

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE

FOR
HOUSE BILL NO. 1195

1 AN ACT

2 To repeal sections 209.309, 209.321, 209.322,
3 209.323, 317.011, 324.400, 324.403, 324.409,
4 324.415, 324.418, 324.421, 324.427, 324.430,
5 324.433, 328.080, 334.530, 334.540, 334.550,
6 334.655, 334.660, 334.665, 337.085, 337.507,
7 337.615, 337.665, 337.712, 339.010, 339.020,
8 339.030, 339.040, 339.060, 339.100, 339.105,
9 339.120, 339.130, 339.150, 339.160, 339.170,
10 339.180, 339.600, 339.603, 339.605, 339.606,
11 339.607, 339.608, 339.610, 339.612, 339.614,
12 339.617, 339.710, 339.760, 339.780, 339.800,
13 345.015, 346.135, 374.700, 374.705, 374.710,
14 374.715, 374.725, 374.730, 374.735, 374.740,
15 374.755, 374.757, 374.763, 374.765, 436.200,
16 436.205, 436.209, 436.212, 544.640, 544.650
17 620.127, and 620.145, RSMo, and to enact in
18 lieu thereof ninety-four new sections
19 relating to professional registration, with
20 penalty provisions.

21

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
22 AS FOLLOWS:

23 Section A. Sections 209.309, 209.321, 209.322, 209.323,
24 317.011, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421,
25 324.427, 324.430, 324.433, 328.080, 334.530, 334.540, 334.550,
26 334.655, 334.660, 334.665, 337.085, 337.507, 337.615, 337.665,
27 337.712, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100,
28 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180,

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in boldface type in the above law is proposed language.

1 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610,
2 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, 339.800,
3 345.015, 346.135, 374.700, 374.705, 374.710, 374.715, 374.725,
4 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 374.765,
5 436.200, 436.205, 436.209, 436.212, 544.640, 544.650 620.127, and
6 620.145, RSMo, are repealed and ninety-four new sections enacted
7 in lieu thereof, to be known as sections 209.309, 209.321,
8 209.322, 209.323, 317.011, 324.400, 324.403, 324.409, 324.415,
9 324.418, 324.421, 324.427, 324.430, 324.433, 324.526, 328.075,
10 328.080, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665,
11 337.085, 337.507, 337.615, 337.665, 337.712, 339.010, 339.020,
12 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130,
13 339.150, 339.160, 339.170, 339.180, 339.710, 339.760, 339.780,
14 339.800, 345.015, 346.135, 374.695, 374.700, 374.702, 374.705,
15 374.710, 374.715, 374.716, 374.717, 374.719, 374.730, 374.735,
16 374.740, 374.755, 374.757, 374.759, 374.763, 374.764, 374.783,
17 374.784, 374.785, 374.786, 374.787, 374.788, 374.789, 436.215,
18 436.218, 436.221, 436.224, 436.227, 436.230, 436.233, 436.236,
19 436.239, 436.242, 436.245, 436.248, 436.251, 436.254, 436.257,
20 436.260, 436.263, 436.266, 436.269, 436.272, 544.640, 620.127,
21 and 620.145, to read as follows:

22 209.309. 1. The board may offer provisional certification
23 to interpreters achieving a minimal level of certification
24 established by the board. A provisional certification is limited
25 to one year; during such year the interpreter must be reevaluated

1 and achieve the next higher level of certification. If an
2 evaluation slot is not available during the term of the
3 provisional license, the interpreter may be granted an extension.
4 A holder of a provisional certification may only be granted one
5 extension. A person nominated by a local public school district
6 in Missouri shall be granted a provisional public school
7 certificate when all of the following conditions are met:

8 (1) The local school district certifies that it was unable
9 to locate an interpreter certified and licensed under sections
10 209.319 to 209.339 and otherwise acceptable to the local school
11 district for employment, to accept the position;

12 (2) The local school district certifies that the person has
13 demonstrated the skills necessary for the assignment to the
14 satisfaction of the local school district;

15 (3) The local school district certifies that failure to
16 employ the person would to the best of their knowledge result in
17 noncompliance with applicable state or federal statutes or
18 regulations; and

19 (4) The person nominated certifies that he or she shall
20 begin the application process for the certification and licensure
21 requisite under section 209.319 to 209.339 within ninety days.

22 2. Provisional public school certificates shall be issued
23 within seventy-two hours of application containing the above
24 certifications and shall remain valid for eighteen months or
25 until the person obtains the certification and licensure

1 otherwise required under sections 209.319 to 209.339.

2 3. Provisional public school certificates may be revoked
3 when the person ends his or her employment with the school
4 district or if the person commits any of the actions listed in
5 subsections 1 to 5 of section 209.317.

6 209.321. 1. No person shall represent himself or herself
7 as an interpreter or engage in the practice of interpreting as
8 defined in section 209.285 as provided in subsection 6 of this
9 section in the state of Missouri unless such person is licensed
10 as required by the provisions of sections 209.319 to 209.339.

11 2. A person registered, certified or licensed by this
12 state, another state or any recognized national certification
13 agent, acceptable to the committee that allows that person to
14 practice any other occupation or profession in this state, is not
15 considered to be interpreting if he or she is in performance of
16 the occupation or profession for which he or she is registered,
17 certified or licensed. The professions referred to in this
18 subsection include, but are not limited to, physicians,
19 psychologists, nurses, certified public accountants, architects
20 and attorneys.

21 3. A licensed interpreter shall limit his or her practice
22 to demonstrated areas of competence as documented by relevant
23 professional education, training, experience and certification.
24 An interpreter not trained in an area shall not practice in that
25 area without obtaining additional relevant professional

1 education, training and experience through an acceptable program
2 as defined by rule by the Missouri commission for the deaf and
3 hard of hearing.

4 4. A person is not considered to be interpreting pursuant
5 to the provisions of this section if, in a casual setting and as
6 defined by rule, a person is acting as an interpreter
7 gratuitously or is engaged in interpreting incidental to
8 traveling.

9 5. A person is not considered to be interpreting pursuant
10 to the provisions of this section if a person is engaged as a
11 telecommunications operator providing deaf relay service or
12 operator services for the deaf.

13 6. A person is not considered to be interpreting under the
14 provisions of this section if the person is currently enrolled in
15 an interpreter training program which has been accredited by a
16 certifying agency and approved by the committee. The training
17 program shall offer a degree in interpreting from an accredited
18 institution of higher education. Persons exempted under this
19 provision shall engage only in activities and services that
20 constitute part of a supervised course of study and shall clearly
21 designate themselves by a title of student, practicum student,
22 student interpreter, trainee, or intern.

23 7. A person holding a current certification of license from
24 another state or a recognized national certification system
25 deemed acceptable by the committee is not considered to be

1 interpreting as defined in this chapter when temporarily present
2 in the state for the purpose of providing interpreting services
3 for a convention, conference, meeting, professional group, or
4 educational field trip.

5 8. A person granted a provisional certificate to interpret
6 in a public school shall not be subject to the regular
7 certification or licensure requirements of sections 209.319 to
8 209.339.

9 209.322. The board shall recognize the following
10 certificates:

11 (1) National Registry of Interpreters for the Deaf (NRID)
12 certificates, which include Comprehensive Skills Certificate
13 (CSC), Certificate of Interpreting/Certificate of Transliteration
14 (CI/CT) and Certified Deaf Interpreter (CDI); [and]

15 (2) National Association of the Deaf (NAD) certificate
16 levels 3, 4 and 5; and

17 (3) A provisional public school certificate.

18 209.323. 1. Applications for licensure as an interpreter
19 shall be submitted to the division on forms prescribed by the
20 division and furnished to the applicant. The application shall
21 contain the applicant's statements showing the applicant's
22 education, certification by either the National Registry of
23 Interpreters for the Deaf, National Association of the Deaf or
24 Missouri Interpreter Certification System and such other
25 information as the division may require. Each application shall

1 contain a statement that it is made under oath or affirmation and
2 that the information contained in the application is true and
3 correct to the best knowledge and belief of the applicant,
4 subject to the penalties, as provided in sections 209.319 to
5 209.339, for the making of a false affidavit or declaration.
6 Each application shall be accompanied by the required application
7 fee. The application fee must be submitted in a manner as
8 required by the committee and shall not be refundable. The
9 applicant must be eighteen years of age or older.

10 2. Each license issued pursuant to the provisions of
11 sections 209.319 to 209.339 shall expire on the renewal date.
12 The division shall mail a renewal notice to the last known
13 address of each licensee prior to the [registration] license
14 renewal date. The license will expire and renewal may be denied
15 upon failure of the licensee to provide the division with the
16 information required for [registration] renewal including but not
17 limited to satisfactory evidence of current certification or to
18 pay the required [registration] renewal fee within sixty days of
19 the [registration] license renewal date. The license may be
20 reinstated within two years after the [registration] renewal
21 date, if the applicant applies for reinstatement and pays the
22 required [registration] license renewal fee plus a delinquency
23 fee as established by the committee and provides evidence of
24 current certification.

25 3. Except as provided in section 209.321, the committee

1 with assistance from the division shall issue or renew a license
2 to each person who files an application and fee as required by
3 the provisions of sections 209.319 to 209.339 and who furnishes
4 satisfactory evidence to the committee that he has complied with
5 the provisions of subsection 1 or 2 of this section.

6 4. The committee may issue a new license to replace any
7 license which is lost, destroyed or mutilated upon payment of a
8 fee as provided by the committee.

9 317.011. 1. The division of professional registration
10 shall have the power, and it shall be its duty, to accept
11 application for and issue permits to hold professional boxing,
12 sparring, professional wrestling, professional kickboxing or
13 professional full-contact karate contests in the state of
14 Missouri, and to charge a fee for the issuance of same in an
15 amount established by rule; such funds to be paid to the division
16 of professional registration which shall pay such funds into the
17 state treasury to be set apart into the athletic fund.

18 2. The provisions of section 33.080, RSMo, to the contrary
19 notwithstanding, money in this fund shall not be transferred and
20 placed to the credit of general revenue until the amount in the
21 fund at the end of the biennium exceeds two times the amount of
22 the appropriation from the fund for the preceding fiscal year or,
23 if the division requires by rule renewal less frequently than
24 yearly then three times the appropriation from the fund for the
25 preceding fiscal year. The amount, if any, in the fund which

1 shall lapse is that amount in the fund which exceeds the
2 appropriate multiple of the appropriations from the fund for the
3 preceding fiscal year.

4 3. The division of professional registration shall not
5 grant any permit to hold professional boxing, sparring,
6 professional wrestling, professional kickboxing or professional
7 full-contact karate contests in the state of Missouri except:

8 (1) Where such professional boxing, sparring, professional
9 wrestling, professional kickboxing or professional full-contact
10 karate contest is to be held under the auspices of a promoter
11 duly licensed by the division;

12 (2) Where such contest shall be of not more than fifteen
13 rounds of three minutes each duration per bout; and

14 (3) Where a fee has been paid for such permit, in an amount
15 established by rule.

16 4. In such contests a decision shall be rendered by three
17 judges licensed by the division.

18 5. Specifically exempted from the provisions of chapter
19 317, are contests or exhibitions for amateur boxing, amateur
20 kick-boxing, amateur wrestling and amateur full-contact karate.
21 However, all amateur boxing, amateur kickboxing, amateur
22 wrestling and amateur full-contact karate must be sanctioned by a
23 nationally recognized amateur sanctioning body approved by the
24 office.

25 324.400. As used in sections 324.400 to 324.439, the

1 following terms mean:

2 (1) "Council", the interior design council created in
3 section 324.406;

4 (2) "Department", the department of economic development;

5 (3) "Division", the division of professional registration
6 of the department of economic development;

7 (4) "Registered [commercial] interior designer", a design
8 professional who provides services including preparation of
9 documents and specifications relative to nonload bearing interior
10 construction, furniture, finishes, fixtures and equipment and who
11 meets the criteria of education, experience and examination as
12 provided in sections 324.400 to 324.439.

13 324.403. No person may use the name or title, registered
14 [commercial] interior designer, in this state unless that person
15 is registered as required by sections 324.400 to 324.439.

16 Nothing in sections 324.400 to 324.439 shall be construed as
17 limiting or preventing the practice of a person's profession or
18 restricting a person from providing interior design services,
19 provided such person does not indicate to the public that such
20 person is registered as an interior designer pursuant to the
21 provisions of sections 324.400 to 324.439.

22 324.409. 1. To be a registered [commercial] interior
23 designer, a person:

24 (1) Shall take and pass or have passed the examination
25 administered by the National Council for Interior Design

1 Qualification or an equivalent examination approved by the
2 council. In addition to proof of passage of the examination, the
3 application shall provide substantial evidence to the council
4 that the applicant:

5 (a) Is a graduate of a five-year or four-year interior
6 design program from an accredited institution and has completed
7 at least two years of diversified and appropriate interior design
8 experience; or

9 (b) Has completed at least three years of an interior
10 design curriculum from an accredited institution and has
11 completed at least three years of diversified and appropriate
12 interior design experience; or

13 (c) Is a graduate of a two-year interior design program
14 from an accredited institution and has completed at least four
15 years of diversified and appropriate interior design experience;
16 or

17 (2) May qualify who is currently registered pursuant to
18 sections 327.091 to 327.171, RSMo, and section 327.401, RSMo,
19 pertaining to the practice of architecture and registered with
20 the council. Such applicant shall give authorization to the
21 council in order to verify current registration with sections
22 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining
23 to the practice of architecture.

24 2. Verification of experience required pursuant to this
25 section shall be based on a minimum of five client references,

1 business or employment verification and five industry references,
2 submitted to the council.

3 3. The council shall verify if an applicant has complied
4 with the provisions of this section and has paid the required
5 fees, then the council shall recommend such applicant be
6 registered as a registered [commercial] interior designer by the
7 council.

8 324.415. Applications for registration as a registered
9 [commercial] interior designer shall be typewritten on forms
10 prescribed by the division and furnished to the applicant. The
11 application shall contain the applicant's statements showing the
12 applicant's education, experience, results of previous interior
13 design certification, registration or licensing examinations, if
14 any, and such other pertinent information as the council may
15 require, or architect's registration number and such other
16 pertinent information as the council may require. Each
17 application shall contain a statement that is made under oath or
18 affirmation and that the representations are true and correct to
19 the best knowledge and belief of the person signing the
20 application. The person shall be subject to the penalties for
21 making a false affidavit or declaration and shall be accompanied
22 by the required fee.

23 324.418. 1. The certificate of registration issued
24 biennially to a registered [commercial] interior designer
25 pursuant to sections 324.400 to 324.439 shall be renewed on or

1 before the certificate renewal date accompanied by the required
2 fee. The certificate of registration of a registered
3 [commercial] interior designer which is not renewed within three
4 months after the certificate renewal date shall be suspended
5 automatically, subject to the right of the holder to have the
6 suspended certificate of registration reinstated within nine
7 months of the date of suspension if the person pays the required
8 reinstatement fee. Any certificate of registration suspended and
9 not reinstated within nine months of the suspension date shall
10 expire and be void and the holder of such certificate shall have
11 no rights or privileges provided to holders of valid
12 certificates. Any person whose certificate of registration has
13 expired may, upon demonstration of current qualifications and
14 payment of required fees, be reregistered or reauthorized under
15 the person's original certificate of registration number.

16 2. Each application for the renewal or reinstatement of a
17 registration shall be on a form furnished to the applicant and
18 shall be accompanied by the required fees and proof of current
19 completion of at least one unit every two years of approved or
20 verifiable continuing education in interior design or
21 architecture, immediately prior to such renewal or reinstatement.
22 Ten contact hours constitutes one continuing education unit.
23 Five contact hours of teaching in interior design or architecture
24 constitutes one continuing education unit. One college course
25 credit in interior design or architecture constitutes one

1 continuing education unit.

2 324.421. The council shall register without examination,
3 any interior designer certified, licensed or registered in
4 another state or territory of the United States or foreign
5 country if the applicant has qualifications which are at least
6 equivalent to the requirements for registration as a registered
7 [commercial] interior designer in this state and such applicant
8 pays the required fees.

9 324.427. It is unlawful for any person to advertise or
10 indicate to the public that the person is a registered
11 [commercial] interior designer in this state, unless such person
12 is registered as a registered [commercial] interior designer by
13 the council and is in good standing pursuant to sections 324.400
14 to 324.439.

15 324.430. No person may use the designation registered
16 [commercial] interior designer in Missouri, unless the council
17 has issued a current certificate of registration certifying that
18 the person has been duly registered as a registered [commercial]
19 interior designer in Missouri and unless such registration has
20 been renewed or reinstated as provided in section 324.418.

21 324.433. The right to use the title of registered
22 [commercial] interior designer shall be deemed a personal right,
23 based upon the qualifications of the individual, evidenced by the
24 person's current certificate of registration and such certificate
25 is not transferable; except that, a registered [commercial]

1 interior designer may perform the interior designer's profession
2 through, or as a member of, or as an employee of, a partnership
3 or corporation.

4 324.526. 1. Notwithstanding any other law to the contrary,
5 the director of the division of professional registration shall
6 issue a temporary license to practice tattooing, body piercing,
7 or branding under the following requirements:

8 (1) The applicant for temporary licensure is entering the
9 state for the sole purpose of participating in a state or
10 national convention at which the applicant will be practicing the
11 profession of tattooing, body piercing, or branding;

12 (2) The applicant files a completed application with the
13 division at least two days prior to the start of the convention
14 and tenders a fee of fifty dollars; and

15 (3) The applicant is otherwise qualified for licensure
16 under section 324.520 to 324.526 and the rule promulgated under
17 the authority of this statute.

18 2. A temporary license to practice tattooing, body
19 piercing, or branding issued under this section shall be valid
20 for a period not to exceed fourteen days and shall not be
21 renewable.

22 3. Notwithstanding the requirements of sections 620.127 and
23 620.145, RSMo, an applicant for temporary licensure under this
24 section shall not be required to provide a Social Security number
25 if the application is submitted by a citizen of a foreign country

1 who has not yet been issued a Social Security number and who
2 previously has not been licensed by any other state, United
3 States territory, or federal agency. A citizen of a foreign
4 country who applies for a temporary permit under this section
5 shall provide the division of professional registration with his
6 or her visa or passport identification number in lieu of the
7 Social Security number.

8 328.075. 1. Any person desiring to practice as an
9 apprentice for barbering in this state shall apply to the board,
10 registered as an apprentice with the board, and shall pay the
11 appropriate fees prior to beginning their apprenticeship. Barber
12 apprentices shall be of good moral character and shall be at
13 least seventeen years of age.

14 2. Any person desiring to act as an apprentice supervisor
15 for barbering in this state shall first possess a license to
16 practice the occupation of barbering, apply to the board, pay the
17 appropriate fees, complete an eight-hour apprentice supervision
18 instruction course certified by the board, and be issued a
19 certificate of registration as a barber apprentice supervisor
20 prior to supervising barber apprentices.

21 3. The board may promulgate rules establishing the criteria
22 for the supervision and training of barber apprentices.

23 4. Any rule or portion of a rule, as that term is defined
24 in section 536.010, RSMo, that is created under the authority
25 delegated in this section shall become effective only if it

1 complies with and is subject to all of the provisions of chapter
2 536, RSMo, and, if applicable, section 536.028, RSMo. This
3 section and chapter 536, RSMo, are nonseverable and if any of the
4 powers vested with the general assembly pursuant to chapter 536,
5 RSMo, to review, to delay the effective date, or to disapprove
6 and annul a rule are subsequently held unconstitutional, then the
7 grant of rulemaking authority and any rule proposed or adopted
8 after August 28, 2004, shall be invalid and void.

9 328.080. 1. Any person desiring to practice barbering in
10 this state shall make application for a certificate to the board
11 and shall pay the required barber examination fee. He or she
12 shall be present at the next regular meeting of the board for the
13 examination of applicants.

14 2. The board shall examine the applicant and, upon
15 successful completion of the examination and payment of the
16 required registration fee, shall issue to him or her a
17 certificate of registration authorizing him or her to practice
18 the trade in this state and enter his name in the register herein
19 provided for, if it finds that he or she:

20 (1) Is seventeen years of age or older and of good moral
21 character;

22 (2) Is free of contagious or infectious diseases;

23 (3) Has studied for at least one thousand hours in a period
24 of not less than six months in a properly appointed and conducted
25 barber school under the direct supervision of a licensed

1 instructor; or, if the applicant is an apprentice, the applicant
2 shall have served and completed no less than two thousand hours
3 under the direct supervision of a licensed barber apprentice
4 supervisor;

5 (4) Is possessed of requisite skill in the trade of
6 barbering to properly perform the duties thereof, including the
7 preparation of tools, shaving, haircutting and all the duties and
8 services incident thereto; and

9 (5) Has sufficient knowledge of the common diseases of the
10 face and skin to avoid the aggravation and spread thereof in the
11 practice of barbering.

12 3. The board shall be the judge of whether the barber
13 school, the barber apprenticeship, or college is properly
14 appointed and conducted under proper instruction to give
15 sufficient training in the trade.

16 4. The sufficiency of the qualifications of applicants
17 shall be determined by the board.

18 5. For the purposes of meeting the minimum requirements for
19 examination, the apprentice training shall be recognized by the
20 board for a period not to exceed five years.

21 334.530. 1. A candidate for license to practice as a
22 physical therapist shall be at least twenty-one years of age. A
23 candidate shall furnish evidence of such person's good moral
24 character and the person's educational qualifications by
25 submitting satisfactory evidence of completion of a program of

1 physical therapy education approved as reputable by the board. A
2 candidate who presents satisfactory evidence of the person's
3 graduation from a school of physical therapy approved as
4 reputable by the American Medical Association or, if graduated
5 before 1936, by the American Physical Therapy Association, or if
6 graduated after 1988, the Commission on Accreditation for
7 Physical Therapy Education or its successor, is deemed to have
8 complied with the educational qualifications of this subsection.

9 2. Persons desiring to practice as physical therapists in
10 this state shall appear before the board at such time and place
11 as the board may direct and be examined as to their fitness to
12 engage in such practice. Applications for examination shall be
13 in writing, on a form furnished by the board and shall include
14 evidence satisfactory to the board that the applicant possesses
15 the qualifications set forth in subsection 1 of this section.
16 Each application shall contain a statement that it is made under
17 oath or affirmation and that its representations are true and
18 correct to the best knowledge and belief of the person signing
19 the statement, subject to the penalties of making a false
20 affidavit or declaration. [The board shall not issue a permanent
21 license to practice as a physical therapist or allow any person
22 to sit for the Missouri state board examination for physical
23 therapists who has failed three or more times any physical
24 therapist licensing examination administered in one or more
25 states or territories of the United States or the District of

1 Columbia.]

2 3. The examination of qualified candidates for licenses to
3 practice physical therapy shall include a written examination and
4 shall embrace the subjects taught in reputable programs of
5 physical therapy education, sufficiently strict to test the
6 qualifications of the candidates as practitioners. [The
7 examination shall be given by the board at least once each year
8 and shall be administered to all candidates, and the examination
9 given at any particular time shall be the same for all candidates
10 and the same subjects shall be included and the same questions
11 shall be asked. Candidates shall be required to achieve a
12 passing score, as determined by the board, on an examination
13 before being issued a license.]

14 4. The examination shall embrace, in relation to the human
15 being, the subjects of anatomy, chemistry, kinesiology,
16 pathology, physics, physiology, psychology, physical therapy
17 theory and procedures as related to medicine, surgery and
18 psychiatry, and such other subjects, including medical ethics, as
19 the board deems useful to test the fitness of the candidate to
20 practice physical therapy.

21 [5. Examination grades or scores shall be preserved by the
22 board subject to public inspection. Examination papers retained
23 by the board shall be subject to public inspection for a period
24 of three years, after which they may be destroyed.]

25 334.540. 1. The board shall issue a license to any

1 physical therapist who is licensed in another jurisdiction and
2 who has had no violations, suspensions or revocations of a
3 license to practice physical therapy in any jurisdiction,
4 provided that, such person is licensed in a jurisdiction whose
5 requirements are substantially equal to, or greater than, the
6 requirements for licensure of physical therapists in Missouri at
7 the time the applicant applies for licensure.

8 2. Every applicant for a license pursuant to this section,
9 upon making application and showing the necessary qualifications
10 as provided in subsection 1 of this section, shall be required to
11 pay the same fee as the fee required to be paid by applicants who
12 apply to take the examination before the board. Within the
13 limits provided in this section, the board may negotiate
14 reciprocal compacts with licensing boards of other states for the
15 admission of licensed practitioners from Missouri in other
16 states.

17 [3. Notwithstanding the provisions of subsections 1 and 2
18 of this section, the board shall not issue a license to any
19 applicant who has failed three or more times any physical
20 therapist licensing examination administered in one or more
21 states or territories of the United States or the District of
22 Columbia.]

23 334.550. [1. Upon the applicant paying a temporary license
24 fee, the board shall issue without examination a temporary
25 license to practice physical therapy for a period of time not to

1 extend beyond the time when the results of the next examination
2 are announced to any person who meets the qualifications of
3 subsection 1 of section 334.530; provided that, the applicant has
4 not previously been examined in one or more states or territories
5 of the United States or the District of Columbia. The temporary
6 license may be renewed at the discretion of the board and payment
7 of the temporary license fee.

8 2. The board may once renew a temporary license issued
9 pursuant to this section if the licensee fails to sit for the
10 next scheduled examination; provided that, the applicant shows
11 good and exceptional cause for failing to sit for the
12 examination. The applicant shall state the good and exceptional
13 cause in writing and shall verify such statement by oath. The
14 board shall define good and exceptional cause by rules and
15 regulations.

16 3. The board may issue a temporary license to any
17 first-time applicant for licensure by examination if such person
18 submits an agreement-to-supervise form which is signed by the
19 applicant's supervising physical therapist.] An applicant who has
20 not been previously examined in another jurisdiction and meets
21 the qualifications of subsection 1 of section 334.530, may pay a
22 temporary license fee and submit an agreement-to-supervise form,
23 which is signed by the applicant's supervising physical
24 therapist, to the board and obtain without examination a
25 nonrenewable temporary license. Such temporary licensee may only

1 engage in the practice of physical therapy under the supervision
2 of a licensed physical therapist. The board shall define the
3 scope of such supervision by rules and regulations. The
4 temporary license shall expire on either the date the applicant
5 receives the results of the applicant's initial examination or
6 within ninety days of its issuance, whichever occurs first.

7 334.655. 1. A candidate for licensure to practice as a
8 physical therapist assistant shall be at least nineteen years of
9 age. A candidate shall furnish evidence of the person's good
10 moral character and of the person's educational qualifications.
11 The educational requirements for licensure as a physical
12 therapist assistant are:

13 (1) A certificate of graduation from an accredited high
14 school or its equivalent; and

15 (2) Satisfactory evidence of completion of an associate
16 degree program of physical therapy education accredited by the
17 commission on accreditation of physical therapy education.

18 2. Persons desiring to practice as a physical therapist
19 assistant in this state shall appear before the board at such
20 time and place as the board may direct and be examined as to the
21 person's fitness to engage in such practice. Applications for
22 examination shall be in writing, on a form furnished by the board
23 and shall include evidence satisfactory to the board that the
24 applicant possesses the qualifications provided in subsection 1
25 of this section. Each application shall contain a statement that

1 the statement is made under oath of affirmation and that its
2 representations are true and correct to the best knowledge and
3 belief of the person signing the statement, subject to the
4 penalties of making a false affidavit or declaration.

5 3. The examination of qualified candidates for licensure to
6 practice as physical therapist assistants shall embrace a written
7 examination and which shall cover the curriculum taught in
8 accredited associate degree programs of physical therapy
9 assistant education. Such examination shall be sufficient to
10 test the qualification of the candidates as practitioners. [The
11 examination shall be given by the board at least once each year.
12 The board shall not issue a license to practice as a physical
13 therapist assistant or allow any person to sit for the Missouri
14 state board examination for physical therapist assistants who has
15 failed three or more times any physical therapist licensing
16 examination administered in one or more states or territories of
17 the United States or the District of Columbia. The examination
18 given at any particular time shall be the same for all candidates
19 and the same curriculum shall be included and the same questions
20 shall be asked.]

21 4. The examination shall include, as related to the human
22 body, the subjects of anatomy, kinesiology, pathology,
23 physiology, psychology, physical therapy theory and procedures as
24 related to medicine and such other subjects, including medical
25 ethics, as the board deems useful to test the fitness of the

1 candidate to practice as a physical therapist assistant.

2 5. [Examination grades or scores shall be preserved by the
3 board subject to public inspection. Examination papers retained
4 by the board shall be subject to public inspection for a period
5 of three years and thereafter may be destroyed.

6 6.] The board shall license without examination any legally
7 qualified person who is a resident of this state and who was
8 actively engaged in practice as a physical therapist assistant on
9 August 28, 1993. The board may license such person pursuant to
10 this subsection until ninety days after the effective date of
11 this section.

12 [7.] 6. A candidate to practice as a physical therapist
13 assistant who does not meet the educational qualifications may
14 submit to the board an application for examination if such person
15 can furnish written evidence to the board that the person has
16 been employed in this state for at least three of the last five
17 years under the supervision of a licensed physical therapist and
18 such person possesses the knowledge and training equivalent to
19 that obtained in an accredited school. The board may license
20 such persons pursuant to this subsection until ninety days after
21 rules developed by the state board of healing arts regarding
22 physical therapist assistant licensing become effective.

23 334.660. The board shall license without examination
24 legally qualified persons who hold certificates of licensure,
25 registration or certification in any state or territory of the

1 United States or the District of Columbia, who have had no
2 violations, suspensions or revocations of such license,
3 registration or certification, if such persons have passed a
4 written examination to practice as a physical therapist assistant
5 that was substantially equal to the examination requirements of
6 this state and in all other aspects, including education, the
7 requirements for such certificates of licensure, registration or
8 certification were, at the date of issuance, substantially equal
9 to the requirements for licensure in this state. [The board
10 shall not issue a license to any applicant who has failed three
11 or more times any physical therapist assistant licensing
12 examination administered in one or more states or territories of
13 the United States or the District of Columbia.] Every applicant
14 for a license pursuant to this section, upon making application
15 and providing documentation of the necessary qualifications as
16 provided in this section, shall pay the same fee required of
17 applicants to take the examination before the board. Within the
18 limits of this section, the board may negotiate reciprocal
19 contracts with licensing boards of other states for the admission
20 of licensed practitioners from Missouri in other states.

21 334.665. [Upon the applicant paying a temporary fee, the
22 board shall issue, without examination, a temporary license to
23 practice as a physical therapist assistant for a period of time
24 not to exceed beyond the time when the results of the next
25 examination are announced to any person who meets the

1 qualifications of section 334.655. The temporary license may be
2 renewed at the discretion of the board and upon payment of a
3 temporary license fee.] An applicant who has not been previously
4 examined in another jurisdiction and meets the qualifications of
5 subsection 1 of section 334.655 may pay a temporary license fee
6 and submit an agreement-to-supervise form which is signed by the
7 applicant's supervising physical therapist to the board and
8 obtain without examination a nonrenewable temporary license.
9 Such temporary licensee may only practice under the supervision
10 of a licensed physical therapist. The board shall define the
11 scope of such supervision by rules and regulations. The
12 temporary license shall expire on either the date the applicant
13 receives the results of the applicant's initial examination or
14 within ninety days of its issuance, whichever occurs first.

15 337.085. 1. There is hereby established in the state
16 treasury a fund to be known as the "State Committee of
17 Psychologists Fund". All fees of any kind and character
18 authorized under sections 337.010 to 337.090 to be charged by the
19 committee or division shall be collected by the director of the
20 division of professional registration and shall be transmitted to
21 the department of revenue for deposit in the state treasury for
22 credit to this fund. Such funds, upon appropriation, shall be
23 disbursed only in payment of expenses of maintaining the
24 committee and for the enforcement of the provisions of law
25 concerning professions regulated by the committee. No other

1 money shall be paid out of the state treasury for carrying out
2 these provisions. Warrants shall be issued on the state
3 treasurer for payment out of the fund.

4 2. The provisions of section 33.080, RSMo, to the contrary
5 notwithstanding, money in this fund shall not be transferred and
6 placed to the credit of general revenue until the amount in the
7 fund at the end of the biennium exceeds two times the amount of
8 the appropriation from the committee's fund for the preceding
9 fiscal year or, if the committee requires by rule renewal less
10 frequently than yearly then three times the appropriation from
11 the committee's fund for the preceding fiscal year. The amount,
12 if any, in the fund which shall lapse is that amount in the fund
13 which exceeds the appropriate multiple of the appropriations from
14 the committee's fund for the preceding fiscal year.

15 3. All funds pertaining to the Missouri state committee of
16 psychologists deposited in the state treasury to the credit of
17 the committee of registration for the healing arts fund shall be
18 transferred from that fund to the state committee of
19 psychologists fund by the division director.

20 337.507. 1. Applications for examination and licensure as
21 a professional counselor shall be in writing, submitted to the
22 division on forms prescribed by the division and furnished to the
23 applicant. The application shall contain the applicant's
24 statements showing his education, experience and such other
25 information as the division may require. Each application shall

1 contain a statement that it is made under oath or affirmation and
2 that the information contained therein is true and correct to the
3 best knowledge and belief of the applicant, subject to the
4 penalties provided for the making of a false affidavit or
5 declaration. Each application shall be accompanied by the fees
6 required by the committee.

7 2. The division shall mail a renewal notice to the last
8 known address of each licensee prior to the registration renewal
9 date. Failure to provide the division with the information
10 required for registration, or to pay the registration fee after
11 such notice shall effect a revocation of the license after a
12 period of sixty days from the registration renewal date. The
13 license shall be restored if, within two years of the
14 registration date, the applicant provides written application and
15 the payment of the registration fee and a delinquency fee.

16 3. A new certificate to replace any certificate lost,
17 destroyed or mutilated may be issued subject to the rules of the
18 committee, upon payment of a fee.

19 4. The committee shall set the amount of the fees which
20 sections 337.500 to 337.540 authorize and require by rules and
21 regulations promulgated pursuant to section 536.021, RSMo. The
22 fees shall be set at a level to produce revenue which shall not
23 substantially exceed the cost and expense of administering the
24 provisions of sections 337.500 to 337.540. All fees provided for
25 in sections 337.500 to 337.540 shall be collected by the director

1 who shall deposit the same with the state treasurer in a fund to
2 be known as the "Committee of Professional Counselors Fund".

3 5. The provisions of section 33.080, RSMo, to the contrary
4 notwithstanding, money in this fund shall not be transferred and
5 placed to the credit of general revenue until the amount in the
6 fund at the end of the biennium exceeds two times the amount of
7 the appropriation from the committee's fund for the preceding
8 fiscal year or, if the committee requires by rule renewal less
9 frequently than yearly then three times the appropriation from
10 the committee's fund for the preceding fiscal year. The amount,
11 if any, in the fund which shall lapse is that amount in the fund
12 which exceeds the appropriate multiple of the appropriations from
13 the committee's fund for the preceding fiscal year.

14 6. The committee shall hold public examinations at least
15 two times per year, at such times and places as may be fixed by
16 the committee, notice of such examinations to be given to each
17 applicant at least ten days prior thereto.

18 337.615. 1. Each applicant for licensure as a clinical
19 social worker shall furnish evidence to the committee that:

20 (1) The applicant has a master's degree from a college or
21 university program of social work accredited by the council of
22 social work education or a doctorate degree from a school of
23 social work acceptable to the committee;

24 (2) The applicant has twenty-four months of supervised
25 clinical experience acceptable to the committee, as defined by

1 rule;

2 (3) The applicant has achieved a passing score, as defined
3 by the committee, on an examination approved by the committee.
4 The eligibility requirements for such examination shall be
5 promulgated by rule of the committee;

6 (4) The applicant is at least eighteen years of age, is of
7 good moral character, is a United States citizen or has status as
8 a legal resident alien, and has not been convicted of a felony
9 during the ten years immediately prior to application for
10 licensure.

11 2. Any person [not a resident of this state] holding a
12 valid unrevoked and unexpired license, certificate or
13 registration from another state or territory of the United States
14 having substantially the same requirements as this state for
15 clinical social workers may be granted a license to engage in the
16 person's occupation in this state upon application to the
17 committee accompanied by the appropriate fee as established by
18 the committee pursuant to section 337.612.

19 3. The committee shall issue a license to each person who
20 files an application and fee as required by the provisions of
21 sections 337.600 to 337.639 and who furnishes evidence
22 satisfactory to the committee that the applicant has complied
23 with the provisions of subdivisions (1) to (4) of subsection 1 of
24 this section or with the provisions of subsection 2 of this
25 section. The committee shall issue a provisional clinical social

1 worker license to any applicant who meets all requirements of
2 subdivisions (1), (3) and (4) of subsection 1 of this section,
3 but who has not completed the twenty-four months of supervised
4 clinical experience required by subdivision (2) of subsection 1
5 of this section, and such applicant may reapply for licensure as
6 a clinical social worker upon completion of the twenty-four
7 months of supervised clinical experience.

8 337.665. 1. Each applicant for licensure as a
9 baccalaureate social worker shall furnish evidence to the
10 committee that:

11 (1) The applicant has a baccalaureate degree in social work
12 from an accredited social work degree program approved by the
13 council of social work education;

14 (2) The applicant has achieved a passing score, as defined
15 by the committee, on an examination approved by the committee.
16 The eligibility requirements for such examination shall be
17 determined by the state committee for social work;

18 (3) The applicant has completed three thousand hours of
19 supervised baccalaureate experience with a licensed clinical
20 social worker or licensed baccalaureate social worker in no less
21 than twenty-four and no more than forty-eight consecutive
22 calendar months;

23 (4) The applicant is at least eighteen years of age, is of
24 good moral character, is a United States citizen or has status as
25 a legal resident alien, and has not been convicted of a felony

1 during the ten years immediately prior to application for
2 licensure;

3 (5) The applicant has submitted a written application on
4 forms prescribed by the state board;

5 (6) The applicant has submitted the required licensing fee,
6 as determined by the division.

7 2. Any applicant who answers in the affirmative to any
8 question on the application that relates to possible grounds for
9 denial of licensure pursuant to section 337.680 shall submit a
10 sworn affidavit setting forth in detail the facts which explain
11 such answer and copies of appropriate documents related to such
12 answer.

13 3. Any person [not a resident of this state] holding a
14 valid unrevoked and unexpired license, certificate or
15 registration from another state or territory of the United States
16 having substantially the same requirements as this state for
17 baccalaureate social workers may be granted a license to engage
18 in the person's occupation in this state upon application to the
19 committee accompanied by the appropriate fee as established by
20 the committee pursuant to section 337.662.

21 4. The committee shall issue a license to each person who
22 files an application and fee as required by the provisions of
23 sections 337.650 to 337.689 and who furnishes evidence
24 satisfactory to the committee that the applicant has complied
25 with the provisions of subsection 1 of this section or with the

1 provisions of subsection 2 of this section. The committee shall
2 issue a one-time provisional baccalaureate social worker license
3 to any applicant who meets all requirements of subdivisions (1),
4 (2), (4), (5) and (6) of subsection 1 of this section, but who
5 has not completed the supervised baccalaureate experience
6 required by subdivision (3) of subsection 1 of this section, and
7 such applicant may apply for licensure as a baccalaureate social
8 worker upon completion of the supervised baccalaureate
9 experience.

10 337.712. 1. Applications for licensure as a marital and
11 family therapist shall be in writing, submitted to the division
12 on forms prescribed by the division and furnished to the
13 applicant. The application shall contain the applicant's
14 statements showing the applicant's education, experience and such
15 other information as the division may require. Each application
16 shall contain a statement that it is made under oath or
17 affirmation and that the information contained therein is true
18 and correct to the best knowledge and belief of the applicant,
19 subject to the penalties provided for the making of a false
20 affidavit or declaration. Each application shall be accompanied
21 by the fees required by the division.

22 2. The division shall mail a renewal notice to the last
23 known address of each licensee prior to the licensure renewal
24 date. Failure to provide the division with the information
25 required for license, or to pay the licensure fee after such

1 notice shall effect a revocation of the license after a period of
2 sixty days from the licensure renewal date. The license shall be
3 restored if, within two years of the licensure date, the
4 applicant provides written application and the payment of the
5 licensure fee and a delinquency fee.

6 3. A new certificate to replace any certificate lost,
7 destroyed or mutilated may be issued subject to the rules of the
8 division upon payment of a fee.

9 4. The division shall set the amount of the fees
10 authorized. The fees shall be set at a level to produce revenue
11 which shall not substantially exceed the cost and expense of
12 administering the provisions of sections 337.700 to 337.739. All
13 fees provided for in sections 337.700 to 337.739 shall be
14 collected by the director who shall deposit the same with the
15 state treasurer to a fund to be known as the "Marital and Family
16 Therapists' Fund".

17 5. The provisions of section 33.080, RSMo, to the contrary
18 notwithstanding, money in this fund shall not be transferred and
19 placed to the credit of general revenue until the amount in the
20 fund at the end of the biennium exceeds two times the amount of
21 the appropriations from the marital and family therapists' fund
22 for the preceding fiscal year or, if the division requires by
23 rule renewal less frequently than yearly then three times the
24 appropriation from the fund for the preceding fiscal year. The
25 amount, if any, in the fund which shall lapse is that amount in

1 the fund which exceeds the appropriate multiple of the
2 appropriations from the marital and family therapists' fund for
3 the preceding fiscal year.

4 339.010. 1. A "real estate broker" is any person,
5 partnership, association, or corporation, foreign or domestic
6 who, for another, and for a compensation or valuable
7 consideration, [as a whole or partial vocation,] does, or
8 attempts to do, any or all of the following:

9 (1) Sells, exchanges, purchases, rents, or leases real
10 estate;

11 (2) Offers to sell, exchange, purchase, rent or lease real
12 estate;

13 (3) Negotiates or offers or agrees to negotiate the sale,
14 exchange, purchase, rental or leasing of real estate;

15 (4) Lists or offers or agrees to list real estate for sale,
16 lease, rental or exchange;

17 (5) Buys, sells, offers to buy or sell or otherwise deals
18 in options on real estate or improvements thereon;

19 (6) Advertises or holds himself or herself out as a
20 licensed real estate broker while engaged in the business of
21 buying, selling, exchanging, renting, or leasing real estate;

22 (7) Assists or directs in the procuring of prospects,
23 calculated to result in the sale, exchange, leasing or rental of
24 real estate;

25 (8) Assists or directs in the negotiation of any

1 transaction calculated or intended to result in the sale,
2 exchange, leasing or rental of real estate;

3 (9) Engages in the business of charging to an unlicensed
4 person an advance fee in connection with any contract whereby the
5 real estate broker undertakes to promote the sale of that
6 person's real estate through its listing in a publication issued
7 for such purpose intended to be circulated to the general public;

8 (10) Performs any of the foregoing acts as an employee of,
9 or on behalf of, the owner of real estate, or interest therein,
10 or improvements affixed thereon, for compensation.

11 2. A "real estate salesperson" is any person, who for a
12 compensation or valuable consideration becomes associated, either
13 as an independent contractor or employee, either directly or
14 indirectly, with a real estate broker to do any of the things
15 above mentioned[, as a whole or partial vocation]. The
16 provisions of sections 339.010 to 339.180 and sections 339.710 to
17 339.860 shall not be construed to deny a real estate salesperson
18 who is compensated solely by commission the right to be
19 associated with a broker as an independent contractor.

20 3. The term "commission" as used in sections 339.010 to
21 339.180 and sections 339.710 to 339.860 means the Missouri real
22 estate commission.

23 4. "Real estate" for the purposes of sections 339.010 to
24 339.180 and sections 339.710 to 339.860 shall mean, and include,
25 leaseholds, as well as any other interest or estate in land,

1 whether corporeal, incorporeal, freehold or nonfreehold, and
2 [whether] the real estate is situated in this state [or
3 elsewhere].

4 5. The provisions of sections 339.010 to 339.180 and
5 sections 339.710 to 339.860 shall not apply to:

6 (1) Any person, partnership, association, or corporation
7 who as owner [or], lessor, or lessee shall perform any of the
8 acts described in subsection 1 of this section with reference to
9 property owned or leased by them, or to the regular employees
10 thereof, provided such owner [or], lessor, or lessee is not
11 engaged in the real estate business [as a vocation];

12 (2) Any licensed attorney-at-law;

13 (3) An auctioneer employed by the owner of the property;

14 (4) Any person acting as receiver, trustee in bankruptcy,
15 administrator, executor, or guardian or while acting under a
16 court order or under the authority of a will, trust instrument or
17 deed of trust or as a witness in any judicial proceeding or other
18 proceeding conducted by the state or any governmental subdivision
19 or agency;

20 (5) Any person employed or retained to manage real property
21 by, for, or on behalf of, the agent or the owner, of any real
22 estate shall be exempt from holding a license, if the person is
23 limited to one or more of the following activities:

24 (a) Delivery of a lease application, a lease, or any
25 amendment thereof, to any person;

1 (b) Receiving a lease application, lease, or amendment
2 thereof, a security deposit, rental payment, or any related
3 payment, for delivery to, and made payable to, a broker or owner;

4 (c) Showing a rental unit to any person, as long as the
5 employee is acting under the direct instructions of the broker or
6 owner, including the execution of leases or rental agreements;

7 (d) Conveying information prepared by a broker or owner
8 about a rental unit, a lease, an application for lease, or the
9 status of a security deposit, or the payment of rent, by any
10 person;

11 (e) Assisting in the performance of brokers' or owners'
12 functions, administrative, clerical or maintenance tasks;

13 (f) If the person described in this section is employed or
14 retained by, for, or on behalf of a real estate broker, the real
15 estate broker shall be subject to discipline under this chapter
16 for any conduct of the person that violates this chapter or the
17 regulations promulgated thereunder;

18 (6) Any officer or employee of a federal agency or the
19 state government or any political subdivision thereof performing
20 official duties;

21 (7) Railroads and other public utilities regulated by the
22 state of Missouri, or their subsidiaries or affiliated
23 corporations, or to the officers or regular employees thereof,
24 unless performance of any of the acts described in subsection 1
25 of this section is in connection with the sale, purchase, lease

1 or other disposition of real estate or investment therein
2 unrelated to the principal business activity of such railroad or
3 other public utility or affiliated or subsidiary corporation
4 thereof;

5 (8) Any bank, trust company, savings and loan association,
6 credit union, insurance company, mortgage banker, or farm loan
7 association organized under the laws of this state or of the
8 United States when engaged in the transaction of business on its
9 own behalf and not for others;

10 (9) Any newspaper [or] magazine [or] periodical [of
11 general circulation], or Internet site whereby the advertising of
12 real estate is incidental to [the] its operation [of that
13 publication] or to any form of communications regulated or
14 licensed by the Federal Communications Commission or any
15 successor agency or commission;

16 (10) Any developer selling Missouri land owned by the
17 developer [if such developer has on file with the commission a
18 certified copy of a currently effective statement of record on
19 file with the Office of Interstate Land Sales pursuant to
20 Sections 1704 through 1706 of Title 15 of the United States Code
21 or a current statement from the Office of Interstate Land Sales
22 of the United States Department of Housing and Urban Development
23 approving the documentation (together with a copy of such
24 documentation) submitted to that office with respect to real
25 estate falling within the scope of subsection 1702(a)(10) of

1 Title 15 of the United States Code];

2 (11) Any employee acting on behalf of a nonprofit
3 community, or regional economic development association, agency
4 or corporation which has as its principal purpose the general
5 promotion and economic advancement of the community at large,
6 provided that such entity:

7 (a) Does not offer such property for sale, lease, rental or
8 exchange on behalf of another person or entity;

9 (b) Does not list or offer or agree to list such property
10 for sale, lease, rental or exchange; or

11 (c) Receives no fee, commission or compensation, either
12 monetary or in kind, that is directly related to sale or disposal
13 of such properties. An economic developer's normal annual
14 compensation shall be excluded from consideration as commission
15 or compensation related to sale or disposal of such properties;
16 or

17 (12) Any neighborhood association, as that term is defined
18 in section 441.500, RSMo, that without compensation, either
19 monetary or in kind, provides to prospective purchasers or
20 lessors of property the asking price, location, and contact
21 information regarding properties in and near the association's
22 neighborhood, including any publication of such information in a
23 newsletter, [web] Internet site, or other medium.

24 339.020. It shall be unlawful for any person, partnership,
25 association, or corporation, foreign or domestic, to act as a

1 real estate broker or real estate salesperson, or to advertise or
2 assume to act as such without a license first procured from the
3 commission.

4 339.030. A corporation, partnership, or association shall
5 be granted a license when individual licenses have been issued to
6 every member, partner or officer of such partnership,
7 association, or corporation who actively participates in its
8 brokerage business and to every person who acts as a salesperson
9 for such partnership, association, or corporation and when the
10 required fee is paid.

11 339.040. 1. Licenses shall be granted only to persons who
12 present, and corporations, associations, or partnerships whose
13 officers, associates, or partners present, satisfactory proof to
14 the commission that they:

15 (1) Are persons of good moral character; and

16 (2) Bear a good reputation for honesty, integrity, and fair
17 dealing; and

18 (3) Are competent to transact the business of a broker or
19 salesperson in such a manner as to safeguard the interest of the
20 public.

21 2. In order to determine an applicant's qualifications to
22 receive a license under sections 339.010 to 339.180 and sections
23 339.710 to 339.860, the commission shall hold oral or written
24 examinations at such times and places as the commission may
25 determine.

1 3. Each applicant for a broker or salesperson license shall
2 be at least eighteen years of age and shall pay the broker
3 examination fee or the salesperson examination fee.

4 4. Each applicant for a broker license shall be required to
5 have satisfactorily completed the salesperson license examination
6 prescribed by the commission. For the purposes of this section
7 only, the commission may permit a person who is not associated
8 with a licensed broker to take the salesperson examination.

9 5. Each application for a broker license shall include a
10 certificate from the applicant's broker or brokers that the
11 applicant has been actively engaged in the real estate business
12 as a licensed salesperson for at least one year immediately
13 preceding the date of application, or, in lieu thereof, shall
14 include a certificate from a school accredited by the commission
15 under the provisions of section 339.045 that the applicant has,
16 within six months prior to the date of application, successfully
17 completed the prescribed broker curriculum or broker
18 correspondence course offered by such school, except that the
19 commission may waive all or part of the educational requirements
20 set forth in this subsection when an applicant presents proof of
21 other educational background or experience acceptable to the
22 commission.

23 6. Each application for a salesperson license shall include
24 a certificate from a school accredited by the commission under
25 the provisions of section 339.045 that the applicant has, within

1 six months prior to the date of application, successfully
2 completed the prescribed salesperson curriculum or salesperson
3 correspondence course offered by such school, except that the
4 commission may waive all or part of the educational requirements
5 set forth in this subsection when an applicant presents proof of
6 other educational background or experience acceptable to the
7 commission.

8 7. ~~【The commission shall require】~~ The commission may issue
9 a temporary work permit pending final review and printing of the
10 license to an applicant who appears to have satisfied the
11 requirements for licenses. The commission may, at its
12 discretion, withdraw the work permit at any time.

13 8. Every active broker, salesperson, officer ~~【or】~~, partner
14 ~~【to present upon license renewal】~~, or associate shall provide
15 upon request to the commission evidence that during the two years
16 preceding he or she has completed twelve hours of real estate
17 instruction in courses approved by the commission. The
18 commission may, by rule and regulation, provide for individual
19 waiver of this requirement.

20 ~~【8.】~~ 9. Each entity that provides continuing education
21 required under the provisions of subsection ~~【7】~~ 8 of this section
22 may make available ~~【videotapes and audiotapes of】~~ instruction
23 courses that the entity conducts through means of distance
24 delivery. The commission shall by rule set standards for ~~【the~~
25 ~~production of】~~ such ~~【taped】~~ courses~~【, which may include the~~

1 requirement that individuals purchasing such tapes also purchase
2 an accompanying written study document. The commission shall
3 authorize individuals required to complete instruction under the
4 provisions of this subsection to fulfill such continuing
5 education requirements by utilizing such videotape and audiotape
6 courses]. The commission may by regulation require the
7 individual completing such [videotape or audiotape] distance
8 delivered course to complete an examination on the contents of
9 the course. Such examination shall be designed to ensure that
10 the licensee displays adequate knowledge of the subject matter of
11 the course, and shall be designed by the entity producing the
12 [taped] course and approved by the commission.

13 [9.] 10. In the event of the death or incapacity of a
14 licensed broker, or of one or more of the licensed partners [or],
15 officers, or associates of a real estate partnership [or],
16 corporation, or association whereby the affairs of the broker,
17 partnership, or corporation cannot be carried on, the commission
18 may issue, without examination or fee, to the legal
19 representative or representatives of the deceased or
20 incapacitated individual, or to another individual approved by
21 the commission, a temporary broker license which shall authorize
22 such individual to continue for a period to be designated by the
23 commission to transact business for the sole purpose of winding
24 up the affairs of the broker, partnership or corporation under
25 the supervision of the commission.

1 339.060. 1. The commission shall set the amount of the
2 fees which sections 339.010 to 339.180 and sections 339.710 to
3 339.860 authorize and require by rules and regulations
4 promulgated pursuant to section 536.021, RSMo. The fees shall be
5 set at a level to produce revenue which shall not substantially
6 exceed the cost and expense of administering sections 339.010 to
7 339.180 and sections 339.710 to 339.860.

8 2. Every license granted under sections 339.010 to 339.180
9 and sections 339.710 to 339.860 shall be renewed each licensing
10 period and the commission shall issue a new license upon receipt
11 of the [written] properly completed application of the applicant
12 and the required renewal fee.

13 339.100. 1. The commission may, upon its own motion, and
14 shall upon receipt of a written complaint filed by any person,
15 investigate any [business transaction] real estate-related
16 activity of a [person, partnership or corporation] licensee
17 licensed under sections 339.010 to 339.180 and sections 339.710
18 to 339.860 or an individual or entity acting as or representing
19 themselves as a real estate licensee. In conducting such
20 investigation, if the questioned activity or written complaint
21 involves an affiliated licensee, the commission may forward a
22 copy of the information received to the affiliated licensee's
23 designated broker. The commission shall have the power to hold
24 an investigatory hearing to determine whether there is a
25 probability [that the licensee has performed or attempted to

1 perform any act or practice declared unlawful pursuant to] of a
2 violation of sections 339.010 to 339.180 and sections 339.710 to
3 339.860. [In conducting such a hearing,] The commission shall
4 have the power to issue a subpoena to compel the production of
5 records and papers bearing on the complaint. The commission
6 shall have the power to issue a subpoena and to compel any person
7 in this state to come before the commission to offer testimony or
8 any material specified in the subpoena. Subpoenas and subpoenas
9 duces tecum issued pursuant to this section shall be served in
10 the same manner as subpoenas in a criminal case. The fees and
11 mileage of witnesses shall be the same as that allowed in the
12 circuit court in civil cases.

13 2. The commission may cause a complaint to be filed with
14 the administrative hearing commission as provided by [law when
15 the commission believes there is a probability that a licensee
16 has performed or attempted to perform any] the provisions of
17 chapter 621, RSMo, against any person or entity licensed under
18 this chapter or any licensee who has failed to renew or has
19 surrendered his or her individual or entity license for any one
20 or any combination of the following acts:

21 (1) Failure to maintain and deposit in a special account,
22 separate and apart from his or her personal or other business
23 accounts, all moneys belonging to others entrusted to him or her
24 while acting as a real estate broker[, or as escrow agent,] or as
25 the temporary custodian of the funds of others, until the

1 transaction involved is consummated or terminated, unless all
2 parties having an interest in the funds have agreed otherwise in
3 writing;

4 (2) Making substantial misrepresentations or false promises
5 or suppression, concealment or omission of material facts in the
6 conduct of his or her business or pursuing a flagrant and
7 continued course of misrepresentation through agents,
8 salespersons, advertising or otherwise in any transaction;

9 (3) Failing within a reasonable time to account for or to
10 remit any moneys, valuable documents or other property, coming
11 into his or her possession, which belongs to others;

12 (4) Representing to any lender, guaranteeing agency, or any
13 other interested party, either verbally or through the
14 preparation of false documents, an amount in excess of the true
15 and actual sale price of the real estate or terms differing from
16 those actually agreed upon;

17 (5) Failure to timely deliver[, immediately at the time of
18 signing,] a duplicate original of any and all instruments to any
19 party or parties executing the same where the instruments have
20 been prepared by the licensee or under his or her supervision or
21 are within his or her control, including, but not limited to, the
22 instruments relating to the employment of the licensee or to any
23 matter pertaining to the consummation of a lease, listing
24 agreement or the purchase, sale, exchange or lease of property,
25 or any type of real estate transaction in which he or she may

1 participate as a licensee;

2 (6) Acting for more than one party in a transaction without
3 the knowledge of all parties for whom he or she acts, or
4 accepting a commission or valuable consideration for services
5 from more than one party in a real estate transaction without the
6 knowledge of all parties to the transaction;

7 (7) Paying a commission or valuable consideration to any
8 person for acts or services performed in violation of sections
9 339.010 to 339.180 and sections 339.710 to 339.860;

10 (8) Guaranteeing or having authorized or permitted any
11 licensee to guarantee future profits which may result from the
12 resale of real property;

13 (9) Having been finally adjudicated and been found guilty
14 of the violation of any state or federal statute which governs
15 the sale or rental of real property or the conduct of the real
16 estate business as defined in subsection 1 of section 339.010;

17 (10) Obtaining a certificate or registration of authority,
18 permit or license for himself or herself or anyone else by false
19 or fraudulent representation, fraud or deceit;

20 (11) Representing a real estate broker other than the
21 broker with whom associated without the express [knowledge and]
22 written consent of [that] the broker[, or] with whom associated;

23 (12) Accepting a commission or valuable consideration for
24 the performance of any of the acts referred to in section 339.010
25 from any person except the broker with whom associated at the

1 time the commission or valuable consideration was earned;

2 [(12)] (13) Using prizes, money, gifts or other valuable
3 consideration as inducement to secure customers or clients to
4 purchase, lease, sell or list property when the awarding of such
5 prizes, money, gifts or other valuable consideration is
6 conditioned upon the purchase, lease, sale or listing; or
7 soliciting, selling or offering for sale real property by
8 offering free lots, or conducting lotteries or contests, or
9 offering prizes for the purpose of influencing a purchaser or
10 prospective purchaser of real property;

11 [(13)] (14) Placing a sign on or advertising any property
12 offering it for sale or rent without the written consent of the
13 owner or his or her duly authorized agent;

14 [(14)] (15) Violation of, or attempting to violate,
15 directly or indirectly, or assisting or enabling any person to
16 violate, any provision of sections 339.010 to 339.180 and
17 sections 339.710 to 339.860, or of any lawful rule adopted
18 pursuant to sections 339.010 to 339.180 and sections 339.710 to
19 339.860;

20 [(15)] (16) Committing any act which would otherwise be
21 grounds for the commission to refuse to issue a license under
22 section 339.040;

23 [(16)] (17) Failure to [submit] timely inform seller of all
24 written [bona fide] offers [to a seller when such offers are
25 received prior to the seller accepting an offer in writing and

1 until the licensee has knowledge of such acceptance] unless
2 otherwise instructed in writing by the seller;

3 [(17)] (18) Been finally adjudicated and found guilty, or
4 entered a plea of guilty or nolo contendere, in a criminal
5 prosecution under the laws of this state or any other state or of
6 the United States, for any offense reasonably related to the
7 qualifications, functions or duties of any profession licensed or
8 regulated under this chapter, for any offense an essential
9 element of which is fraud, dishonesty or an act of violence, or
10 for any offense involving moral turpitude, whether or not
11 sentence is imposed;

12 [(18)] (19) Any other conduct which constitutes
13 untrustworthy, improper or fraudulent business dealings, [or]
14 demonstrates bad faith or [gross] incompetence, misconduct, or
15 gross negligence;

16 [(19)] (20) Disciplinary action against the holder of a
17 license or other right to practice any profession regulated under
18 sections 339.010 to 339.180 and sections 339.710 to 339.860
19 granted by another state, territory, federal agency, or country
20 upon grounds for which revocation, suspension, or probation is
21 authorized in this state;

22 [(20)] (21) Been found by a court of competent jurisdiction
23 of having used any controlled substance, as defined in chapter
24 195, RSMo, to the extent that such use impairs a person's ability
25 to perform the work of any profession licensed or regulated by

1 sections 339.010 to 339.180 and sections 339.710 to 339.860;

2 [(21)] (22) Been finally adjudged insane or incompetent by
3 a court of competent jurisdiction;

4 [(22)] (23) Assisting or enabling any person to practice or
5 offer to practice any profession licensed or regulated under
6 sections 339.010 to 339.180 and sections 339.710 to 339.860 who
7 is not registered and currently eligible to practice under
8 sections 339.010 to 339.180 and sections 339.710 to 339.860;

9 [(23)] (24) Use of any advertisement or solicitation which
10 is knowingly false, misleading or deceptive to the general public
11 or persons to whom the advertisement or solicitation is primarily
12 directed.

13 3. After the filing of such complaint, the proceedings will
14 be conducted in accordance with the provisions of law relating to
15 the administrative hearing commission. A finding of the
16 administrative hearing commissioner that the licensee has
17 performed or attempted to perform one or more of the foregoing
18 acts shall be grounds for the suspension or revocation of his
19 license by the commission, or the placing of the licensee on
20 probation on such terms and conditions as the real estate
21 commission shall deem appropriate.

22 4. The commission may prepare a digest of the decisions of
23 the administrative hearing commission which concern complaints
24 against licensed brokers or salespersons and cause such digests
25 to be mailed to all licensees periodically. Such digests may

1 also contain reports as to new or changed rules adopted by the
2 commission and other information of significance to licensees.

3 339.105. 1. Each broker who holds funds belonging to
4 another shall maintain such funds in a separate bank account in a
5 financial institution which shall be designated an escrow or
6 trust account. This requirement includes funds in which he or
7 she may have some future interest or claim. Such funds shall be
8 deposited promptly unless all parties having an interest in the
9 funds have agreed otherwise in writing. No broker shall
10 commingle his or her personal funds or other funds in this
11 account with the exception that a broker may deposit and keep a
12 sum not to exceed one thousand dollars in the account from his or
13 her personal funds, which sum shall be specifically identified
14 and deposited to cover service charges related to the account.

15 2. Each broker shall notify the commission [of the name] of
16 his or her intent not to maintain an escrow account, or the name
17 of the financial institution in which each escrow or trust
18 account is maintained, the name and number of each such account,
19 and shall file written authorization directed to each financial
20 institution to allow the commission or its authorized
21 representative to examine each such account; such notification
22 and authorization shall be submitted on forms provided therefor
23 by the commission. A broker shall notify the commission within
24 ten business days of any change of his or her intent to maintain
25 an escrow account, the financial institution, account numbers, or

1 change in account status.

2 3. In conjunction with each escrow or trust account a
3 broker shall maintain books, records, contracts and other
4 necessary documents so that the adequacy of said account may be
5 determined at any time. The account and other records shall be
6 provided to the commission and its duly authorized agents for
7 inspection at all times during regular business hours at the
8 broker's usual place of business.

9 4. Whenever the ownership of any escrow moneys received by
10 a broker pursuant to this section is in dispute by the parties to
11 a real estate sales transaction, the broker shall report and
12 deliver the moneys to the state treasurer within three hundred
13 sixty-five days of the date of the initial projected closing date
14 in compliance with sections 447.500 to 447.595, RSMo. The
15 parties to a real estate sales transaction may agree in writing
16 that the funds are not in dispute and shall notify the broker who
17 is holding the funds.

18 5. A broker shall not be entitled to any money or other
19 money paid to him or her in connection with any real estate sales
20 transaction as part or all of his or her commission or fee until
21 the transaction has been consummated or terminated, unless agreed
22 in writing by all parties to the transaction.

23 6. When, through investigations or otherwise, the
24 commission has reasonable cause to believe that a licensee has
25 acted, is acting or is about to act in violation of this section,

1 the commission may, through the attorney general or any
2 assistants designated by the attorney general, proceed in the
3 name of the commission to institute suit to enjoin any act or
4 acts in violation of this section.

5 7. Any such suit shall be commenced in either the county in
6 which the defendant resides or in the county in which the
7 defendant has acted, is acting or is about to act in violation of
8 this section.

9 8. In such proceeding, the court shall have power to issue
10 such temporary restraining or injunction orders, without bond,
11 which are necessary to protect the public interest. Any action
12 brought under this section shall be in addition to and not in
13 lieu of any other provisions of this chapter. In such action,
14 the commission or the state need not allege or prove that there
15 is no adequate remedy at law or that any individual has suffered
16 any economic injury as a result of the activity sought to be
17 enjoined.

18 339.120. 1. There is hereby created the "Missouri Real
19 Estate Commission", to consist of seven persons, citizens of the
20 United States and residents of this state for at least one year
21 prior to their appointment, for the purpose of carrying out and
22 enforcing the provisions of sections 339.010 to 339.180 and
23 sections 339.710 to 339.860. The commission shall be appointed
24 by the governor with the advice and consent of the senate. All
25 members, except one voting public member, of the commission must

1 have had at least ten years' experience as a real estate broker
2 prior to their appointment. The terms of the members of the
3 commission shall be for five years, and until their successors
4 are appointed and qualified. Members to fill vacancies shall be
5 appointed by the governor for the unexpired term. The president
6 of the Missouri Association of Realtors in office at the time
7 shall, at least ninety days prior to the expiration of the term
8 of the board member, other than the public member, or as soon as
9 feasible after the vacancy on the board otherwise occurs, submit
10 to the director of the division of professional registration a
11 list of five Realtors qualified and willing to fill the vacancy
12 in question, with the request and recommendation that the
13 governor appoint one of the five persons so listed, and with the
14 list so submitted, the president of the Missouri Association of
15 Realtors shall include in his or her letter of transmittal a
16 description of the method by which the names were chosen by that
17 association. The commission shall organize annually by selecting
18 from its members a chairman. The commission may do all things
19 necessary and convenient for carrying into effect the provisions
20 of sections 339.010 to 339.180 and sections 339.710 to 339.860,
21 and may promulgate necessary rules compatible with the provisions
22 of sections 339.010 to 339.180 and sections 339.710 to 339.860.
23 Each member of the commission shall receive as compensation an
24 amount set by the commission not to exceed [fifty] seventy-five
25 dollars for each day devoted to the affairs of the commission,

1 and shall be entitled to reimbursement of his or her expenses
2 necessarily incurred in the discharge of his or her official
3 duties. The governor may remove any commissioner for cause.

4 2. The public member shall be at the time of his or her
5 appointment a citizen of the United States; a resident of this
6 state for a period of one year and a registered voter; a person
7 who is not and never was a member of any profession licensed or
8 regulated pursuant to sections 339.010 to 339.180 and sections
9 339.710 to 339.860 or the spouse of such person; and a person who
10 does not have and never has had a material, financial interest in
11 either the providing of the professional services regulated by
12 sections 339.010 to 339.180 and sections 339.710 to 339.860, or
13 an activity or organization directly related to any profession
14 licensed or regulated pursuant to sections 339.010 to 339.180 and
15 sections 339.710 to 339.860. All members, including public
16 members, shall be chosen from lists submitted by the director of
17 the division of professional registration. The duties of the
18 public member shall not include the determination of the
19 technical requirements to be met for licensure or whether any
20 person meets such technical requirements or of the technical
21 competence or technical judgment of a licensee or a candidate for
22 licensure.

23 3. The commission shall employ such board personnel, as
24 defined in subdivision (4) of subsection 15 of section 620.010,
25 RSMo, as it shall deem necessary to discharge the duties imposed

1 by the provisions of sections 339.010 to 339.180 and sections
2 339.710 to 339.860.

3 4. Any rule or portion of a rule, as that term is defined
4 in section 536.010, RSMo, that is created under the authority
5 delegated in sections 339.010 to 339.180 and sections 339.710 to
6 339.860 shall become effective only if it complies with and is
7 subject to all of the provisions of chapter 536, RSMo, and, if
8 applicable, section 536.028, RSMo. All rulemaking authority
9 delegated prior to August 28, 1999, is of no force and effect and
10 repealed. Nothing in this section shall be interpreted to repeal
11 or affect the validity of any rule filed or adopted prior to
12 August 28, 1999, if it fully complied with all applicable
13 provisions of law. This section and chapter 536, RSMo, are
14 nonseverable and if any of the powers vested with the general
15 assembly pursuant to chapter 536, RSMo, to review, to delay the
16 effective date or to disapprove and annul a rule are subsequently
17 held unconstitutional, then the grant of rulemaking authority and
18 any rule proposed or adopted after August 28, 1999, shall be
19 invalid and void.

20 339.130. The commission may sue and be sued in its official
21 name, and shall have a seal which shall be affixed to [all
22 licenses,] certified copies of records and papers on file, and to
23 such other instruments as the commission may direct, and all
24 courts shall take judicial notice of such seal. Copies of
25 records and proceedings of the commission, and of all papers on

1 file in its office, certified under the said seal shall be
2 received as evidence in all courts of record. The office of the
3 commission shall be at Jefferson City.

4 339.150. 1. No real estate broker shall knowingly employ
5 or engage any person to perform any service to the broker for
6 which licensure as a real estate broker or a real estate sales
7 person is required pursuant to sections 339.010 to 339.180 and
8 sections 339.710 to 339.860, unless such a person is a licensed
9 real estate salesperson or a licensed real estate broker as
10 required by section 339.020, or a person regularly engaged in the
11 real estate brokerage business outside of the state of Missouri.
12 Any such action shall be unlawful as provided by section 339.100
13 and shall be grounds for investigation, complaint, proceedings
14 and discipline as provided by section 339.100.

15 2. No real estate licensee shall pay any part of a fee,
16 commission or other compensation received by the licensee to any
17 person for any service rendered by such person to the licensee in
18 buying, selling, exchanging, leasing, renting or negotiating a
19 loan upon any real estate, unless such a person is a licensed
20 real estate salesperson regularly associated with such a broker,
21 or a licensed real estate broker, or a person regularly engaged
22 in the real estate brokerage business outside of the state of
23 Missouri.

24 3. Notwithstanding the provisions of subsections 1 and 2 of
25 this section, any real estate broker who shall refuse to pay any

1 person for services rendered by such person to the broker, with
2 the consent, knowledge and acquiescence of the broker that such
3 person was not licensed as required by section 339.020, in
4 buying, selling, exchanging, leasing, renting or negotiating a
5 loan upon any real estate for which services a license is
6 required, and who is employed or engaged by such broker to
7 perform such services, shall be liable to such person for the
8 reasonable value of the same or similar services rendered to the
9 broker, regardless of whether or not the person possesses or
10 holds any particular license, permit or certification at the time
11 the service was performed. Any such person may bring a civil
12 action for the reasonable value of his services rendered to a
13 broker notwithstanding the provisions of section 339.160.

14 339.160. No person, partnership, corporation, or
15 association engaged within this state in the business or acting
16 in the capacity of a real estate broker or real estate
17 salesperson shall bring or maintain an action in any court in
18 this state for the recovery of compensation for services rendered
19 in the buying, selling, exchanging, leasing, renting or
20 negotiating a loan upon any real estate without alleging and
21 proving that such person, partnership, corporation, or
22 association was a licensed real estate broker or salesperson at
23 the time when the alleged cause of action arose.

24 339.170. Any person or corporation knowingly violating any
25 provision of sections 339.010 to 339.180 and sections 339.710 to

1 339.860 shall be guilty of a class B misdemeanor. Any officer or
2 agent of a corporation, or member or agent of a partnership or
3 association, who shall knowingly and personally participate in or
4 be an accessory to any violation of sections 339.010 to 339.180
5 and sections 339.710 to 339.860, shall be guilty of a class B
6 misdemeanor. This section shall not be construed to release any
7 person from civil liability or criminal prosecution under any
8 other law of this state. The commission may cause complaint to
9 be filed for violation of section 339.020 in any court of
10 competent jurisdiction, and perform such other acts as may be
11 necessary to enforce the provisions hereof.

12 339.180. 1. It shall be unlawful for any person or
13 entity not licensed under this chapter to perform any act for
14 which a real estate [broker or salesperson] license is required.
15 Upon application by the [board] commission, and the necessary
16 burden having been met, a court of general jurisdiction may grant
17 an injunction, restraining order or other order as may be
18 appropriate to enjoin a person or entity from:

19 (1) Offering to engage or engaging in the performance of
20 any acts or practices for which a [certificate of registration or
21 authority,] permit or license is required by this chapter upon a
22 showing that such acts or practices were performed or offered to
23 be performed without a [certificate of registration or
24 authority,] permit or license; or

25 (2) Engaging in any practice or business authorized by a

1 [certificate of registration or authority,] permit or license
2 issued pursuant to this chapter upon a showing that the holder
3 presents a substantial probability of serious danger to the
4 health, safety or welfare of any [resident of this state or
5 client or patient of the licensee] person with, or who is
6 considering obtaining, a legal interest in real property in this
7 state.

8 2. Any such action shall be commenced either in the county
9 in which such conduct occurred or in the county in which the
10 defendant resides.

11 3. Any action brought under this section shall be in
12 addition to and not in lieu of any penalty provided by this
13 chapter and may be brought concurrently with other actions to
14 enforce this chapter.

15 339.710. For purposes of sections 339.710 to 339.860, the
16 following terms mean:

17 (1) "Adverse material fact", a fact related to the
18 [physical condition of the] property not reasonably ascertainable
19 or known to a party which negatively affects the value of the
20 property. Adverse material facts may include matters pertaining
21 to:

22 (a) Environmental hazards affecting the property;

23 (b) Physical condition of the property which adversely
24 affects the value of the property;

25 (c) Material defects in the property;

1 (d) Material defects in the title to the property;

2 (e) Material limitation of the party's ability to perform
3 under the terms of the contract;

4 (2) "Affiliated licensee", any broker or salesperson who
5 works under the supervision of a designated broker;

6 (3) "Agent", a person or entity acting pursuant to the
7 provisions of this chapter;

8 (4) "Broker disclosure form", the current form prescribed
9 by the commission for presentation to a seller, landlord, buyer
10 or tenant who has not entered into a written agreement for
11 brokerage services;

12 (5) "Brokerage relationship", the relationship created
13 between a designated broker, the broker's affiliated licensees,
14 and a client relating to the performance of services of a broker
15 as defined in section 339.010, and sections 339.710 to 339.860.
16 If a designated broker makes an appointment of an affiliated
17 licensee or affiliated licensees pursuant to section 339.820,
18 such brokerage relationships are created between the appointed
19 licensee or licensees and the client. Nothing in this
20 subdivision shall:

21 (a) Alleviate the designated broker from duties of
22 supervision of the appointed licensee or licensees; or

23 (b) Alter the designated broker's underlying contractual
24 agreement with the client;

25 (6) "Client", a seller, landlord, buyer, or tenant who has

1 entered into a brokerage relationship with a licensee pursuant to
2 sections 339.710 to 339.860;

3 (7) "Commercial real estate", any real estate other than
4 real estate containing one to four residential units, real estate
5 on which no buildings or structures are located, or real estate
6 classified as agricultural and horticultural property for
7 assessment purposes pursuant to section 137.016, RSMo.

8 Commercial real estate does not include single family residential
9 units including condominiums, townhouses, or homes in a
10 subdivision when that real estate is sold, leased, or otherwise
11 conveyed on a unit-by-unit basis even though the units may be
12 part of a larger building or parcel of real estate containing
13 more than four units;

14 (8) "Commission", the Missouri real estate commission;

15 (9) "Confidential information", information obtained by the
16 licensee from the client and designated as confidential by the
17 client, information made confidential by sections 339.710 to
18 339.860 or any other statute or regulation, or written
19 instructions from the client unless the information is made
20 public or becomes public by the words or conduct of the client to
21 whom the information pertains or by a source other than the
22 licensee;

23 (10) "Customer", an actual or potential seller, landlord,
24 buyer, or tenant in a real estate transaction in which a licensee
25 is involved but who has not entered into a brokerage relationship

1 with [a] the licensee;

2 (11) "Designated agent", a licensee named by a designated
3 broker as the limited agent of a client as provided for in
4 section 339.820;

5 (12) "Designated broker", any individual licensed as a
6 broker who is operating pursuant to the definition of "real
7 estate broker" as defined in section 339.010, or any individual
8 licensed as a broker who is appointed by a partnership,
9 association, limited liability corporation, or a corporation
10 engaged in the real estate brokerage business to be responsible
11 for the acts of the partnership, association, limited liability
12 corporation, or corporation. Every real estate partnership,
13 association, or limited liability corporation, or corporation
14 shall appoint a designated broker;

15 (13) "Designated transaction broker", a licensee named by a
16 designated broker or deemed appointed by a designated broker as
17 the transaction broker for a client pursuant to section 339.820;

18 (14) "Dual agency", a form of agency which may result when
19 an agent licensee or someone affiliated with the agent licensee
20 represents another party to the same transaction;

21 (15) "Dual agent", a limited agent who, with the written
22 consent of all parties to a contemplated real estate transaction,
23 has entered into an agency brokerage relationship, and not a
24 transaction brokerage relationship, with and therefore represents
25 both the seller and buyer or both the landlord and tenant;

1 (16) "Licensee", a real estate broker or salesperson as
2 defined in section 339.010;

3 (17) "Limited agent", a licensee whose duties and
4 obligations to a client are those set forth in sections 339.730
5 to 339.750;

6 (18) "Ministerial acts", those acts that a licensee may
7 perform for a person or entity that are informative in nature and
8 do not rise to the level which requires the creation of a
9 brokerage relationship. Examples of these acts include, but are
10 not limited to:

11 (a) Responding to telephone inquiries by consumers as to
12 the availability and pricing of brokerage services;

13 (b) Responding to telephone inquiries from a person
14 concerning the price or location of property;

15 (c) Attending an open house and responding to questions
16 about the property from a consumer;

17 (d) Setting an appointment to view property;

18 (e) Responding to questions of consumers walking into a
19 licensee's office concerning brokerage services offered on
20 particular properties;

21 (f) Accompanying an appraiser, inspector, contractor, or
22 similar third party on a visit to a property;

23 (g) Describing a property or the property's condition in
24 response to a person's inquiry;

25 (h) Showing a customer through a property being sold by an

1 owner on his or her own behalf; or

2 (i) Referral to another broker or service provider;

3 (19) "Residential real estate", all real property improved
4 by a structure that is used or intended to be used primarily for
5 residential living by human occupants and that contains not more
6 than four dwelling units or that contains single dwelling units
7 owned as a condominium or in a cooperative housing association,
8 and vacant land classified as residential property. The term
9 "cooperative housing association" means an association, whether
10 incorporated or unincorporated, organized for the purpose of
11 owning and operating residential real property in Missouri, the
12 shareholders or members of which, by reason of their ownership of
13 a stock or membership certificate, a proprietary lease, or other
14 evidence of membership, are entitled to occupy a dwelling unit
15 pursuant to the terms of a proprietary lease or occupancy
16 agreement;

17 (20) "Single agent", a licensee who has entered into a
18 brokerage relationship with and therefore represents only one
19 party in a real estate transaction. A single agent may be one of
20 the following:

21 (a) "Buyer's agent", which shall mean a licensee who
22 represents the buyer in a real estate transaction;

23 (b) "Seller's agent", which shall mean a licensee who
24 represents the seller in a real estate transaction; and

25 (c) "Landlord's agent", which shall mean a licensee who

1 represents a landlord in a leasing transaction;

2 (d) "Tenant's agent", which shall mean a licensee who
3 represents the tenant in a leasing transaction;

4 (21) "Subagent", a designated broker, together with the
5 broker's affiliated licensees, engaged by another designated
6 broker, together with the broker's affiliated or appointed
7 affiliated licensees, to act as a limited agent for a client, or
8 a designated broker's unappointed affiliated licensees engaged by
9 the designated broker, together with the broker's appointed
10 affiliated licensees, to act as a limited agent for a client. A
11 subagent owes the same obligations and responsibilities to the
12 client pursuant to sections 339.730 to 339.740 as does the
13 client's designated broker;

14 (22) "Transaction broker", any licensee acting pursuant to
15 sections 339.710 to 339.860, who:

16 (a) Assists the parties to a transaction without an agency
17 or fiduciary relationship to either party and is, therefore,
18 neutral, serving neither as an advocate or advisor for either
19 party to the transaction;

20 (b) Assists one or more parties to a transaction and who
21 has not entered into a specific written agency agreement to
22 represent one or more of the parties; or

23 (c) Assists another party to the same transaction either
24 solely or through licensee affiliates.

1 Such licensee shall be deemed to be a transaction broker and not
2 a dual agent, provided that, notice of assumption of transaction
3 broker status is provided to the buyer and seller immediately
4 upon such default to transaction broker status, to be confirmed
5 in writing prior to execution of the contract.

6 339.760. [1.] Every designated broker who has affiliated
7 licensees shall adopt a written policy which identifies and
8 describes the relationships in which the designated broker and
9 affiliated licensees may engage with any seller, landlord, buyer,
10 or tenant as part of any real estate brokerage activities.

11 [2. A designated broker shall not be required to offer or
12 engage in more than one of the brokerage relationships enumerated
13 in section 339.720.]

14 339.780. 1. All written agreements for brokerage services
15 on behalf of a seller, landlord, buyer, or tenant shall be
16 entered into by the designated broker on behalf of that broker
17 and affiliated licensees, except that the designated broker may
18 authorize affiliated licensees in writing to enter into the
19 written agreements on behalf of the designated broker.

20 2. Before engaging in any of the activities enumerated in
21 section 339.010, a designated broker intending to establish a
22 limited agency relationship with a seller or landlord shall enter
23 into a written agency agreement with the party to be represented.
24 The agreement shall include a licensee's duties and
25 responsibilities specified in section 339.730 and the terms of

1 compensation and shall specify whether an offer of subagency may
2 be made to any other designated broker.

3 3. Before or while engaging in any acts enumerated in
4 section 339.010, except ministerial acts defined in section
5 339.710, a designated broker acting as a single agent for a buyer
6 or tenant shall enter into a written agency agreement with the
7 buyer or tenant. The agreement shall include a licensee's duties
8 and responsibilities specified in section 339.740 and the terms
9 of compensation [and shall specify whether an offer of subagency
10 may be made to any other designated broker].

11 4. Before engaging in any of the activities enumerated in
12 section 339.010, a designated broker intending to act as a dual
13 agent shall enter into a written agreement with the seller and
14 buyer or landlord and tenant permitting the designated broker to
15 serve as a dual agent. The agreement shall include a licensee's
16 duties and responsibilities specified in section 339.750 and the
17 terms of compensation.

18 5. Before engaging in any of the activities enumerated in
19 section 339.010, a designated broker intending to act as a
20 subagent shall enter into a written agreement with the designated
21 broker for the client. If a designated broker has made a
22 unilateral offer of subagency, another designated broker can
23 enter into the subagency relationship by the act of disclosing to
24 the customer that he or she is a subagent of the client. If a
25 designated broker has made an appointment pursuant to section

1 339.820, an affiliated licensee that has been excluded by such
2 appointment may enter into the subagency relationship by the act
3 of disclosing to the customer that he or she is a subagent of the
4 client.

5 6. A designated broker who intends to act as a transaction
6 broker and who expects to receive compensation from the party he
7 or she assists shall enter into a written transaction brokerage
8 agreement with such party or parties contracting for the broker's
9 service. The transaction brokerage agreement shall include a
10 licensee's duties and responsibilities specified in section
11 339.755 and the terms of compensation.

12 7. Nothing contained in this section shall prohibit the
13 public from entering into written contracts with any broker which
14 contain duties, obligations, or responsibilities which are in
15 addition to those specified in this section.

16 339.800. 1. In any real estate transaction, the designated
17 broker's compensation may be paid by the seller, the landlord,
18 the buyer, the tenant, or a third party or by sharing the
19 compensation between designated brokers.

20 2. Payment of compensation by itself shall not establish an
21 agency relationship or transaction brokerage relationship between
22 the party who paid the compensation and the designated broker or
23 any affiliated licensee.

24 3. A seller or landlord may agree that a designated broker
25 may share with another designated broker the compensation paid by

1 the seller or landlord.

2 4. A buyer or tenant may agree that a designated broker may
3 share with another designated broker the compensation paid by the
4 buyer or tenant.

5 5. A designated broker may be compensated by more than one
6 party for services in a transaction with the knowledge of all the
7 parties at or before the time of entering into a written contract
8 to buy, sell, or lease.

9 6. Nothing contained in this section shall relieve the
10 licensee from the requirement of obtaining a written agreement
11 for brokerage services or other written agreement addressing
12 compensation.

13 345.015. As used in sections 345.010 to 345.080, the
14 following terms mean:

15 (1) "Audiologist", a person who is licensed as an
16 audiologist pursuant to sections 345.010 to 345.080 to practice
17 audiology;

18 (2) "Audiology aide", a person who is registered as an
19 audiology aide by the board, who does not act independently but
20 works under the direction and supervision of a licensed
21 audiologist. Such person assists the audiologist with activities
22 which require an understanding of audiology but do not require
23 formal training in the relevant academics. To be eligible for
24 registration by the board, each applicant shall submit a
25 registration fee, be of good moral and ethical character; and:

1 (a) Be at least eighteen years of age;

2 (b) Furnish evidence of the person's educational
3 qualifications which shall be at a minimum:

4 a. Certification of graduation from an accredited high
5 school or its equivalent; and

6 b. On-the-job training;

7 (c) Be employed in a setting in which direct and indirect
8 supervision are provided on a regular and systematic basis by a
9 licensed audiologist. However, the aide shall not administer or
10 interpret hearing screening or diagnostic tests, fit or dispense
11 hearing instruments, make ear impressions, make diagnostic
12 statements, determine case selection, present written reports to
13 anyone other than the supervisor without the signature of the
14 supervisor, make referrals to other professionals or agencies,
15 use a title other than speech-language pathology aide or clinical
16 audiology aide, develop or modify treatment plans, discharge
17 clients from treatment or terminate treatment, disclose clinical
18 information, either orally or in writing, to anyone other than
19 the supervising speech-language pathologist/audiologist, or
20 perform any procedure for which he or she is not qualified, has
21 not been adequately trained or both;

22 (3) "Board", the state board of registration for the
23 healing arts;

24 (4) "Clinical fellowship", the supervised professional
25 employment period following completion of the academic and

1 practicum requirements of an accredited training program as
2 defined in sections 345.010 to 345.080;

3 (5) "Commission", the advisory commission for
4 speech-language pathologists and audiologists;

5 (6) "Hearing instrument" or "hearing aid", any wearable
6 device or instrument designed for or offered for the purpose of
7 aiding or compensating for impaired human hearing and any parts,
8 attachments or accessories, including ear molds, but excluding
9 batteries, cords, receivers and repairs;

10 (7) "Person", any individual, organization, or corporate
11 body, except that only individuals may be licensed pursuant to
12 sections 345.010 to 345.080;

13 (8) "Practice of audiology":

14 (a) The application of accepted audiologic principles,
15 methods and procedures for the measurement, testing,
16 interpretation, appraisal and prediction related to disorders of
17 the auditory system, balance system or related structures and
18 systems;

19 (b) Provides consultation, counseling to the patient,
20 client, student, their family or interested parties;

21 (c) Provides academic, social and medical referrals when
22 appropriate;

23 (d) Provides for establishing goals, implementing
24 strategies, methods and techniques, for habilitation,
25 rehabilitation or aural rehabilitation, related to disorders of

1 the auditory system, balance system or related structures and
2 systems;

3 (e) Provides for involvement in related research, teaching
4 or public education;

5 (f) Provides for rendering of services or participates in
6 the planning, directing or conducting of programs which are
7 designed to modify audition, communicative, balance or cognitive
8 disorder, which may involve speech and language or education
9 issues;

10 (g) Provides and interprets behavioral and neurophysiologic
11 measurements of auditory balance, cognitive processing and
12 related functions, including intraoperative monitoring;

13 (h) Provides involvement in any tasks, procedures, acts or
14 practices that are necessary for evaluation of audition, hearing,
15 training in the use of amplification or assistive listening
16 devices;

17 (i) Provides selection and assessment of hearing
18 instruments;

19 (j) Provides for taking impressions of the ear, making
20 custom ear molds, ear plugs, swim molds and industrial noise
21 protectors;

22 (k) Provides assessment of external ear and cerumen
23 management;

24 (l) Provides advising, fitting, mapping assessment of
25 implantable devices such as cochlear or auditory brain stem

1 devices;

2 (m) Provides information in noise control and hearing
3 conservation including education, equipment selection, equipment
4 calibration, site evaluation and employee evaluation;

5 (n) Provides performing basic speech-language screening
6 test;

7 (o) Provides involvement in social aspects of
8 communication, including challenging behavior and ineffective
9 social skills, lack of communication opportunities;

10 (p) Provides support and training of family members and
11 other communication partners for the individual with auditory
12 balance, cognitive and communication disorders;

13 (q) Provides aural rehabilitation and related services to
14 individuals with hearing loss and their families;

15 (r) Evaluates, collaborates and manages audition problems
16 in the assessment of the central auditory processing disorders
17 and providing intervention for individuals with central auditory
18 processing disorders;

19 (s) Develops and manages academic and clinical problems in
20 communication sciences and disorders;

21 (t) Conducts, disseminates and applies research in
22 communication sciences and disorders;

23 (9) "Practice of speech-language pathology":

24 (a) Provides screening, identification, assessment,
25 diagnosis, treatment, intervention, including but not limited to,

1 prevention, restoration, amelioration and compensation, and
2 follow-up services for disorders of:

3 a. Speech: articulation, fluency, voice, including
4 respiration, phonation and resonance;

5 b. Language, involving the parameters of phonology,
6 morphology, syntax, semantics and pragmatic; and including
7 disorders of receptive and expressive communication in oral,
8 written, graphic and manual modalities;

9 c. Oral, pharyngeal, cervical esophageal and related
10 functions, such as, dysphagia, including disorders of swallowing
11 and oral functions for feeding; orofacial myofunctional
12 disorders;

13 d. Cognitive aspects of communication, including
14 communication disability and other functional disabilities
15 associated with cognitive impairment;

16 e. Social aspects of communication, including challenging
17 behavior, ineffective social skills, lack of communication
18 opportunities;

19 (b) Provides consultation and counseling and makes
20 referrals when appropriate;

21 (c) Trains and supports family members and other
22 communication partners of individuals with speech, voice,
23 language, communication and swallowing disabilities;

24 (d) Develops and establishes effective augmentative and
25 alternative communication techniques and strategies, including

1 selecting, prescribing and dispensing of argumentative aids and
2 devices; and the training of individuals, their families and
3 other communication partners in their use;

4 (e) Selects, fits and establishes effective use of
5 appropriate prosthetic/adaptive devices for speaking and
6 swallowing, such as tracheoesophageal valves, electrolarynges,
7 speaking valves;

8 (f) Uses instrumental technology to diagnose and treat
9 disorders of communication and swallowing, such as
10 videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;

11 (g) Provides aural rehabilitative and related counseling
12 services to individuals with hearing loss and to their families;

13 (h) Collaborates in the assessment of central auditory
14 processing disorders in cases in which there is evidence of
15 speech, language or other cognitive communication disorders;
16 provides intervention for individuals with central auditory
17 processing disorders;

18 (i) Conducts pure-tone air conduction hearing screening and
19 screening tympanometry for the purpose of the initial
20 identification or referral;

21 (j) Enhances speech and language proficiency and
22 communication effectiveness, including but not limited to, accent
23 reduction, collaboration with teachers of English as a second
24 language and improvement of voice, performance and singing;

25 (k) Trains and supervises support personnel;

1 (1) Develops and manages academic and clinical programs in
2 communication sciences and disorders;

3 (m) Conducts, disseminates and applies research in
4 communication sciences and disorders;

5 (n) Measures outcomes of treatment and conducts continuous
6 evaluation of the effectiveness of practices and programs to
7 improve and maintain quality of services;

8 (10) "Speech-language pathologist", a person who is
9 licensed as a speech-language pathologist pursuant to sections
10 345.010 to 345.080; who engages in the practice of
11 speech-language pathology as defined in sections 345.010 to
12 345.080;

13 (11) "Speech-language pathology aide", a person who is
14 registered as a speech-language aide by the board, who does not
15 act independently but works under the direction and supervision
16 of a licensed speech-language pathologist. Such person assists
17 the speech-language pathologist with activities which require an
18 understanding of speech-language pathology but do not require
19 formal training in the relevant academics. To be eligible for
20 registration by the board, each applicant shall submit a
21 registration fee, be of good moral and ethical character; and:

22 (a) Be at least eighteen years of age;

23 (b) Furnish evidence of the person's educational
24 qualifications which shall be at a minimum:

25 a. Certification of graduation from an accredited high

1 school or its equivalent; and

2 b. On-the-job training;

3 (c) Be employed in a setting in which direct and indirect
4 supervision is provided on a regular and systematic basis by a
5 licensed speech-language pathologist. However, the aide shall
6 not administer or interpret hearing screening or diagnostic
7 tests, fit or dispense hearing instruments, make ear impressions,
8 make diagnostic statements, determine case selection, present
9 written reports to anyone other than the supervisor without the
10 signature of the supervisor, make referrals to other
11 professionals or agencies, use a title other than speech-language
12 pathology aide or clinical audiology aide, develop or modify
13 treatment plans, discharge clients from treatment or terminate
14 treatment, disclose clinical information, either orally or in
15 writing, to anyone other than the supervising speech-language
16 pathologist/audiologist, or perform any procedure for which he or
17 she is not qualified, has not been adequately trained or both;

18 (12) "Speech-language pathology assistant", a person who is
19 registered as a speech-language pathology assistant by the board,
20 who does not act independently but works under the direction and
21 supervision of a licensed speech-language pathologist and whose
22 activities require both academic and practical training in the
23 field of speech-language pathology although less training than
24 those established by sections 345.010 to 345.080 as necessary for
25 licensing as a speech-language pathologist. To be eligible for

1 registration by the board, each applicant shall submit the
2 registration fee, be of good moral character[;] and[:

3 (a)] furnish evidence of the person's educational
4 qualifications which meet the following:

5 [a.] (a) Hold a bachelor's level degree in speech-language
6 pathology [or an associate's degree as a speech-language
7 pathology assistant] from an institution accredited or approved
8 by the Council on Academic Accreditation of the American
9 Speech-Language-Hearing Association in the area of speech-
10 language pathology; and

11 [b.] (b) Submit official transcripts from one or more
12 accredited colleges or universities presenting evidence of the
13 completion of bachelor's [or associate's] level course work and
14 clinical practicum requirements equivalent to that required or
15 approved by the Council on Academic Accreditation of the American
16 Speech-Language-Hearing Association[;

17 (b) The requirements of paragraph (a) of this subdivision
18 shall be the minimum requirements for a speech-language pathology
19 assistant until January 1, 2005. After January 1, 2005, to be
20 eligible for registration by the board, each applicant shall
21 submit the registration fee, be of good moral character and
22 furnish evidence of the person's educational qualifications which
23 meet the following:

24 a. Hold a minimum of an associate's degree as a
25 speech-language pathology assistant from an institution

1 accredited or approved by the Council on Academic Accreditation
2 of the American Speech-Language-Hearing Association; and

3 b. Submit official transcripts from one or more accredited
4 colleges or universities presenting evidence of the completion of
5 course work and clinical practicum requirements equivalent to
6 that required or approved by the Council on Academic
7 Accreditation of the American Speech-Language- Hearing
8 Association;

9 (c) Furnish evidence of successful completion of a uniform,
10 functionally based proficiency evaluation as determined by the
11 board;

12 (d) The individuals meeting the requirements prior to
13 January 1, 2005, may be granted continued registration from the
14 board provided the individual meets the following:

15 a. Furnish evidence of employment in which direct and
16 indirect supervision have been provided on a regular and
17 systematic basis by a licensed speech-language pathologist; and

18 b. The individual is in good standing with the board with
19 regard to practice prior to January 1, 2005].

20 346.135. 1. All fees and charges payable pursuant to this
21 chapter shall be collected by the division and transmitted to the
22 department of revenue for deposit in the state treasury to the
23 credit of the fund to be known as the "Hearing Instrument
24 Specialist Fund", which is hereby created. Money in the hearing
25 instrument specialist fund shall be available by appropriation to

1 the council to pay its expenses in administering sections 346.010
2 to 346.250.

3 2. Money in the hearing instrument specialist fund shall
4 not be transferred and placed to the credit of general revenue
5 until the amount in the fund at the end of the biennium exceeds
6 two times the amount of the appropriation from the council's
7 funds for the preceding fiscal year or, if the division requires
8 by rule renewal less frequently than yearly then three times the
9 appropriation from the fund for the preceding fiscal year. The
10 amount, if any, in the fund which shall lapse is that amount in
11 the fund which exceeds the appropriate multiple of the
12 appropriation from the council's funds for the preceding year.

13 374.695. Sections 374.695 to 374.789 may be known and shall
14 be cited as the "Professional Bail Bondsman and Surety Recovery
15 Agent Licensure Act".

16 374.700. As used in sections [374.700 to 374.775] 374.695
17 to 374.789, the following terms shall mean:

18 (1) "Bail bond agent", a surety agent or an agent of a
19 property bail bondsman who is duly licensed under the provisions
20 of sections [374.700 to 374.775] 374.695 to 374.789, is employed
21 by and is working under the authority of a licensed general bail
22 bond agent;

23 (2) "Bail bond or appearance bond", a bond for a specified
24 monetary amount which is executed by the defendant and a
25 qualified licensee under sections 374.695 to 374.789, and which

1 is issued to a court or authorized officer as security for the
2 subsequent court appearance of the defendant upon the defendant's
3 release from actual custody pending the appearance;

4 [(2)] (3) "Department", the department of insurance of the
5 state of Missouri;

6 [(3)] (4) "Director", the director of the department of
7 insurance;

8 [(4)] (5) "General bail bond agent", a surety agent or a
9 property bail bondsman, as defined in sections 374.700 to
10 374.775, who is licensed in accordance with sections 374.700 to
11 374.775 and who devotes at least fifty percent of his working
12 time to the bail bond business in this state;

13 (6) "Insurer", any surety insurance company which is
14 qualified by the department to transact surety business in
15 Missouri;

16 (7) "Licensee", a bail bond agent or a general bail bond
17 agent;

18 [(5)] (8) "Property bail bondsman", a person who pledges
19 United States currency, United States postal money orders or
20 cashier's checks or other property as security for a bail bond in
21 connection with a judicial proceeding, and who receives or is
22 promised therefor money or other things of value;

23 [(6)] (9) "Surety bail bond agent", any person appointed by
24 an insurer by power of attorney to execute or countersign bail
25 bonds in connection with judicial proceedings, and who receives

1 or is promised money or other things of value therefor;

2 [(7)] (10) "Surety recovery agent", a person not performing
3 the duties of a sworn peace officer who tracks down, captures and
4 surrenders to the custody of a court a fugitive who has violated
5 a bail bond agreement, excluding a bail bond agent or general
6 bail bond agent;

7 (11) "Taking a bail" or "take bail", the acceptance by a
8 person authorized to take bail of the undertaking of a sufficient
9 surety for the appearance of the defendant according to the terms
10 of the undertaking or that the surety will pay to the court the
11 sum specified. Taking of bail or take bail does not include the
12 fixing of the amount of bail and no person other than a competent
13 court shall fix the amount of bail. The court may set cash or
14 ten percent of the face value of the bond only on misdemeanor
15 bonds and only in the defendant's name.

16 374.702. 1. No person shall engage in the bail bond
17 business as a bail bond agent or a general bail bond agent
18 without being licensed as provided in sections 374.695 to
19 374.775.

20 2. No judge, attorney, court official, law enforcement
21 officer, state, county, or municipal employee who is either
22 elected or appointed shall be licensed as a bail bond agent or a
23 general bail bond agent.

24 3. A licensed bail bond agent shall not execute or issue an
25 appearance bond in this state without holding a valid appointment

1 from a general bail bond agent and without attaching to the
2 appearance bond an executed and prenumbered power of attorney
3 referencing the general bail bond agent or insurer.

4 4. A person licensed as an active bail bond agent shall
5 hold the license for at least two years prior to owning or being
6 an officer of a licensed general bail bond agent.

7 5. A general bail bond agent shall not engage in the bail
8 bond business:

9 (1) Without having been licensed as a general bail bond
10 agent under sections 374.695 to 374.775; or

11 (2) Except through an agent licensed as a bail bond agent
12 pursuant to sections 374.695 to 374.775.

13 6. A general bail bond agent shall not permit any
14 unlicensed person to solicit or engage in the bail bond business
15 on the general bail bond agent's behalf, except for individuals
16 who are employed solely for the performance of clerical,
17 stenographic, investigative, or other administrative duties which
18 do not require a license under sections 374.695 to 374.789.

19 7. Any person who is convicted of a violation of this
20 section is guilty of a class A misdemeanor. For any subsequent
21 convictions, a person who is convicted of a violation of this
22 section is guilty of a class D felony.

23 374.705. 1. The department shall administer and enforce
24 the provisions of sections [374.700 to 374.775] 374.695 to
25 374.789, prescribe the duties of its officers and employees with

1 respect to sections [374.700 to 374.775] 374.695 to 374.789, and
2 promulgate, pursuant to section 374.045 and chapter 536, RSMo,
3 such rules and regulations within the scope and purview of the
4 provisions of sections [374.700 to 374.775] 374.695 to 374.789 as
5 the director considers necessary and proper for the effective
6 administration and interpretation of the provisions of sections
7 [374.700 to 374.775] 374.695 to 374.789.

8 2. The director shall set the amount of all fees authorized
9 and required by the provisions of sections [374.700 to 374.775]
10 374.695 to 374.789 by rules and regulations promulgated pursuant
11 to chapter 536, RSMo. All such fees shall be set at a level
12 designed to produce revenue which shall not substantially exceed
13 the cost and expense of administering the provisions of sections
14 [374.700 to 374.775] 374.695 to 374.789. However, such fees
15 shall not exceed one fifty hundred dollars every two years for
16 biennial licenses and renewable licenses for general bail bond
17 agents as provided for in section 374.710.

18 374.710. 1. Except as otherwise provided in sections
19 [374.700] 374.695 to 374.775, no person or other entity shall
20 practice as a bail bond agent or general bail bond agent, as
21 defined in section [374.700] 374.695, in Missouri unless and
22 until the department has issued to him or her a license, to be
23 renewed [each year] every two years as hereinafter provided, to
24 practice as a bail bond agent or general bail bond agent.

25 2. An applicant for a bail bond or general bail agent

1 license shall submit with the application proof that he or she
2 has received sixteen hours of initial basic training in areas of
3 instruction in subjects determined by the director deemed
4 appropriate to professionals in the bail bonds profession. Bail
5 bond agents and general bail bond agents who are licensed at the
6 date which this act becomes law shall be exempt from such sixteen
7 hours of initial basic training.

8 3. In addition to the sixteen hours of initial basic
9 training to become a bail bond agent or general bail bond agent,
10 there shall be eight hours of biennial continuing education for
11 all bail bond agents and general bail bond agents to maintain
12 their state license. The director shall determine said
13 appropriate areas of instruction for said biennial continuing
14 education. The department may provide said courses for the
15 initial basic training and the biennial continuing education
16 instructions. If the department provides said courses, the cost
17 shall not exceed two hundred dollars for the initial basic
18 training and one hundred fifty dollars for the biennial
19 continuing education. The department may under the director
20 allow state institutions, organizations, associations, or
21 individuals to provide courses for the initial basic training and
22 the biennial continuing education training at no higher costs to
23 the applicants than the department may charge under this section.

24 4. Upon completion of said basic training or biennial
25 continuing education and the licensee meeting the other

1 requirements as provided under sections 374.695 to 374.789, the
2 director shall issue a two-year license for the bail bond agent
3 or general bail bond agent for a fee not to exceed one hundred
4 fifty dollars.

5 5. Nothing in sections ~~[374.700]~~ 374.695 to 374.775 shall
6 be construed to prohibit any person from posting or otherwise
7 providing a bail bond in connection with any legal proceeding,
8 provided that such person receives no fee, remuneration or
9 consideration therefor.

10 374.715. 1. Applications for examination and licensure as
11 a bail bond agent or general bail bond agent shall be in writing
12 and on forms prescribed and furnished by the department, and
13 shall contain such information as the department requires. Each
14 application shall be accompanied by proof satisfactory to the
15 department that the applicant is a citizen of the United States,
16 is at least twenty-one years of age, has a high school diploma or
17 general education development certificate (GED), is of good moral
18 character, and meets the qualifications for surety on bail bonds
19 as provided by supreme court rule. Each application shall be
20 accompanied by the examination and application fee set by the
21 department. Individuals currently employed as bail bond agents
22 and general bail bond agents shall not be required to meet the
23 education requirements needed for licensure under this section.

24 2. In addition, each applicant for licensure as a general
25 bail bond agent shall furnish proof satisfactory to the

1 department that the applicant[,] or, if the applicant is a
2 corporation [or partnership], that each officer [or partner]
3 thereof has completed at least two years as a bail bond agent[,
4 as defined in sections 374.700 to 374.775], and that the
5 applicant possesses liquid assets of at least ten thousand
6 dollars, along with a duly executed assignment of ten thousand
7 dollars to the state of Missouri[, which]. The assignment shall
8 become effective upon the applicant's violating any provision of
9 sections [374.700 to 374.775] 374.695 to 374.789. The assignment
10 required by this section shall be in the form[,] and executed in
11 the manner[,] prescribed by the department. The director may
12 require by regulation conditions by which additional assignments
13 of assets of the general bail bond agent may occur when the
14 circumstances of the business of the general bail bond agent
15 warrants additional funds. However, such additional funds shall
16 not exceed twenty-five thousand dollars.

17 374.716. 1. Every bail bond agent shall account for each
18 power of attorney assigned by the general bail bond agent on a
19 weekly basis if requested by the general bail bond agent in
20 writing and remit all sums collected and owed to the general bail
21 bond agent under his or her written contract. The general bail
22 bond agent shall maintain the weekly accounting and remittance
23 records for a period of three years. Such records shall be
24 subject to inspection by the director or his or her designee
25 during regular business hours or at other reasonable times.

1 2. For every bond written in this state, the licensee shall
2 provide to the principal a copy of the bail contract.

3 374.717. No insurer or licensee, court, or law enforcement
4 officer shall:

5 (1) Pay a fee or rebate or give or promise anything of
6 value in order to secure a settlement, compromise, remission, or
7 reduction of the amount of any bail bond to:

8 (a) A jailer, police officer, peace officer, committing
9 judge, or any other person who has power to arrest or to hold in
10 custody any person; or

11 (b) Any public official or public employee;

12 (2) Pay a fee or rebate or give anything of value to an
13 attorney in bail bond matters, except in defense of any action on
14 a bond;

15 (3) Pay a fee or rebate or give anything of value to the
16 principal or anyone on the principal's behalf;

17 (4) Accept anything of value from a principal except the
18 premium and expenses incurred, provided that the licensee shall
19 be permitted to accept collateral security of other indemnity
20 from the principal in accordance with the provisions of section
21 374.719.

22 374.719. 1. A licensee may accept collateral security from
23 the principal in a fiduciary capacity, which collateral shall be
24 returned upon final termination of liability on the bond. When a
25 licensee accepts collateral, the licensee shall provide a

1 prenumbered written receipt, which shall include a detailed
2 account of the collateral received by the licensee. The
3 acceptance of collateral security by a bail bond agent shall be
4 reported to the general bail bond agent.

5 2. The collateral security required by the licensee shall
6 be reasonable in relation to the amount of the bond.

7 3. If a failure to appear, absconding or attempting to
8 abscond, or a judgment of forfeiture on the bond has occurred,
9 the collateral security may be used to reimburse the licensee for
10 any costs and expenses incurred associated with the forfeiture.

11 4. The general bail bond agent shall retain records of the
12 acceptance, return, or judgment of forfeiture resulting in the
13 use of the collateral to reimburse the licensee for a period of
14 three years.

15 374.730. All licenses issued to bail bond agents and
16 general bail bond agents under the provisions of sections 374.700
17 to 374.775 shall be renewed [annually] biennially, which renewal
18 shall be in the form and manner prescribed by the department and
19 shall be accompanied by the renewal fee set by the department.

20 374.735. 1. The department may, in its discretion, grant a
21 license without requiring an examination to a bail bond agent who
22 has been licensed in another state immediately preceding his or
23 her applying to the department, if the department is satisfied by
24 proof adduced by the applicant that [his]:

25 (1) The qualifications of the other state are at least

1 equivalent to the requirements for initial licensure as a bail
2 bond agent in [Missouri] this state under the provisions of
3 sections [374.700] 374.695 to 374.775, provided that the other
4 state licenses Missouri residents in the same manner; and

5 (2) The applicant has no suspensions or revocations of a
6 license to engage in the bail bond or fugitive recovery business
7 in any jurisdiction.

8 2. Every applicant for a license under this section upon
9 showing the necessary qualifications as provided in this section
10 shall be required to pay the same fee as the fee required to be
11 paid by resident applicants.

12 3. Within the limits provided in this section, the
13 department may negotiate reciprocal compacts with licensing
14 entities of other states for the admission of licensed bail bond
15 agents from Missouri in other states.

16 4. All applicants applying for licenses in this state after
17 the enactment of this act shall complete the education
18 requirement as stated in section 374.710. If the bail bond agent
19 or general bail bond agent has been licensed in another state and
20 has a license in Missouri at the time this act becomes law, said
21 individual shall not be required to complete the sixteen hours of
22 initial basic training.

23 374.740. Any person applying to be licensed as a
24 nonresident [bail bond agent or nonresident] general bail bond
25 agent who has been licensed in another state shall devote fifty

1 percent of his or her working time in the state of Missouri and
2 shall file proof with the director of insurance as to his or her
3 compliance, and accompany his or her application with the fees
4 set by the [board] director by regulation and, if applying for a
5 nonresident general bail bond agent's license, with a duly
6 executed assignment of twenty-five thousand dollars to the state
7 of Missouri, which assignment shall become effective upon the
8 applicant's violating any provision of sections [374.700 to
9 374.775] 374.695 to 374.789. Failure to comply with this section
10 will result in revocation of the nonresidence license. The
11 assignment required by this section shall be in the form and
12 executed in the manner prescribed by the department. All
13 licenses issued under this section shall be subject to the same
14 renewal requirements set for other licenses issued under sections
15 [374.700 to 374.775] 374.695 to 374.789.

16 374.755. 1. The department may cause a complaint to be
17 filed with the administrative hearing commission as provided by
18 chapter 621, RSMo, against any holder of any license required by
19 sections [374.700] 374.695 to 374.775 or any person who has
20 failed to renew or has surrendered his or her license for any one
21 or any combination of the following causes:

22 (1) Use of any controlled substance, as defined in chapter
23 195, RSMo, or alcoholic beverage to an extent that such use
24 impairs a person's ability to perform the work of the profession
25 licensed under sections [374.700] 374.695 to 374.775;

1 (2) [Having entered a plea of guilty or having been found
2 guilty of a felony] Final adjudication or a plea of guilty or
3 nolo contendere within the past fifteen years in a criminal
4 prosecution under any state or federal law for a felony or a
5 crime involving moral turpitude whether or not a sentence is
6 imposed, prior to issuance of license date;

7 (3) Use of fraud, deception, misrepresentation or bribery
8 in securing any license [issued pursuant to sections 374.700 to
9 374.775] or in obtaining permission to take any examination
10 [given or] required pursuant to sections [374.700] 374.695 to
11 374.775;

12 (4) Obtaining or attempting to obtain any compensation as a
13 member of the profession licensed by sections [374.700] 374.695
14 to 374.775 by means of fraud, deception or misrepresentation;

15 (5) Misappropriation of the premium, collateral, or other
16 things of value given to a bail bond agent or a general bail bond
17 agent for the taking of bail, incompetency, misconduct, gross
18 negligence, fraud, or misrepresentation [or dishonesty] in the
19 performance of the functions or duties of the profession licensed
20 or regulated by sections [374.700] 374.695 to 374.775;

21 (6) Violation of[, or assisting or enabling any other
22 person to violate, any provision of sections 374.700 to 374.775
23 or of any lawful rule or regulation promulgated pursuant to
24 sections 374.700 to 374.775] any provision of or any obligation
25 imposed by the laws of this state, department of insurance rules

1 and regulations, or aiding or abetting other persons to violate
2 such laws, orders, rules or regulations, or subpoenas;

3 (7) Transferring a license or permitting another person to
4 use a license of the licensee;

5 (8) Disciplinary action against the holder of a license or
6 other right to practice the profession regulated by sections
7 [374.700 to 374.775] 374.695 to 374.789 granted by another state,
8 territory, federal agency or country upon grounds for which
9 revocation or suspension is authorized in this state;

10 (9) Being finally adjudged insane or incompetent by a court
11 of competent jurisdiction;

12 (10) Assisting or enabling any person to practice or offer
13 to practice the profession licensed or regulated by sections
14 [374.700 to 374.775] 374.695 to 374.789 who is not currently
15 licensed and eligible to practice under sections [374.700 to
16 374.775] 374.695 to 374.789;

17 (11) [Paying a fee or rebate, or giving or promising
18 anything of value, to a jailer, policeman, peace officer, judge
19 or any other person who has the power to arrest or to hold
20 another person in custody, or to any public official or employee,
21 in order to secure a settlement, compromise, remission or
22 reduction of the amount of any bail bond or estreatment thereof]
23 Acting in the capacity of an attorney at a trial or hearing of a
24 person for whom the attorney is acting as surety;

25 (12) [Paying a fee or rebate, or giving anything of value

1 to an attorney in bail bond matters, except in defense of any
2 action on a bond;

3 (13) Paying a fee or rebate, or giving or promising
4 anything of value, to the principal or anyone in his behalf;

5 (14) Participating in the capacity of an attorney at a
6 trial or hearing of one on whose bond he is surety] Failing to
7 provide a copy of the bail contract, renumbered written receipt
8 for acceptance of money, or other collateral for the taking of
9 bail to the principal, if requested by any person who is a party
10 to the bail contract, or any person providing funds or collateral
11 for bail on the principal's behalf.

12 2. After the filing of such complaint, the proceedings
13 shall be conducted in accordance with the provisions of chapter
14 621, RSMo. Upon a finding by the administrative hearing
15 commission that one or more of the causes stated in subsection 1
16 of this section have been met, the [department] director may [do
17 any or all of the following:

18 (1) Censure the person involved;

19 (2) Place the person involved on probation on such terms
20 and conditions as the department deems appropriate for a period
21 not to exceed ten years;

22 (3) Suspend, for a period not to exceed three years, the
23 license of the person involved;

24 (4) Revoke the license of the person involved]
25 suspend or revoke the license or enter into an agreement for a

1 monetary or other penalty under section 374.280.

2 3. In lieu of filing a complaint at the administrative
3 hearing commission, the director and the bail bond agent or
4 general bail bond agent may enter into an agreement for a
5 monetary or other penalty under section 374.280.

6 4. In addition to any other remedies available, the
7 director may issue a cease and desist order or may seek an
8 injunction in a court of competent jurisdiction under the
9 provisions of section 374.046 whenever it appears that any person
10 is acting as a bail bond agent or general bail bond agent without
11 a license or violating any other provisions of sections 374.695
12 to 374.789.

13 374.757. 1. Any agent licensed by sections [374.700]
14 374.695 to 374.775 who intends to apprehend any person in this
15 state shall inform law enforcement authorities in the city or
16 county in which such agent intends such apprehension, before
17 attempting such apprehension. Such agent shall present to the
18 local law enforcement authorities a certified copy of the bond
19 and all other appropriate paperwork identifying the principal and
20 the person to be apprehended. Local law enforcement may
21 accompany the agent. Failure of any agent to whom this section
22 applies to comply with the provisions of this section shall be a
23 class A misdemeanor for the first violation and a class D felony
24 for subsequent violations; and shall also be a violation of
25 section 374.755 and may in addition be punished pursuant to that

1 section.

2 2. The surety recovery agent shall inform the local law
3 enforcement in the county or city where such agent is planning to
4 enter a residence. Such agent shall have a certified copy of the
5 bond and all appropriate paperwork to identify the principal.
6 Local law enforcement, when notified, may accompany the surety
7 recovery agent to that location to keep the peace if an active
8 warrant is effective for a felony or misdemeanor. If a warrant
9 is not active, the local law enforcement officers may accompany
10 the surety recovery agent to such location. Failure to report to
11 the local law enforcement agency is a class A misdemeanor. For
12 any subsequent violations, failure to report to the local law
13 enforcement agency is a class D felony.

14 374.759. 1. Any bail bond agent licensed in the state of
15 Missouri shall have access to all publicly available court
16 records of the defendant by available means to make a realistic
17 assessment of defendant's probability of attending all court
18 dates as set in his or her charges relating to bond request.

19 2. Any defendant shall have free access to any bail bond
20 agent via phone so long as the call is made to a local phone
21 number. All other numbers shall be available as a collect call
22 to any nonlocal number.

23 3. Bail bond agents shall have face-to-face access to any
24 defendant asking for a bond to be posted on his or her behalf
25 prior to issuance of such power of attorney on defendant's

1 behalf.

2 4. All Missouri licensed bail bond agents or licensed
3 general agents shall be qualified, without further requirements,
4 in all jurisdictions of this state.

5 5. If the court orders any bond for the defendant, cash or
6 otherwise, surety may issue said amount with his or her surety
7 being accepted the same as cash.

8 374.763. 1. If any final judgment ordering forfeiture of a
9 defendant's bond is not paid within [the] a six-month period of
10 time [ordered by the court], the court shall extend the judgment
11 date or notify the department of the failure to satisfy such
12 judgment. The director shall draw upon the assets of the surety,
13 remit the sum to the court, and obtain a receipt of such sum from
14 the court. The director may take action as provided by section
15 374.755 [or 374.430], regarding the license of the surety and any
16 bail bond agents writing upon the surety's liability.

17 2. The department shall furnish to the presiding judge of
18 each circuit court of this state, on at least a monthly basis, a
19 list of all duly licensed and qualified bail bond agents and
20 general bail bond agents whose licenses are not subject to
21 pending suspension or revocation proceedings, and who are not
22 subject to unsatisfied bond forfeiture judgments. In lieu of
23 such list, the department may provide this information to each
24 presiding judge in an electronic format.

25 3. All duly licensed and qualified bail bond agents and

1 general bail bond agents shall be qualified, without further
2 requirement, to write bail upon a surety's liability in all
3 courts of this state.

4 374.764. 1. The director shall examine and inquire into
5 all alleged violations or complaints filed with the department of
6 insurance of the bail bond law of the state, and inquire into and
7 investigate the bail bond business transacted in the state by any
8 bail bond agent, general bail bond agent, or surety recovery
9 agent.

10 2. The director or any of his or her duly appointed agents
11 may compel the attendance before him or her, and may examine,
12 under oath, the directors, officers, bail bond agents, general
13 bail bond agents, surety recovery agents, employees, or any other
14 person in reference to the condition, affairs, management of the
15 bail bond or surety recovery business, or any matters relating
16 thereto. He or she may administer oaths or affirmations and
17 shall have power to summon and compel the attendance of witnesses
18 and to require and compel the production of records, books,
19 papers, contracts, or other documents if necessary.

20 3. The director may make and conduct the investigation in
21 person or the director may appoint one or more persons to make
22 and conduct the investigation. If made by a person other than
23 the director, the person duly appointed by the director shall
24 have the same powers as granted to the director under this
25 section. A certificate of appointment under the official seal of

1 the director shall be sufficient authority and evidence thereof
2 for the person to act. For the purpose of making the
3 investigations, or having the same made, the director may employ
4 the necessary clerical, actuarial, and other assistance.

5 374.783. 1. No person shall hold himself or herself out as
6 being a surety recovery agent in this state, unless such person
7 is licensed in accordance with the provisions of sections 374.783
8 to 374.789. Licensed bail bond agents and general bail bond
9 agents may perform fugitive recovery without being licensed as a
10 surety recovery agent.

11 2. The director shall have authority to license all surety
12 recovery agents in this state. The director shall have control
13 and supervision over the licensing of such agents and the
14 enforcement of the terms and provisions of sections 374.783 to
15 374.789.

16 3. The director shall have the power to:

17 (1) Set and determine the amount of the fees authorized and
18 required under sections 374.783 to 374.789. The fees shall be
19 set at a level sufficient to produce revenue which shall not
20 substantially exceed the cost and expense of administering
21 sections 374.783 to 374.789. However, such fees shall not exceed
22 one hundred fifty dollars for a two-year license; and

23 (2) Determine the sufficient qualifications of applicants
24 for a license.

25 4. The director shall license for a period of two years all

1 surety recovery agents in this state who meet the requirements of
2 sections 374.783 to 374.789.

3 374.784. 1. Applications for examination and licensure as
4 a surety recovery agent shall be submitted on forms prescribed by
5 the department and shall contain such information as the
6 department requires, along with a copy of the front and back of a
7 photographic identification card.

8 2. Each application shall be accompanied by proof
9 satisfactory to the director that the applicant is a citizen of
10 the United States, is at least twenty-one years of age, and has a
11 high school diploma or a general educational development
12 certificate (GED). An applicant shall furnish evidence of such
13 person's qualifications by completing an approved surety recovery
14 agent course with at least sixteen hours of initial minimum
15 training. The director shall determine which institutions,
16 organizations, associations, and individuals shall be eligible to
17 provide said training. Said instructions and fees associated
18 therewith shall be identical or similar to those prescribed in
19 section 374.710 for bail bond agents and general bail bond
20 agents.

21 3. In addition to said sixteen hours of initial minimum
22 training licensees shall be required to receive eight hours of
23 biennial continuing education of which said instructions and fees
24 shall be identical or similar to those prescribed in section
25 374.710 for bail bond agents and general bail bond agents.

1 4. Applicants for surety recovery agents licensing shall be
2 exempt from said requirements of the sixteen hours of initial
3 minimum training if applicants provide proof of prior training as
4 a law enforcement officer and proof of service as a law
5 enforcement officer during at least two of the ten years
6 immediately prior to the date the application for licensure is
7 submitted.

8 5. The director may refuse to issue any license pursuant to
9 sections 374.783 to 374.789, for any one or any combination of
10 causes stated in section 374.787. The director shall notify the
11 applicant in writing of the reason or reasons for refusal and
12 shall advise the applicant of the right to file a complaint with
13 the administrative hearing commission to appeal the refusal as
14 provided by chapter 621, RSMo.

15 374.785. 1. The director shall issue a license for a
16 period of two years to any surety recovery agent who is licensed
17 in another jurisdiction and who:

18 (1) Has no violations, suspensions, or revocations of a
19 license to engage in fugitive recovery in any jurisdiction; and

20 (2) Is licensed in a jurisdiction whose requirements are
21 substantially equal to or greater than the requirements for a
22 surety recovery agent license in Missouri at the time the
23 applicant applies for a license.

24 2. Any surety recovery agent who is licensed in another
25 state shall also be subject to the same training requirements as

1 in-state surety recovery agents prescribe to under section
2 374.784.

3 3. For the purpose of surrender of the defendant, a surety
4 recovery agent may apprehend the defendant anywhere within the
5 state of Missouri before or after the forfeiture of the
6 undertaking without personal liability for false imprisonment or
7 may empower any surety recovery agent to make apprehension by
8 providing written authority endorsed on a certified copy of the
9 undertaking and paying the lawful fees.

10 4. Every applicant for a license under this section, upon
11 making application and showing the necessary qualifications as
12 provided in this section, shall be required to pay the same fee
13 as required of resident applicants. Within the limits provided
14 in this section, the director may negotiate reciprocal compacts
15 with licensing entities of other states for the admission of
16 licensed surety recovery agents from Missouri in other states.

17 374.786. 1. Every person licensed under sections 374.783
18 to 374.789 shall, before the license renewal date, apply to the
19 director for renewal for the ensuing licensing period. The
20 application shall be made on a form furnished to the applicant
21 and shall state the applicant's full name, the applicant's
22 business address, the address at which the applicant resides, the
23 date the applicant first received a license, and the applicant's
24 surety recovery agent identification number, if any.

25 2. A renewal form shall be mailed to each person licensed

1 in this state at the person's last known address. The failure to
2 mail the renewal form or the failure of a person to receive it
3 does not relieve any person of the duty to be licensed and to pay
4 the license fee required nor exempt such person from the
5 penalties provided for failure to be licensed.

6 3. Each applicant for renewal shall accompany such
7 application with a renewal fee to be paid to the department for
8 the licensing period for which renewal is sought.

9 4. The director may refuse to renew any license required
10 under sections 374.783 to 374.789, for any one or any combination
11 of causes stated in section 374.787. The director shall notify
12 the applicant in writing of the reasons for refusal to renew and
13 shall advise the applicant of his or her right to file a
14 complaint with the administrative hearing commission as provided
15 by chapter 621, RSMo.

16 374.787. 1. The director may cause a complaint to be filed
17 with the administrative hearing commission as provided by chapter
18 621, RSMo, against any surety recovery agent or any person who
19 has failed to renew or has surrendered his or her license for any
20 one or any combination of the following causes:

21 (1) Violation of any provisions of, or any obligations
22 imposed by, the laws of this state, the department of insurance
23 rules and regulations, or aiding or abetting other persons to
24 violate such laws, orders, rules, or regulations;

25 (2) Final adjudication or a plea of guilty or nolo

1 contendere in a criminal prosecution under state or federal law
2 for a felony or a crime involving moral turpitude, whether or not
3 a sentence is imposed;

4 (3) Using fraud, deception, misrepresentation, or bribery
5 in securing a license or in obtaining permission to take any
6 examination required by sections 374.783 to 374.789;

7 (4) Obtaining or attempting to obtain any compensation as a
8 surety recovery agent by means of fraud, deception, or
9 misrepresentation;

10 (5) Acting as a surety recovery agent or aiding or abetting
11 another in acting as a surety recovery agent without a license;

12 (6) Incompetence, misconduct, gross negligence, fraud, or
13 misrepresentation in the performance of the functions of duties
14 of a surety recovery agent;

15 (7) Having a revoked or suspended license issued by another
16 state.

17 2. After the filing of the complaint, the proceedings shall
18 be conducted in accordance with the provision of chapter 621,
19 RSMo. Upon a finding by the administrative hearing commission
20 that one or more of the causes stated in subsection 1 of this
21 section have been met, the director may suspend or revoke the
22 license or enter into an agreement for a monetary or other
23 penalty under section 374.280.

24 3. In lieu of filing a complaint with the administrative
25 hearing commission, the director and the surety recovery agent

1 may enter into an agreement for a monetary or other penalty under
2 section 374.280.

3 4. In addition to any other remedies available, the
4 director may issue a cease and desist order or may seek an
5 injunction in a court of law under section 374.046 whenever it
6 appears that any person is acting as a surety recovery agent
7 without a license.

8 374.788. 1. A bail bond agent having probable grounds to
9 believe a subject free on his or her bond has failed to appear as
10 directed by a court, has breached the terms of the subject's
11 surety agreement, or has taken a substantial step toward
12 absconding, may utilize all lawful means to apprehend the
13 subject. To surrender a subject to a court, a licensed bail bond
14 or surety recovery agent having probable ground to believe the
15 subject is free on his or her bond may:

16 (1) Detain the subject in a lawful manner for a reasonable
17 time provided that in the event travel from another state is
18 involved, the detention period may include reasonable travel time
19 not to exceed seventy-two hours;

20 (2) Transport a subject in a lawful manner from state to
21 state and county to county to a place of authorized surrender;
22 and

23 (3) Enter upon private or public property in a lawful
24 manner to execute apprehension of a subject.

25 2. A surety recovery agent who apprehends a subject under

1 the provisions of subsection 1 of this section shall surrender
2 custody of the subject to the court of jurisdiction.

3 3. When a surety recovery agent is in the process of
4 performing fugitive recovery, a photographic identification card
5 shall be prominently displayed on his or her person.

6 374.789. 1. A person is guilty of a class D felony if he
7 or she does not hold a valid surety recovery agent license or a
8 bail bond license and commits any of the following acts:

9 (1) Holds himself or herself out to be a licensed surety
10 recovery agent within this state;

11 (2) Claims that he or she can render surety recovery agent
12 services; or

13 (3) Engages in fugitive recovery in this state.

14 2. Any person who engages in fugitive recovery in this
15 state and wrongfully causes damage to any person or property,
16 including, but not limited to, unlawful apprehension, unlawful
17 detainment, or assault, shall be liable for such damages and may
18 be liable for punitive damages.

19 436.215. Sections 436.215 to 436.272 may be cited as the
20 "Uniform Athlete Agents Act".

21 436.218. As used in sections 436.215 to 436.272, the
22 following terms mean:

23 (1) "Agency contract", an agreement in which a student-
24 athlete authorizes a person to negotiate or solicit on behalf of
25 the student-athlete a professional-sports-services contract or an

1 endorsement contract;

2 (2) "Athlete agent", an individual who enters into an
3 agency contract with a student-athlete or directly or indirectly
4 recruits or solicits a student-athlete to enter into an agency
5 contract. The term does not include a spouse, parent, sibling,
6 grandparent, or guardian of the student-athlete or an individual
7 acting solely on behalf of a professional sports team or
8 professional sports organization. The term includes an
9 individual who represents to the public that the individual is an
10 athlete agent;

11 (3) "Athletic director", an individual responsible for
12 administering the overall athletic program of an educational
13 institution or if an educational institution has separately
14 administered athletic programs for male students and female
15 students, the athletic program for males or the athletic program
16 for females, as appropriate;

17 (4) "Contact", a direct or indirect communication between
18 an athlete agent and a student-athlete to recruit or solicit the
19 student-athlete to enter into an agency contract;

20 (5) "Director", the director of the division of
21 professional registration;

22 (6) "Division", the division of professional registration;

23 (7) "Endorsement contract", an agreement under which a
24 student-athlete is employed or receives consideration to use on
25 behalf of the other party any value that the student-athlete may

1 have because of publicity, reputation, following, or fame
2 obtained because of athletic ability or performance;

3 (8) "Intercollegiate sport", a sport played at the
4 collegiate level for which eligibility requirements for
5 participation by a student-athlete are established by a national
6 association for the promotion or regulation of collegiate
7 athletics;

8 (9) "Person", an individual, corporation, business trust,
9 estate, trust, partnership, limited liability company,
10 association, joint venture, government, governmental subdivision,
11 agency, or instrumentality, public corporation, or any other
12 legal or commercial entity;

13 (10) "Professional-sports-services contract", an agreement
14 under which an individual is employed or agrees to render
15 services as a player on a professional sports team, with a
16 professional sports organization, or as a professional athlete;

17 (11) "Record", information that is inscribed on a tangible
18 medium or that is stored in an electronic or other medium and is
19 retrievable in perceivable form;

20 (12) "Registration", registration as an athlete agent under
21 sections 436.215 to 436.272;

22 (13) "State", a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any
24 territory or insular possession subject to the jurisdiction of
25 the United States;

1 (14) "Student-athlete", an individual who engages in, is
2 eligible to engage in, or may be eligible in the future to engage
3 in, any intercollegiate sport. If an individual is permanently
4 ineligible to participate in a particular intercollegiate sport
5 the individual is not a student-athlete for purposes of that
6 sport.

7 436.221. 1. The director shall administer the provisions
8 of sections 436.215 to 436.272.

9 2. By engaging in the business of an athlete agent in this
10 state, a nonresident individual appoints the director as the
11 individual's agent to accept service of process in any civil
12 action related to the individual's business as an athlete agent
13 in this state.

14 3. The director may subpoena witnesses, issue subpoenas
15 duces tecum and require production of documents and records.
16 Subpoenas including subpoenas duces tecum shall be served by a
17 person authorized to serve subpoenas of courts of record. In
18 lieu of requiring attendance of a person to produce original
19 documents in response to a subpoena duces tecum, the board may
20 require sworn copies of such documents to be filed with it or
21 delivered to its designated representative.

22 4. The director may enforce its subpoenas including
23 subpoenas duces tecum by applying to a circuit court of Cole
24 County, the county of the investigation, hearing or proceeding,
25 or any county where the person resides or may be found for an

1 order upon any person who shall fail to obey a subpoena to show
2 cause why such subpoena should not be enforced, which such order
3 and a copy of the application therefore shall be served upon the
4 person in the same manner as a summons in a civil action and if
5 the circuit court shall after a hearing determine that the
6 subpoena should be sustained and enforced such court shall
7 proceed to enforce the subpoena in the same manner as though the
8 subpoena had been issued in a civil case in the circuit court.

9 436.224. 1. Except as otherwise provided in subsection 2
10 of this section, an individual may not act as an athlete agent in
11 this state before being issued a certificate of registration
12 under section 436.230 or 436.236.

13 2. An individual with a temporary license under section
14 436.236 may act as an athlete agent before being issued a
15 certificate of registration for all purposes except signing an
16 agency contract if:

17 (1) A student-athlete or another acting on behalf of the
18 student-athlete initiates communication with the individual; and

19 (2) Within seven days after an initial act as an athlete
20 agent, the individual submits an application to register as an
21 athlete agent in this state.

22 3. An agency contract resulting from conduct in violation
23 of this section is void. The athlete agent shall return any
24 consideration received under the contract.

25 436.227. 1. An applicant for registration shall submit an

1 application for registration to the director in a form prescribed
2 by the director. The application must be in the name of an
3 individual and signed by the applicant under penalty of perjury
4 and must state or contain:

5 (1) The name of the applicant and the address of the
6 applicant's principal place of business;

7 (2) The name of the applicant's business or employer, if
8 applicable;

9 (3) Any business or occupation engaged in by the applicant
10 for the five years next preceding the date of submission of the
11 application;

12 (4) A description of the applicant's:

13 (a) Formal training as an athlete agent;

14 (b) Practical experience as an athlete agent; and

15 (c) Educational background relating to the applicant's
16 activities as an athlete agent;

17 (5) The names and addresses of three individuals not
18 related to the applicant who are willing to serve as references;

19 (6) The name, sport, and last known team for each
20 individual for whom the applicant provided services as an athlete
21 agent during the five years next preceding the date of submission
22 of the application;

23 (7) The names and addresses of all persons who are:

24 (a) With respect to the athlete agent's business if it is
25 not a corporation, the partners, officers, associates, or profit-

1 sharers; and

2 (b) With respect to a corporation employing the athlete
3 agent, the officers, directors, and any shareholder of the
4 corporation with a five percent or greater interest;

5 (8) Whether the applicant or any other person named under
6 subdivision (7) of this subsection has been convicted of a crime
7 that if committed in this state would be a felony or other crime
8 involving moral turpitude, and a description of the crime;

9 (9) Whether there has been any administrative or judicial
10 determination that the applicant or any other person named under
11 subdivision (7) of this subsection has made a false, misleading,
12 deceptive, or fraudulent representation;

13 (10) Any instance in which the prior conduct of the
14 applicant or any other person named under subdivision (7) of this
15 subsection resulted in the imposition of a sanction, suspension,
16 or declaration of ineligibility to participate in an
17 interscholastic or intercollegiate athletic event on a student-
18 athlete or educational institution;

19 (11) Any sanction, suspension, or disciplinary action taken
20 against the applicant or any other person named under subdivision
21 (7) of this subsection arising out of occupational or
22 professional conduct; and

23 (12) Whether there has been any denial of an application
24 for, suspension or revocation of, or refusal to renew, the
25 registration or licensure of the applicant or any other person

1 named under subdivision (7) of this subsection as an athlete
2 agent in any state.

3 436.230. 1. Except as otherwise provided in subsection 2
4 of this section, the director shall issue a certificate of
5 registration to an individual who complies with subsection 1 of
6 section 436.227.

7 2. The director may refuse to issue a certificate of
8 registration if the director determines that the applicant has
9 engaged in conduct that has a significant adverse effect on the
10 applicant's fitness to serve as an athlete agent. In making the
11 determination, the director may consider whether the applicant
12 has:

13 (1) Been convicted of a crime that if committed in this
14 state would be a felony or other crime involving moral turpitude;

15 (2) Made a materially false, misleading, deceptive, or
16 fraudulent representation as an athlete agent or in the
17 application;

18 (3) Engaged in conduct that would disqualify the applicant
19 from serving in a fiduciary capacity;

20 (4) Engaged in conduct prohibited by section 436.254;

21 (5) Had a registration or licensure as an athlete agent
22 suspended, revoked, or denied or been refused renewal of
23 registration or licensure in any state;

24 (6) Engaged in conduct or failed to engage in conduct the
25 consequence of which was that a sanction, suspension, or

1 declaration of ineligibility to participate in an interscholastic
2 or intercollegiate athletic event was imposed on a student-
3 athlete or educational institution; or

4 (7) Engaged in conduct that significantly adversely
5 reflects on the applicant's credibility, honesty, or integrity.

6 4. In making a determination under subsection 3 of this
7 section, the director shall consider:

8 (1) How recently the conduct occurred;

9 (2) The nature of the conduct and the context in which it
10 occurred; and

11 (3) Any other relevant conduct of the applicant.

12 5. An athlete agent may apply to renew a registration by
13 submitting an application for renewal in a form prescribed by the
14 director. The application for renewal must be signed by the
15 applicant under penalty of perjury under section 575.040, RSMo,
16 and shall contain current information on all matters required in
17 an original registration.

18 6. A certificate of registration or a renewal of a
19 registration is valid for two years.

20 436.233. 1. The director may revoke, suspend, or refuse to
21 renew any certificate of registration required under this chapter
22 for one or any combination of causes stated in subsection 2 of
23 this section. The director shall notify the applicant in writing
24 of the reasons for the refusal and shall advise the applicant of
25 the applicant's right to file a complaint with the administrative

1 hearing commission as provided by chapter 621, RSMo.

2 2. The director may cause a complaint to be filed with the
3 administrative hearing commission as provided by chapter 621,
4 RSMo, against any holder of any certificate of registration
5 required by this chapter or any person who has failed to renew or
6 has surrendered the person's certificate of registration for any
7 one or any combination of the following causes:

8 (1) The person has been finally adjudicated and found
9 guilty, or entered a plea of guilty or nolo contendere, in a
10 criminal prosecution under the laws of any state or of the United
11 States, for any offense reasonably related to the qualifications,
12 functions or duties under this chapter, for any offense an
13 essential element of which is fraud, dishonesty or an act of
14 violence, or for any offense involving moral turpitude, whether
15 or not sentence is imposed;

16 (2) Use of fraud, deception, misrepresentation or bribery
17 in securing any certificate of registration under this chapter;

18 (3) Misconduct, fraud, misrepresentation, dishonesty,
19 unethical conduct or unprofessional conduct in the performance of
20 the functions regulated by this chapter including but not limited
21 to the following:

22 (a) Obtaining or attempting to obtain any fee, charge,
23 tuition, or other compensation by fraud, deception, or
24 misrepresentation;

25 (b) Attempting directly or indirectly by way of

1 intimidation, coercion or deception, to obtain consultation;

2 (c) Failure to comply with any subpoena or subpoena duces
3 tecum from the director;

4 (d) Failing to inform the director of the athlete agent's
5 current residence and business address;

6 (4) Violation of, or attempting to violate, directly or
7 indirectly, or assisting or enabling any person to violate, any
8 provision of this chapter, or of any lawful rule or regulation
9 adopted under this chapter;

10 (5) Impersonation of any person holding a certificate of
11 registration or allowing any person to use his or her certificate
12 of registration;

13 (6) Violation of the drug laws or rules and regulations of
14 this state, any other state, or the federal government;

15 (7) Knowingly making, or causing to be made, or aiding, or
16 abetting in the making of, a false statement in any birth or
17 other certificate or document executed in connection with the
18 transaction;

19 (8) Soliciting patronage in person, by agents, by
20 representatives, or by any other means or manner, under the
21 person's own name or under the name of another person or concern,
22 actual or pretended in such a manner as to confuse, deceive, or
23 mislead the public;

24 (9) A pattern of personal use or consumption of any
25 controlled substance unless it is prescribed, dispensed or

1 administered by a physician who is authorized by law to do so.

2 3. After the filing of such complaint before the
3 administrative hearing commission, the proceedings shall be
4 conducted in accordance with the provisions of chapter 621, RSMo.
5 Upon a finding by the administrative hearing commission that the
6 grounds provided in subsection 2 of this section for disciplinary
7 action are met the director may singly or in combination warn,
8 censure, or place the person named in the complaint on probation
9 on such terms and conditions as the director deems appropriate
10 for a period not to exceed six months, or may suspend the
11 person's certificate of registration period not to exceed one
12 year, or restrict or limit the person's certificate of
13 registration for an indefinite period of time, or revoke the
14 person's certificate of registration.

15 4. In any order of revocation, the director may provide
16 that the person may not apply for reinstatement of the person's
17 certificate of registration for a period of time ranging from two
18 to seven years following the date of the order of revocation.
19 All stay orders shall toll this time period.

20 436.236. The director may issue a temporary certificate of
21 registration valid for sixty days while an application for
22 registration or renewal is pending.

23 436.239. 1. An application for registration or renewal of
24 registration shall be accompanied by a fee which shall be
25 determined by the director and established by rule. All fees

1 payable under the provisions of this section shall be collected
2 by the division of professional registration and transmitted to
3 the department of revenue for deposit in the state treasury to
4 the credit of the fund to be known as the "Athlete Agent Fund"
5 which is hereby established. The provisions of section 33.080,
6 RSMo, to the contrary notwithstanding, money in the athlete agent
7 fund shall not be transferred and placed to the credit of general
8 revenue until the amount in the athlete agent fund at the end of
9 the biennium exceeds two times the amount of the appropriations
10 from such fund for the preceding fiscal year or, if the director
11 allows renewal of registration less frequently than yearly, then
12 three times the appropriations from such fund for the preceding
13 fiscal year; provided that no amount from such fund may be
14 transferred to the credit of general revenue earlier than two
15 years following the effective date of this section. The amount
16 if any which may be transferred to the credit of general revenue
17 after two years following the effective date of this section is
18 that amount in the athlete agent fund which exceeds the
19 appropriate multiple of the appropriations from such fund for the
20 preceding fiscal year.

21 2. The director may promulgate rules to authorize and file
22 athlete agent documents as that term is defined in section
23 536.010, RSMo. Any rule promulgated under the authority in this
24 section shall become effective only if it complies with and is
25 subject to all of the provisions of chapter 536, RSMo, and, if

1 applicable, section 536.028, RSMo. This section and chapter 536,
2 RSMo, are nonseverable and if any of the powers vested with the
3 general assembly under chapter 536, RSMo, to review, to delay the
4 effective date, or to disapprove and annul a rule are
5 subsequently held unconstitutional then the grant of rulemaking
6 authority and any rule proposed or adopted after August 28, 2003,
7 shall be invalid and void.

8 436.242. 1. An agency contract must be in a record signed
9 by the parties.

10 2. An agency contract must state or contain:

11 (1) The amount and method of calculating the consideration
12 to be paid by the student-athlete for services to be provided by
13 the athlete agent under the contract and any other consideration
14 the athlete agent has received or will receive from any other
15 source for entering into the contract or for providing the
16 services;

17 (2) The name of any person not listed in the application
18 for registration or renewal who will be compensated because the
19 student-athlete signed the agency contract;

20 (3) A description of any expenses that the student-athlete
21 agrees to reimburse;

22 (4) A description of the services to be provided to the
23 student-athlete;

24 (5) The duration of the contract; and

25 (6) The date of execution.

1 3. An agency contract shall contain in close proximity to
2 the signature of the student-athlete a conspicuous notice in
3 boldface type in capital letters stating:

4 "WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT: (1) YOU
5 MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR
6 SPORT; (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL
7 YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN
8 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND (3) YOU MAY
9 CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
10 CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

11 4. An agency contract that does not conform to this section
12 is voidable by the student-athlete.

13 5. The athlete agent shall give a copy of the signed agency
14 contract to the student-athlete at the time of signing.

15 436.245. 1. Within seventy-two hours after entering into
16 an agency contract or before the next scheduled athletic event in
17 which the student-athlete may participate whichever occurs first
18 the athlete agent shall give notice in writing of the existence
19 of the contract to the athletic director of the educational
20 institution at which the student-athlete is enrolled or the
21 athlete agent has reasonable grounds to believe the student-
22 athlete intends to enroll.

23 2. Within seventy-two hours after entering into an agency
24 contract or before the next athletic event in which the student-

1 athlete may participate whichever occurs first the student-
2 athlete shall in writing inform the athletic director of the
3 educational institution at which the student-athlete is enrolled
4 that he or she has entered into an agency contract.

5 436.248. 1. A student-athlete may cancel an agency
6 contract by giving notice in writing to the athlete agent of the
7 cancellation within fourteen days after the contract is signed.

8 2. A student-athlete may not waive the right to cancel an
9 agency contract.

10 3. If a student-athlete cancels an agency contract within
11 fourteen days of signing the contract, the student-athlete is not
12 required to pay any consideration under the contract or to return
13 any consideration received from the agent to induce the student-
14 athlete to enter into the contract.

15 436.251. 1. An athlete agent shall retain the following
16 records for a period of five years:

17 (1) The name and address of each individual represented by
18 the athlete agent;

19 (2) Any agency contract entered into by the athlete agent;
20 and

21 (3) Any direct costs incurred by the athlete agent in the
22 recruitment or solicitation of a student-athlete.

23 2. Records required by subsection 1 of this section to be
24 retained are open to inspection by the director during normal
25 business hours.

1 436.254. 1. An athlete agent may not do any of the
2 following with the intent to induce a student-athlete to enter
3 into an agency contract:

4 (1) Give any materially false or misleading information or
5 make a materially false promise or representation;

6 (2) Furnish anything of value to a student-athlete before
7 the student-athlete enters into the agency contract; or

8 (3) Furnish anything of value to any individual other than
9 the student-athlete or another registered athlete agent.

10 2. An athlete agent may not intentionally:

11 (1) Initiate contact with a student-athlete unless
12 registered under sections 436.215 to 436.272;

13 (2) Refuse or willfully fail to retain or permit inspection
14 of the records required by section 436.251;

15 (3) Violate section 436.224 by failing to register;

16 (4) Provide materially false or misleading information in
17 an application for registration or renewal of registration;

18 (5) Predate or postdate an agency contract; or

19 (6) Fail to notify a student-athlete prior to the student
20 athlete's signing an agency contract for a particular sport that
21 the signing by the student-athlete may make the student-athlete
22 ineligible to participate as a student-athlete in that sport.

23 436.257. The commission of any act prohibited by section
24 436.254 by an athlete agent is a class B misdemeanor.

25 436.260. 1. An educational institution has a right of

1 action against an athlete agent or a former student-athlete for
2 damages caused by a violation of sections 436.215 to 436.272. In
3 an action under this section, the court may award to the
4 prevailing party costs and reasonable attorney's fees.

5 2. Damages of an educational institution under subsection 1
6 of this section include losses and expenses incurred because as a
7 result of the activities of an athlete agent or former student-
8 athlete the educational institution was injured by a violation of
9 sections 436.215 to 436.272 or was penalized, disqualified, or
10 suspended from participation in athletics by a national
11 association for the promotion and regulation of athletics, by an
12 athletic conference, or by reasonable self-imposed disciplinary
13 action taken to mitigate sanctions.

14 3. A right of action under this section does not accrue
15 until the educational institution discovers or by the exercise of
16 reasonable diligence would have discovered the violation by the
17 athlete agent or former student-athlete.

18 4. Any liability of the athlete agent or the former
19 student-athlete under this section is several and not joint.

20 5. Sections 436.215 to 436.272 do not restrict rights,
21 remedies, or defenses of any person under law or equity.

22 436.263. Any person who violates any provisions of sections
23 436.215 to 436.269 is guilty of a class A misdemeanor.

24 436.266. In applying and construing sections 436.215 to
25 436.272, consideration must be given to the need to promote

1 uniformity of the law with respect to the subject matter of
2 sections 436.215 to 436.272 among states that enact it.

3 436.269. If any provision of sections 436.215 to 436.272 or
4 its application to any person or circumstance is held invalid,
5 the invalidity does not affect other provisions or applications
6 of sections 436.215 to 436.272 which can be given effect without
7 the invalid provision or application, and to this end the
8 provisions of sections 436.215 to 436.272 are severable.

9 436.272. Any moneys collected by the director under section
10 436.263 shall immediately be transferred to the department of
11 revenue for deposit in the state treasury to the credit of
12 general revenue.

13 544.640. 1. If, without sufficient cause or excuse, the
14 defendant fails to appear either in person or by legal counsel
15 for trial or judgment, or upon any other occasion when his or her
16 presence in court may be lawfully required, according to the
17 condition of his or her recognizance, the court must direct the
18 fact to be entered upon its minutes, and thereupon [the
19 recognizance is forfeited, and the same shall be proceeded upon
20 by scire facias to final judgment and execution thereon, although
21 the defendant may be afterward arrested on the original charge,
22 unless remitted by the court for cause shown] at the end of the
23 court day the court may forfeit the bond and order an execution
24 hearing not sooner than sixty days but not later than one hundred
25 eighty days after the date the person failed to appear. Notice

1 of the execution hearing shall be served within ten days of such
2 failure to appear by certified copy of bond to the surety's
3 office. Service shall be completed upon mailing of such
4 certified notice.

5 2. If at the execution hearing it is determined that the
6 judgment should be entered, the court shall so order and a writ
7 of scire facias shall be filed in the office of the clerk of the
8 court where such judgment is entered.

9 3. The court shall issue a warrant for the defendant for
10 failure to appear.

11 4. If the bail bond agent provides proof of the
12 incarceration of the defendant who failed to appear, or provides
13 proof to the court that it is physically impossible for the
14 defendant bail bond agent or surety to satisfy the conditions of
15 the bond through no fault of the bail bond agent or surety, and
16 the court agrees with such proof of physically impossible
17 conditions, the bail bond agent or surety shall be released from
18 liability and all money and property deposited with the court
19 shall be returned within ten days.

20 5. The court shall notify the surety's main office by
21 certified mail within ten days' notification of the defendant's
22 incarceration.

23 6. A defendant shall be surrendered without the return of
24 premium for the bond if the indemnitor attests in writing the
25 desire to be released from the bond or if the surety or the bail

1 bond agent discovers that the defendant is guilty of:

2 (1) Failing to appear in court;

3 (2) Changing his or her address without notifying the bail
4 bond agent or surety in writing;

5 (3) Concealing himself or herself;

6 (4) Leaving the jurisdiction of the court without the
7 written permission of his or her bail bond agent or surety or
8 court;

9 (5) Violating his or her contract with the bail bond agent
10 or surety in a way that may be harmful to the bail bond agent or
11 the surety or violating his or her obligation to the court;

12 (6) Being arrested for a crime other than a traffic
13 violation where the penalty is an infraction or a misdemeanor;

14 (7) Failing to pay any fee due to the bail bond agent or
15 surety;

16 (8) Providing false information to the bail bond agent or
17 surety; or

18 (9) Knowingly or unknowingly violating any other condition
19 of the bail or bail bond contract.

20 7. Upon forfeiture of the bond, the court may order that
21 the defendant's driver's license be suspended until such time as
22 the defendant has satisfied the forfeiture.

23 8. The provisions of this section shall apply to all bail
24 bonds.

25 9. As used in this section, the term "bail bond" means the

1 only form of security to ensure subsequent court appearances
2 accepted by the courts in this state except for recognizance for
3 people who are located and who have not previously pleaded guilty
4 to or been found guilty of failure to appear.

5 620.127. Notwithstanding any provision of law to the
6 contrary, every application for a license, certificate,
7 registration, or permit, or renewal of a license, certificate,
8 registration, or permit issued in this state shall contain the
9 Social Security number of the applicant. This provision shall
10 not apply to an original application for a license, certificate,
11 registration, or permit submitted by a citizen of a foreign
12 country who has never been issued a Social Security number and
13 who previously has not been licensed by any other state, United
14 States territory, or federal agency. A citizen of a foreign
15 country applying for licensure with the division of professional
16 registration shall be required to submit his or her visa or
17 passport identification number in lieu of the Social Security
18 number.

19 620.145. [1.] The division of professional registration
20 shall maintain, for each board in the division, a registry of
21 each person holding a current license, permit or certificate
22 issued by that board. The registry shall contain the name,
23 Social Security number and address of each person licensed or
24 registered together with other relevant information as determined
25 by the board. The registry for each board shall at all times be

1 available to the board and copies shall be supplied to the board
2 on request. Copies of the registry, except for the registrant's
3 Social Security number, shall be available from the division or
4 the board to any individual who pays the reasonable copying cost.
5 Any individual may copy the registry during regular business
6 hours. The information in the registry shall be furnished upon
7 request to the division of child support enforcement. Questions
8 concerning the currency of license of any individual shall be
9 answered, without charge, by the appropriate board. Each year
10 each board may publish, or cause to be published, a directory
11 containing the name and address of each person licensed or
12 registered for the current year together with any other
13 information the board deems necessary. Any expense incurred by
14 the state relating to such publication shall be charged to the
15 board. An official copy of any such publication shall be filed
16 with the director of the department of economic development.

17 [2. Notwithstanding any provision of law to the contrary,
18 each board shall require each person applying for a license,
19 permit or certificate, or a renewal of a license, permit or
20 certificate to furnish the board with the applicant's Social
21 Security number.]

22 [339.600. 1. As used in sections
23 339.600 to 339.610, the following terms mean:
24 (1) "Commission", the Missouri real
25 estate commission;
26 (2) "Escrow agent", any person,
27 partnership, association or corporation,
28 foreign or domestic, who performs any of the
29 following functions: closings or settlements

1 or any function related thereto in sales,
2 exchanges or other transfers of real
3 property.

4 2. A person or entity who meets the
5 definition of escrow agent as provided in
6 subsection 1 of this section is exempt from
7 the provisions of sections 339.600 to 339.610
8 if such person is:

9 (1) A person or entity doing business
10 under the laws of this state or the United
11 States as a bank, trust company, savings and
12 loan association, credit union, commercial or
13 consumer finance company, industrial loan
14 company, insurance company or title insurance
15 company or title insurance agency;

16 (2) An attorney at law;

17 (3) A person or entity licensed
18 pursuant to this chapter rendering services
19 in the performance of his or her duties as a
20 real estate broker or salesperson;

21 (4) A mortgage loan company which is
22 subject to licensing, supervision or auditing
23 by the Federal National Mortgage Association
24 or the Federal Home Loan Mortgage Corporation
25 or the United States Veterans' Administration
26 or the Government National Mortgage
27 Association or the United States Department
28 of Housing and Urban Development or a
29 successor of any of such agencies or
30 entities, as an approved seller or servicer;
31 or

32 (5) The United States, the state of
33 Missouri or any state, any political
34 subdivision of this state or any agency,
35 division or corporate instrumentality
36 thereof.]

37 [339.603. 1. It is unlawful for any
38 person, partnership, association or
39 corporation, foreign or domestic, to act as
40 an escrow agent, or to advertise or attempt
41 to act as such without being properly
42 registered with the commission.

43 2. Upon application by the commission
44 and upon proof by a preponderance of the
45 evidence, a court of general jurisdiction may
46 grant an injunction, restraining order or
47 other order as may be appropriate to enjoin a
48 person from unlawfully engaging or attempting
49 to engage in the activities identified in

1 sections 339.600 to 339.610.]

2 [339.605. 1. A person, partnership,
3 association or corporation, incorporated
4 pursuant to the laws of Missouri, may be
5 registered as an escrow agent pursuant to
6 sections 339.600 to 339.610, if such person,
7 partners of the partnership, members of the
8 association or officers of the corporation
9 are at least eighteen years of age, of good
10 moral character and are competent to transact
11 the business of an escrow agent in such
12 manner as to safeguard the interest of the
13 public. The commission shall require proof
14 that such persons meet the qualifications as
15 provided in this subsection.

16 2. A corporation, partnership or
17 association may be registered if every
18 partner of the partnership, every member of
19 the association, or every officer of the
20 corporation who actively participates in its
21 escrow business has been registered and the
22 corporation, partnership or association has
23 paid all the required fees.

24 3. Applications for registration shall
25 be submitted in writing on forms furnished by
26 the commission and accompanied by such
27 information and recommendations as the
28 commission may require.

29 4. The commission may refuse to
30 register any person, partnership, association
31 or corporation if the person, partner, member
32 or a direct or indirect controlling
33 stockholder has been found guilty of, or
34 pleaded guilty to, stealing, forgery,
35 embezzlement, obtaining money under false
36 pretenses, extortion, criminal conspiracy to
37 defraud or any similar offense.]

38 [339.606. The commission may promulgate
39 rules and regulations and perform all duties
40 necessary for carrying out the provisions of
41 sections 339.600 to 339.610. The commission
42 shall set the amount of the fees which are
43 authorized pursuant to sections 339.600 to
44 339.610 by rules and regulations promulgated
45 pursuant to section 536.021, RSMo. The fees
46 shall be set at a level to produce revenue
47 which shall not substantially exceed the cost
48 and expense of administering sections 339.600

1 to 339.610.]

2 [339.607. Each registration granted
3 pursuant to sections 339.600 to 339.610 shall
4 be renewed every two years and the commission
5 shall issue a new registration upon receipt
6 of a proper renewal application and the
7 required renewal fee.]

8 [339.608. The fees collected pursuant
9 to the provisions of sections 339.600 to
10 339.610 shall be collected by the Missouri
11 real estate commission and shall be sent to
12 the director of the department of revenue for
13 deposit in the state treasury in the "Escrow
14 Agent Administration Fund" which is hereby
15 created. The commission shall administer the
16 fund and shall use the moneys in the fund
17 solely for the administration and enforcement
18 of sections 339.600 to 339.610.
19 Notwithstanding the provisions of section
20 33.080, RSMo, to the contrary, any unexpended
21 balance in the fund at the end of the
22 biennium shall not be transferred to the
23 general revenue fund, but shall remain in the
24 escrow agent administration fund.]

25 [339.610. Any funds received by an
26 escrow agent from any person that are to be
27 used for third-party expenses shall be
28 deposited no later than five banking days
29 after receipt in an escrow account in any
30 federally insured bank, savings and loan
31 association or credit union. The funds in
32 such escrow account shall be expended for the
33 intended use by the escrow agent within
34 ninety days after the obligations of the
35 third party have been completed.]

36 [339.612. The commission or its
37 designated agent may inspect and audit the
38 escrow accounts or accounting records of any
39 escrow agent at any time during normal
40 business hours to determine if escrow funds
41 are being expended and disbursed in a timely
42 fashion and for the intended use. If the
43 commission determines that such escrow funds
44 have been used for any purpose other than the
45 intended purposes, the escrow agent is liable
46 to the intended payee of the funds for any

1 misappropriated funds and the Missouri real
2 estate commission shall cause legal
3 proceedings to be held in any court of
4 competent jurisdiction to enforce the
5 provisions of this section and sections
6 339.610, 339.614, and 339.617. The
7 commission's authority to instigate legal
8 proceedings to enforce the provisions of this
9 section is in addition to the authority to
10 file a complaint with the administrative
11 hearing commission.]

12 [339.614. The records of any inspection
13 or audit made pursuant to the authority in
14 section 339.612 shall be made available to
15 the escrow agent and the parties to the
16 transaction but shall not be considered open
17 to the public unless public money is directly
18 involved or a court of competent jurisdiction
19 orders that such records be opened.]

20 [339.617. 1. The commission may, upon
21 its own motion or upon a written complaint
22 filed by any person, investigate any business
23 transaction, regulated by the provisions of
24 sections 339.600 to 339.610, of any person,
25 partnership, association or corporation
26 registered pursuant to the provisions of
27 sections 339.600 to 339.610. The commission
28 may use all investigatory and subpoena powers
29 provided in section 339.100 in investigating
30 such business transaction. The commission
31 may file a complaint with the administrative
32 hearing commission and the proceedings shall
33 be conducted as provided in chapter 621,
34 RSMo. If the administrative hearing
35 commission finds that the escrow agent is not
36 in compliance with sections 339.610 to
37 339.617 or is operating in an unsafe or
38 unsound manner, the commission may cancel the
39 registration of such escrow agent. If the
40 registration of any escrow agent is canceled
41 pursuant to this subsection, such escrow
42 agent may not accept any referral of business
43 which is regulated by the provisions of
44 sections 339.600 to 339.610.

45 2. No real estate licensee may
46 knowingly refer escrow or real estate closing
47 business to any escrow agent which does not
48 hold a current registration pursuant to

1 sections 339.600 to 339.610.]

2 [374.725. Any person who, on September
3 28, 1983, is acting in any capacity which
4 would be classified as practicing as a bail
5 bond agent or general bail bond agent under
6 the provisions of sections 374.700 to 374.775
7 may continue to act in such capacity without
8 being licensed under sections 374.700 to
9 374.775 for a period of twelve months from
10 September 28, 1983.]

11 [374.765. 1. Any person who practices
12 as a bail bond agent or general bail bond
13 agent, or who purports to be a bail bond
14 agent, or general bail bond agent, as defined
15 in section 374.700, without being duly
16 licensed under sections 374.700 to 374.775
17 is:

18 (1) For the first such offense, guilty
19 of an infraction;

20 (2) For the second and each subsequent
21 offense, guilty of a class A misdemeanor.

22 2. Any licensed bail bond agent who
23 knowingly violates the provisions of one or
24 more of subdivisions (3), (4), (10), (11),
25 (12), (13), (14), or (15) of subsection 1 of
26 section 374.755 shall be guilty of a class B
27 misdemeanor.]

28 [436.200. As used in this act the
29 following terms shall mean:

30 (1) "Agent contract", any contract or
31 agreement pursuant to which a student athlete
32 authorizes an athlete agent to represent him
33 in the marketing of his athletic ability or
34 reputation in a sport;

35 (2) "Athlete agent", a person that, for
36 compensation, directly or indirectly recruits
37 or solicits a student athlete to enter into
38 an agent contract, financial services
39 contract or professional sports services
40 contract;

41 (3) "Financial services contract", any
42 contract or agreement pursuant to which a
43 student athlete authorizes an athlete agent
44 to provide financial services for the student
45 athlete, including but not limited to the
46 making and execution of investment and other
47 financial decisions by the athlete agent on

1 behalf of the student athlete;
2 (4) "Person", an individual, company,
3 corporation, association, partnership or
4 other entity;
5 (5) "Professional sports services
6 contract", any contract or agreement pursuant
7 to which a student athlete authorizes an
8 athlete agent to obtain employment for the
9 student athlete with a professional sports
10 team or as a professional athlete;
11 (6) "Student athlete", any athlete who
12 practices for or otherwise participates in
13 intercollegiate athletics at any college or
14 university located within this state.]

15 [436.205. 1. Each athlete agent must
16 register biennially with the secretary of
17 state on forms to be provided by the
18 secretary of state and, at the same time, pay
19 to the secretary of state a registration fee
20 of five hundred dollars for which the
21 secretary of state shall issue a registration
22 certificate entitling the holder to operate
23 as an athlete agent for a period of two
24 years.

25 2. When the business address of any
26 athlete agent operating in this state is
27 changed, the athlete agent must notify the
28 secretary of state within thirty days after
29 the change of address.

30 3. It is unlawful for any person to
31 operate as an athlete agent unless he is
32 registered as provided in this section.
33 Failure of the athlete agent to register is a
34 class B misdemeanor.

35 4. The secretary of state may suspend
36 or revoke the registration of any athlete
37 agent for failing to comply with the
38 provisions of this section. The suspension
39 or revocation of any registration may be
40 reviewed by a court of competent
41 jurisdiction.]

42 [436.209. 1. A student athlete who is
43 subject to the rules and regulations of the
44 National Collegiate Athletic Association, the
45 National Association for Intercollegiate
46 Athletics, or the National Junior College
47 Athletic Association, and who enters into an
48 agent contract, financial services contract

1 or professional sports services contract with
2 an athlete agent must provide written
3 notification to the athletic director or the
4 president of the college or university in
5 which he is enrolled that he has entered into
6 such a contract. Written notification must
7 be given prior to practicing for or
8 participating in any athletic event on behalf
9 of any college or university or within
10 seventy-two hours after entering into the
11 contract, whichever occurs first. Failure of
12 the student athlete to provide this
13 notification is an infraction.

14 2. An athlete agent who enters into an
15 agent contract, financial services contract
16 or professional sports services contract with
17 a student athlete who is subject to the rules
18 and regulations of the National Collegiate
19 Athletic Association, the National
20 Association for Intercollegiate Athletics, or
21 the National Junior College Athletic
22 Association must provide written notification
23 to the athletic director or the president of
24 the college or university in which the
25 student athlete is enrolled that the student
26 athlete has entered into such a contract.
27 Written notification of such a contract must
28 be given prior to the student athlete's
29 practicing for or participating in any
30 athletic event on behalf of any college or
31 university or within seventy-two hours after
32 entering into said contract, whichever occurs
33 first. Failure of the athlete agent to
34 provide this notification is a class B
35 misdemeanor.

36 3. An agent contract, financial
37 services contract or professional sports
38 services contract between a student athlete
39 and an athlete agent must have a notice
40 printed near the space for the student
41 athlete's signature which must contain the
42 following statement in ten-point boldfaced
43 type: "WARNING: IF YOU AS A STUDENT ATHLETE
44 SIGN THIS CONTRACT, YOU MAY LOSE YOUR
45 ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE
46 ATHLETICS. Pursuant to MISSOURI LAW, YOU
47 MUST NOTIFY THE ATHLETIC DIRECTOR OR
48 PRESIDENT OF YOUR COLLEGE OR UNIVERSITY IN
49 WRITING PRIOR TO PRACTICING FOR OR
50 PARTICIPATING IN ANY ATHLETIC EVENT ON BEHALF

1 OF ANY COLLEGE OR UNIVERSITY OR WITHIN
2 SEVENTY-TWO HOURS AFTER ENTERING INTO THIS
3 CONTRACT, WHICHEVER OCCURS FIRST. FAILURE TO
4 PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE."

5 4. An agent contract, financial
6 services contract or professional sports
7 services contract entered into between a
8 student athlete and an athlete agent which
9 fails to provide the notification required by
10 this section is null, void and unenforceable.

11 5. Any student athlete or athlete agent
12 who enters into an agent contract, financial
13 services contract or professional sports
14 services contract and fails to provide the
15 notification required by this section, is
16 liable to the college or university in which
17 the student athlete is enrolled for damages
18 that result from the student athlete's
19 subsequent ineligibility. In addition to any
20 damages awarded pursuant to this section,
21 additional damages may be assessed in an
22 amount equal to three times the value of the
23 athletic scholarship furnished by the
24 institution to the student athlete during the
25 student athlete's period of eligibility.

26 6. Within ten days after the date on
27 which the contractual relationship between
28 the athlete agent and the student athlete
29 arises or after notification of such
30 contractual relationship is received by the
31 athletic director or president of the college
32 or university in which the student is
33 enrolled, whichever occurs later, the student
34 athlete shall have the right to rescind the
35 contract or any contractual relationship with
36 the athlete agent by giving notice in writing
37 of his intent to rescind. The student
38 athlete may not under any circumstances
39 effect a waiver of his right to rescind, and
40 any attempt to do so shall be null, void and
41 unenforceable.]

42 [436.212. 1. An athlete agent shall
43 not publish or cause to be published false or
44 misleading information or advertisements, nor
45 give any false information or make false
46 promises to a student athlete concerning
47 employment.

48 2. An athlete agent shall not accept as
49 a client a student athlete referred by an

1 employee of or a coach for a college or
2 university located within this state in
3 exchange for any consideration.

4 3. An athlete agent shall not enter
5 into any agreement, written or oral, by which
6 the athlete agent offers anything of value to
7 any employee of or a coach for a college or
8 university located within this state in
9 return for the referral of any student
10 athlete clients by that employee or coach.

11 4. An athlete agent shall not offer
12 anything of value to induce a student athlete
13 to enter into an agent contract, financial
14 services contract, professional sports
15 services contract or other agreement by which
16 the athlete agent will represent the student
17 athlete. Negotiations regarding the athlete
18 agent's fee shall not be considered an
19 inducement.

20 5. A person shall not conduct business
21 as an athlete agent if he is not registered
22 or if his registration is suspended or
23 revoked.

24 6. Violation of any provision of this
25 section is a class B misdemeanor.]

26 [544.650. Whenever any bail bond or
27 recognizance has been given or entered into
28 in any criminal proceedings, conditioned for
29 the appearance of any person charged with,
30 indicted for or convicted of any criminal
31 offense, or for any other purpose, and the
32 conditions thereof shall become broken or the
33 same shall be forfeited, it shall be lawful
34 and sufficient to serve the writ of scire
35 facias or other writ or process which may be
36 issued in such proceeding, either by
37 delivering a duly certified copy of such writ
38 or process to the person therein named, or by
39 leaving such duly certified copy of such writ
40 or process at the usual place of abode of the
41 person therein named, with a member of his
42 family over the age of fifteen years.]