customers to a federal, state, county, or municipal law enforcement agency or any appropriate public protective agency and shall be immune from civil liability in doing so.

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

4. Notwithstanding any other provision of law to the contrary, any bank may voluntarily offer customers an

33 account with convenience and security features that set
34 transaction limits and permit limited access to view account
35 activity for one or more trusted contacts designated by the
36 customer.

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

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

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

46 8. A customer may withdraw any appointment of a person
47 as trusted contact at any time and any trusted contact may
48 withdraw from status as a trusted contact at any time. The
49 bank may require such documentation or verification as it
50 deems necessary to establish the withdrawal or termination
51 of a trusted contact.

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

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

10 2. (1) As an alternative to the requirements for
11 direct pledging of security for deposit of public funds in
12 excess of the amount that is federally insured or guaranteed
13 pursuant to sections 110.010, 110.020, and 110.060, a
14 banking institution authorized as legal depositary for
15 public funds may secure the deposits of any governmental
16 entity by granting a security interest in a single pool of
17 securities to secure the repayment of all public funds
18 deposited in the banking institution by such governmental
19 entities and not otherwise federally insured or secured
20 pursuant to law.

21 (2) A banking institution may secure the deposit of
22 public funds using the direct method as provided in chapter
23 110, or the single bank pooled method provided in this
24 section, or may elect to offer government entities the
25 choice of either method to secure the deposit of public
26 funds.

27 (3) Under the direct method, a banking institution may
28 secure the deposit of public funds of each government entity
29 separately by furnishing securities pursuant to sections
30 110.010, 110.020, and 110.060.

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

41 3. (1) The director of the division of finance shall
42 have exclusive authority to appoint a bank, trust company,
43 or association for Missouri banks which is chartered or
44 incorporated in Missouri to serve as the administrator with
45 respect to a single bank pooled method. The administrator
46 shall act as an agent for banking institutions and as the
47 nominee of the government entities for purposes of
48 administering the pool of securities pledged to secure
49 uninsured public fund deposits. The fees and expenses of
50 such administrator shall be paid by the banking institutions
51 utilizing the single bank pooled method. The single bank
52 pooled method shall not be utilized by any banking
53 institution unless an administrator has been appointed by
54 the director pursuant to this section and is acting as the
55 administrator. The director may require the administrator
56 to post a surety bond or security to the director in an
57 amount up to one hundred thousand dollars to assure the
58 faithful performance of the duties of the administrator.

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

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

71 (4) If a banking institution elects to secure the
72 deposit of public funds through the use of the single bank

73 pooled method, such banking institution shall notify the
74 administrator in writing that it has elected to utilize the
75 single bank pooled method and the proposed effective date
76 thereof and enter such agreement as the administrator may
77 require.

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

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

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

101 (8) In the event of the failure and insolvency of a
102 banking institution using the single bank pooled method,
103 subject to any order of the director pursuant to powers
104 vested under chapter 361, the administrator shall direct the

105 safekeeping banks or depositaries to sell the pledged
106 securities and direct proceeds to the payment of the
107 uninsured public fund deposits or to transfer the pledged
108 securities to that banking institution's primary supervisory
109 agency or the duly appointed receiver for the banking
110 institution to be liquidated to pay out the uninsured public
111 fund deposits.

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

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

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

10 2. Notwithstanding any other provision of law to the
11 contrary, any credit union may report suspected fraudulent
12 activity or financial exploitation targeting any of its
13 members to a federal, state, county, or municipal law
14 enforcement agency or any appropriate public protective
15 agency and shall be immune from civil liability in doing so.

16 3. Notwithstanding any other provision of law to the
17 contrary, any credit union, on a voluntary basis, may offer
18 a trusted contact program to members who may designate one
19 or more trusted contacts for the credit union to contact in
20 the event a member is not responsive to credit union
21 communications, the credit union is presented with an urgent
22 matter or emergency involving the member and the credit
23 union is unable to locate the member, or the credit union
24 suspects fraudulent activity or financial exploitation
25 targeting the member or the account has been deemed dormant

26 and the credit union is attempting to verify the status and
27 location of the member. The credit union may establish such
28 procedures, requirements, and forms as it deems appropriate
29 and necessary should the credit union opt to implement a
30 trusted contact program.

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

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

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

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

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

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

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 regardless of whether 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) Does 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. The provider's characterization of an
41 accounts receivable purchase transaction as a purchase is
42 conclusive that the accounts receivable purchase transaction
43 is not a loan or a transaction for the use, forbearance, or
44 detention of money;

45 (3) "Broker", any person who, for compensation or the
46 expectation of compensation, obtains a commercial financing
47 transaction or an offer for a commercial financing
48 transaction from a third party that would, if executed, be
49 binding upon that third party and communicates that offer to
50 a business located in this state. The term broker excludes
51 a provider, or any individual or entity whose compensation
52 is not based or dependent on the terms of the specific
53 commercial financing transaction 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 facility", a provider's plan
69 for purchasing multiple accounts receivable from the
70 recipient over a period of time pursuant to an agreement
71 that sets forth the terms and conditions governing the use
72 of the facility;

73 (7) "Commercial financing transaction", any commercial
74 loan, accounts receivable purchase transaction, commercial
75 open-end credit plan or each to the extent the transaction
76 is a business purpose transaction;

77 (8) "Commercial loan", a loan to a business, whether
78 secured or unsecured;

79 (9) "Commercial open-end credit plan", commercial
80 financing extended by any provider under a plan in which:

81 (a) The provider reasonably contemplates repeat
82 transactions; and

83 (b) The amount of financing that may be extended to
84 the business during the term of the plan, up to any limit
85 set by the provider, is generally made available to the
86 extent that any outstanding balance is repaid;

87 (10) "Depository institution", any of the following:

88 (a) A bank, trust company, or industrial loan company
89 doing business under the authority of, or in accordance
90 with, a license, certificate, or charter issued by the
91 United States, this state, or any other state, district,
92 territory, or commonwealth of the United States that is
93 authorized to transact business in this state;

94 (b) A federally chartered savings and loan
95 association, federal savings bank, or federal credit union
96 that is authorized to transact business in this state; or

97 (c) A savings and loan association, savings bank, or
98 credit union organized under the laws of this or any other
99 state that is authorized to transact business in this state;

100 (11) "General intangible", any personal property,
101 including things in action, other than accounts, chattel
102 paper, commercial tort claims, deposit accounts, documents,
103 goods, instruments, investment property, letter-of-credit
104 rights, letters of credit, money, and oil, gas, or other
105 minerals before extraction. General intangible also
106 includes payment intangibles and software;

107 (12) "Payment intangible", a general intangible under
108 which the account debtor's principal obligation is a
109 monetary obligation;

110 (13) "Provider", a person who consummates more than
111 five commercial financing transactions to a business located
112 in this state in any calendar year. Provider also includes
113 a person that enters into a written agreement with a
114 depository institution to arrange for the extension of a
115 commercial financing transaction by the depository
116 institution to a business via an online lending platform
117 administered by the person. The fact that a provider
118 extends a specific offer for a commercial financing
119 transaction on behalf of a depository institution shall not
120 be construed to mean that the provider engaged in lending or
121 financing or originated that loan or financing.

122 3. (1) A provider that consummates a commercial
123 financing transaction shall disclose the terms of the
124 commercial financing transaction as required by this
125 section. The disclosures shall be provided at or before

126 consummation of the transaction. Only one disclosure is
127 required for each commercial financing transaction, and a
128 disclosure is not required as a result of the modification,
129 forbearance, or change to a consummated commercial financing
130 transaction.

131 (2) A provider shall disclose the following in
132 connection with each commercial financing transaction:

133 (a) The total amount of funds provided to the business
134 under the terms of the commercial financing transaction
135 agreement. This disclosure shall be labeled "Total Amount
136 of Funds Provided";

137 (b) The total amount of funds disbursed to the
138 business under the terms of the commercial financing
139 transaction, if less than the total amount of funds
140 provided, as a result of any fees deducted or withheld at
141 disbursement and any amount paid to a third party on behalf
142 of the business. This disclosure shall be labeled "Total
143 Amount of Funds Disbursed";

144 (c) The total amount to be paid to the provider
145 pursuant to the commercial financing transaction agreement.
146 This disclosure shall be labeled "Total of Payments";

147 (d) The total dollar cost of the commercial financing
148 transaction under the terms of the agreement, derived by
149 subtracting the total amount of funds provided from the
150 total of payments. This calculation shall include any fees
151 or charges deducted by the provider from the "Total Amount
152 of Funds Provided". This disclosure shall be labeled "Total
153 Dollar Cost of Financing";

154 (e) The manner, frequency, and amount of each
155 payment. This disclosure shall be labeled "Payments". If
156 the payments may vary, the provider shall instead disclose
157 the manner, frequency, and the estimated amount of the

158 initial payment labeled "Estimated Payments" and the
159 commercial financing transaction agreement shall include a
160 description of the methodology for calculating any variable
161 payment and the circumstances when payments may vary;

162 (f) A statement of whether there are any costs or
163 discounts associated with prepayment of the commercial
164 financing product including a reference to the paragraph in
165 the agreement that creates the contractual rights of the
166 parties related to prepayment. This disclosure shall be
167 labeled "Prepayment"; and

168 (3) A provider that consummates a commercial financing
169 facility may provide disclosures of this subsection which
170 are based on an example of a transaction that could occur
171 under the agreement. The example shall be based on an
172 accounts receivable total face amount owed of ten thousand
173 dollars. Only one disclosure is required for each
174 commercial financing facility, and a disclosure is not
175 required as result of a modification, forbearance, or change
176 to the facility. A new disclosure is not required each time
177 accounts receivable are purchased under the facility.

178 4. The provisions of this section shall not apply to
179 the following:

180 (1) A provider that is a depository institution or a
181 subsidiary or affiliate;

182 (2) A provider that is a service corporation to a
183 depository institution that is:

184 (a) Owned and controlled by a depository institution;
185 and

186 (b) Regulated by a federal banking agency;

187 (3) A provider that is a lender regulated under the
188 federal Farm Credit Act, 12 U.S.C. Section 2001, et seq.;

189 (4) A commercial financing transaction that is:

- 190 (a) Secured by real property;
- 191 (b) A lease; or
- 192 (c) A purchase money obligation that is incurred as
193 all or part of the price of the collateral or for value
194 given to enable the business to acquire rights in or the use
195 of the collateral if the value is in fact so used;
- 196 (5) A commercial financing transaction in which the
197 recipient is a motor vehicle dealer or an affiliate of such
198 a dealer, or a vehicle rental company, or an affiliate of
199 such a company, pursuant to a commercial loan or commercial
200 open-end credit plan of at least fifty thousand dollars or a
201 commercial financing transaction offered by a person in
202 connection with the sale or lease of products or services
203 that such person manufactures, licenses, or distributes, or
204 whose parent company or any of its directly or indirectly
205 owned and controlled subsidiaries manufactures, licenses, or
206 distributes;
- 207 (6) A commercial financing transaction that is a
208 factoring transaction, purchase, sale, advance, or similar
209 of accounts receivable owed to a health care provider
210 because of a patient's personal injury treated by the health
211 care provider;
- 212 (7) A provider that is licensed as a money transmitter
213 in accordance with a license, certificate, or charter issued
214 by this state or any other state, district, territory, or
215 commonwealth of the United States;
- 216 (8) A provider that consummates no more than five
217 commercial financing transactions in this state in a twelve-
218 month period; **[or]**
- 219 (9) A commercial financing transaction of more than
220 five hundred thousand dollars; **or**

221 **(10) A commercial financing product that is a premium**
222 **finance agreement, as defined in subdivision (3) of section**
223 **364.100, offered or entered into by a provider that is a**
224 **registered premium finance company.**

225 5. (1) No person shall engage in business as a broker
226 within this state for compensation, unless prior to
227 conducting such business, the person has filed a
228 registration with the division of finance within the
229 department of commerce and insurance and has on file a good
230 and sufficient bond as specified in this subsection. The
231 registration shall be effective upon receipt by the division
232 of finance of a completed registration form and the required
233 registration fee, and shall remain effective until the time
234 of renewal.

235 (2) After filing an initial registration form, a
236 broker shall file, on or before January thirty-first of each
237 year, a renewal registration form along with the required
238 renewal registration fee.

239 (3) The broker shall pay a one-hundred-dollar
240 registration fee upon the filing of an initial registration
241 and a fifty-dollar renewal registration fee upon the filing
242 of a renewal registration.

243 (4) The registration form required by this subsection
244 shall include the following:

245 (a) The name of the broker;

246 (b) The name in which the broker is transacted if
247 different from that stated in paragraph (a) of this
248 subdivision;

249 (c) The address of the broker's principal office,
250 which may be outside this state;

251 (d) Whether any officer, director, manager, operator,
252 or principal of the broker has been convicted of a felony

253 involving an act of fraud, dishonesty, breach of trust, or
254 money laundering; and

255 (e) The name and address in this state of a designated
256 agent upon whom service of process may be made.

257 (5) If information in a registration form changes or
258 otherwise becomes inaccurate after filing, the broker shall
259 not be required to file a further registration form prior to
260 the time of renewal.

261 (6) Every broker shall obtain a surety bond issued by
262 a surety company authorized to do business in this state.
263 The amount of the bond shall be ten thousand dollars. The
264 bond shall be in favor of the state of Missouri. Any person
265 damaged by the broker's breach of contract or of any
266 obligation arising therefrom, or by any violation of this
267 section, may bring an action against the bond to recover
268 damages suffered. The aggregate liability of the surety
269 shall be only for actual damages and in no event shall
270 exceed the amount of the bond.

271 (7) Employees regularly employed by a broker who has
272 complied with this subsection shall not be required to file
273 a registration or obtain a surety bond when acting within
274 the scope of their employment for the broker.

275 6. (1) Any person who violates any provision of this
276 section shall be punished by a fine of five hundred dollars
277 per incident, not to exceed twenty thousand dollars, for all
278 aggregated violations arising from the use of the
279 transaction documentation or materials found to be in
280 violation of this section. Any person who violates any
281 provision of this section after receiving written notice of
282 a prior violation from the attorney general shall be
283 punished by a fine of one thousand dollars per incident, not
284 to exceed fifty thousand dollars, for all aggregated

285 violations arising from the use of the transaction
286 documentation or materials found to be in violation of this
287 section.

288 (2) Violation of any provision of this section shall
289 not affect the enforceability or validity of the underlying
290 agreement.

291 (3) This section shall not create a private right of
292 action against any person or other entity based upon
293 compliance or noncompliance with its provisions.

294 (4) Authority to enforce compliance with this section
295 is vested exclusively in the attorney general of this state.

296 7. The requirements of subsections 3 and 5 of this
297 section shall take effect upon either:

298 (1) Six months after the division of finance finalizes
299 promulgating rules, if the division intends to promulgate
300 rules; or

301 (2) February 28, 2025, if the division does not intend
302 to promulgate rules.

303 8. The division of finance may promulgate rules
304 implementing this section. If the division of finance
305 intends to promulgate rules, it shall declare its intent to
306 do so no later than February 28, 2025. Any rule or portion
307 of a rule, as that term is defined in section 536.010, that
308 is created under the authority delegated in this section
309 shall become effective only if it complies with and is
310 subject to all of the provisions of chapter 536 and, if
311 applicable, section 536.028. This section and chapter 536
312 are nonseverable and if any of the powers vested with the
313 general assembly pursuant to chapter 536 to review, to delay
314 the effective date, or to disapprove and annul a rule are
315 subsequently held unconstitutional, then the grant of

316 rulemaking authority and any rule proposed or adopted after
317 August 28, 2024, shall be invalid and void.

2 [447.200. 1. If any consumer deposit
3 account with a banking organization or financial
4 organization, as such terms are defined in and
5 under section 447.503, is determined to be or to
6 have been inactive for a period of twelve or
7 more months and if inactivity fees apply to such
8 account, such banking organization, bank or
9 financial organization shall notify the person
10 or depositor named on such inactive account of
11 such inactivity. Notice may be delivered by
12 first class mail, with postage prepaid, and
13 marked "Address Correction Requested", or
14 alternatively, the notice may be sent or
15 delivered electronically if the consumer has
16 consented to receiving electronic disclosures in
17 accordance with the federal Truth in Savings
18 Act, 12 U.S.C. Sections 4301 to 4313, and the
19 regulations promulgated pursuant thereto.

20 2. Notwithstanding any provision of law to
21 the contrary, for any consumer deposit account
22 with a banking organization, bank or financial
23 organization that is or that has been inactive
24 for twelve months or more, such bank or
25 financial organization shall issue annual
26 statements to the person or depositor named on
27 the account. The organization or a bank may
28 charge a service fee of up to five dollars for
29 any statement issued under this subsection,
30 provided that such fee shall be withdrawn from
31 the inactive account.

32 3. If any consumer deposit account with a
33 banking organization, bank or financial
34 organization is determined to be or to have been
35 inactive for a period of five years, the funds
36 from such account shall be remitted to the
37 abandoned fund account established under section
38 447.543.

39 4. For purposes of this section, the word
40 "inactive" means a prescribed period during
41 which there is no activity or contact initiated
by the person or depositor named on the account,

42 which results in an inactivity fee or fees being
43 charged to the account.]

