

FIRST REGULAR SESSION

HOUSE BILL NO. 144

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE AUSTIN.

0615L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 361.160, RSMo, and to enact in lieu thereof two new sections relating to the examination of private trust companies and alternative dispute resolution for trust agreements.

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

Section A. Section 361.160, RSMo, is repealed and two new section enacted in lieu
2 thereof, to be known as sections 361.160 and 456.2-205, to read as follows:

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

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 **bold-face** type in the above bill is proposed language.

17 free access to any workpapers upon which a certified public accountant bases an audit. A
18 certified public accountant shall retain workpapers for a minimum of three years after the date
19 of issuance of the certified public accountant's report to the bank or trust company. The director
20 or the director's agent may concentrate the examinations on institutions which the director
21 believes have safety or soundness concerns.

22 2. The director, or the deputy or examiners designated by the director for that purpose,
23 shall have power to examine any such corporation whenever, in the director's judgment, it may
24 be deemed necessary or expedient, and shall have power to examine every agency located in this
25 state of any foreign banking corporation and every branch in this state of any out-of-state bank,
26 for the purpose of ascertaining whether it has violated any law of this state, and for such other
27 purposes and as to such other matters as the director may prescribe.

28 3. The director and the director's deputy and examiners shall have power to administer
29 oaths to any person whose testimony may be required in such examination or investigation of
30 any such corporation or agency, and to compel the appearance and attendance of any person for
31 the purpose of any such examination or investigation.

32 4. On every such examination inquiry shall be made as to the condition and resources
33 of such corporation, the mode of conducting and managing its affairs, the actions of its directors
34 or trustees, the investment of its funds, the safety and prudence of its management, the security
35 afforded to its creditors, and whether the requirements of its charter and of law have been
36 complied with in the administration of its affairs, and as to such other matters as the director may
37 prescribe.

38 5. The director may also make such special investigations as the director deems
39 necessary to determine whether any individual or corporation has violated any of the provisions
40 of this law.

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

45 7. The result of each examination shall be certified by the director or the examiner upon
46 the records of the corporation examined and the result of all examinations during the biennial
47 period shall be embodied in the report to be made by the director of the department of insurance,
48 financial institutions and professional registration to the legislature.

49 8. The director may contract with regulators in other states to provide for the
50 examination of Missouri branches of out-of-state banks and branches of banks whose home state
51 is Missouri. The agreements may provide for the payment by the home state of the cost of
52 examinations conducted by the host state at the request of the home state regulators.

**456.2-205. A provision in a trust instrument requiring the mediation or arbitration
2 of disputes, other than disputes relating to the validity of the trust instrument, between or
3 among the beneficiaries, a fiduciary, a person granted nonfiduciary powers under the trust
4 instrument, or any combination of such persons, is enforceable.**

✓