

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2571

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OWEN.

4630H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.500, 513.430, 569.010, 569.100, 570.010, 570.030, and 574.105, RSMo, and to enact in lieu thereof thirty-three new sections relating to financial services, with penalty provisions.

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

Section A. Sections 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.500, 513.430, 569.010, 569.100, 570.010, 570.030, and 574.105, RSMo, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 285.1000, 285.1005, 285.1010, 285.1015, 285.1020, 285.1025, 285.1030, 285.1035, 285.1040, 285.1045, 285.1050, 285.1055, 361.020, 361.098, 361.106, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.500, 427.300, 513.430, 569.010, 569.100, 569.190, 570.010, 570.030, and 574.105, to read as follows:

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

(1) "Administrative fund" or "Missouri workplace retirement savings administrative fund", the Missouri workplace retirement savings administrative fund described in section 285.1045;

(2) "Board", the Missouri workplace retirement savings board established under section 285.1005;

(3) "Eligible employee", an individual who is employed by a participating employer, who has wages or other compensation that is allocable to the state, and who is

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.

10 eighteen years of age or older. "Eligible employee" shall not include any of the
11 following:

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

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

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

17 a. The federal government;

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

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

21 (4) "Eligible employer", a person or entity engaged in a business, industry,
22 profession, trade, or other enterprise in the state of Missouri, whether for-profit or not-
23 for-profit, provided that such a person or entity employs no more than fifty employees.

24 A person or entity who qualifies as an eligible employer but who later employs more
25 than fifty employees shall be permitted to remain an eligible employer for a period of
26 five years beginning on the date on which the person or entity first employs more than
27 fifty employees. After such five-year period has ended, the person or entity shall
28 immediately cease to qualify as an eligible employer and shall be prohibited from
29 further participation in the plan. For purposes of this subdivision, an eligible employer
30 shall not include:

31 (a) The federal government;

32 (b) The state of Missouri;

33 (c) Any county, municipal corporation, or political subdivision of the state of
34 Missouri; or

35 (d) An employer that maintains a specified tax-favored retirement plan for its
36 employees or that has effectively done so in form and operation at any time within the
37 current or two preceding calendar years. If an employer does not maintain a specified
38 tax-favored retirement plan for a portion of a calendar year ending on or after the
39 effective date of sections 285.1000 to 285.1055 and adopts such a plan effective for the
40 remainder of that calendar year, the employer shall not be treated as an eligible
41 employer for that remainder of the year;

42 (5) "ERISA", the Employee Retirement Income Security Act of 1974, as
43 amended, 29 U.S.C. Section 1001 et seq.;

44 (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

45 (7) "Participant", an eligible employee or other individual who has a balance
46 credited to his or her account under the plan;

47 **(8) "Participating employer", an eligible employer that is participating in the**
48 **plan provided for by sections 285.1000 to 285.1055;**

49 **(9) "Plan" or "Missouri workplace retirement savings plan", the multiple-**
50 **employer retirement savings plan established by sections 285.1000 to 285.1055, which**
51 **shall be treated as a single plan under Title I of ERISA and is described in sections 401**
52 **(a), 401(k), and 413(c) of the Internal Revenue Code, in which multiple employers may**
53 **choose to participate regardless of whether any relationship exists between and among**
54 **the employers other than their participation in the plan. Based on the context, the term**
55 **"plan" may also refer to multiple plans if multiple plans are established under sections**
56 **285.1000 to 285.1055;**

57 **(10) "Self-employed individual", an individual who is eighteen years of age or**
58 **older, is self-employed, and has self-employment income or other compensation from**
59 **self-employment that is allocable to the state of Missouri;**

60 **(11) "Specified tax-favored retirement plan", a retirement plan that is tax-**
61 **qualified under, or is described in and satisfies the requirements of, section 401(a), 401**
62 **(k), 403(a), 403(b), 408(k)(Simplified Employee Pension), or 408(p)(SIMPLE-IRA) of**
63 **the Internal Revenue Code;**

64 **(12) "Total fees and expenses", all fees, costs, and expenses including, but not**
65 **limited to, administrative expenses, investment expenses, investment advice expenses,**
66 **accounting costs, actuarial costs, legal costs, marketing expenses, education expenses,**
67 **trading costs, insurance annuitization costs, and other miscellaneous costs;**

68 **(13) "Trust", the trust in which the assets of the plan are held.**

285.1005. 1. The "Missouri Workplace Retirement Savings Board" is hereby
2 **established in the office of the state treasurer.**

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

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

6 **(2) An individual who has a favorable reputation for skill, knowledge, and**
7 **experience in the field of retirement savings and investments, to be appointed by the**
8 **governor with the advice and consent of the senate;**

9 **(3) An individual who has a favorable reputation for skill, knowledge, and**
10 **experience relating to small business, to be appointed by the governor with the advice**
11 **and consent of the senate;**

12 **(4) An individual who is a representative of an association representing**
13 **employees or who has a favorable reputation for skill, knowledge, and experience in the**
14 **interests of employees in retirement savings, to be appointed by the speaker of the house**
15 **of representatives;**

16 **(5) An individual who has a favorable reputation for skill, knowledge, and**
17 **experience in the interests of employers in retirement savings, to be appointed by the**
18 **president pro tempore of the senate;**

19 **(6) A retired individual to be a representative of the interests of retirees, to be**
20 **appointed by the speaker of the house of representatives;**

21 **(7) An individual who has a favorable reputation for skill, knowledge, and**
22 **experience in retirement investment products or retirement plan designs, to be**
23 **appointed by the president pro tempore of the senate;**

24 **(8) A member of the house of representatives to be appointed by the speaker of**
25 **the house of representatives; and**

26 **(9) A member of the senate to be appointed by the president pro tempore of the**
27 **senate.**

28

29 **At least one of the members described in subdivisions (4), (6), and (8) and one of the**
30 **members described in subdivisions (5), (7), and (9) of this subsection must be a member**
31 **of the minority party.**

32 **3. The governor, the president pro tempore of the senate, and the speaker of the**
33 **house of representatives shall make the respective initial appointments to the board for**
34 **terms of office beginning on January 1, 2023.**

35 **4. Members of the board appointed by the governor, the president pro tempore**
36 **of the senate, and the speaker of the house of representatives shall serve at the pleasure**
37 **of the appointing authority.**

38 **5. The term of office of each member of the board shall be four years. Any**
39 **member is eligible to be reappointed. If there is a vacancy for any reason, the**
40 **appropriate appointing authority shall make an appointment, to become immediately**
41 **effective, for the unexpired term.**

42 **6. All members of the board shall serve without compensation and shall be**
43 **reimbursed from the administrative fund for necessary travel expenses incurred in**
44 **carrying out the duties of the board.**

45 **7. A majority of the voting members of the board shall constitute a quorum for**
46 **the transaction of business.**

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

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

- 6 **(1) To establish, implement, and maintain the plan, in each case acting on behalf**
7 **of the state of Missouri, including, in its discretion, more than one plan;**
- 8 **(2) To cause the plan, trust, and arrangements and accounts established under**
9 **the plan to be designed, established, and operated:**
- 10 **(a) In accordance with best practices for retirement savings vehicles;**
11 **(b) To encourage participation, saving, sound investment practices, and**
12 **appropriate selection of default investments;**
13 **(c) To maximize simplicity and ease of administration for eligible employers;**
14 **(d) To minimize costs, including by collective investment and economies of scale;**
15 **and**
- 16 **(e) To promote portability of benefits;**
- 17 **(3) To arrange for collective, common, and pooled investment of assets of the**
18 **plan and trust, including investments in conjunction with other funds with which assets**
19 **are permitted to be collectively invested, to save costs through efficiencies and**
20 **economies of scale;**
- 21 **(4) To develop and disseminate educational information designed to educate**
22 **participants and citizens about the benefits of planning and saving for retirement and to**
23 **help participants and citizens decide the level of participation and savings strategies that**
24 **may be appropriate, including information in furtherance of financial capability and**
25 **financial literacy;**
- 26 **(5) To adopt rules and regulations necessary or advisable for the implementation**
27 **of sections 285.1000 to 285.1055 and the administration and operation of the plan**
28 **consistent with the Internal Revenue Code and regulations thereunder, including to**
29 **ensure that the plan satisfies all criteria for favorable federal tax-qualified treatment**
30 **and complies, to the extent necessary, with ERISA and any other applicable federal or**
31 **Missouri law. Any rule or portion of a rule, as that term is defined in section 536.010,**
32 **that is created under the authority delegated in this section shall become effective only if**
33 **it complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
34 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
35 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
36 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
37 **then the grant of rulemaking authority and any rule proposed or adopted after August**
38 **28, 2022, shall be invalid and void;**
- 39 **(6) To arrange for and facilitate compliance by the plan or arrangements**
40 **established thereunder with all applicable requirements for the plan under the Internal**
41 **Revenue Code, ERISA, and any other applicable federal or Missouri law and**
42 **accounting requirements, and to provide or arrange for assistance to eligible**

43 employers, eligible employees, and self-employed individuals in complying with
44 applicable law and tax-related requirements in a cost-effective manner. The board
45 may establish any processes deemed reasonably necessary or advisable to verify whether
46 a person or entity is an eligible employer, including reference to online data and possible
47 use of questions in employer tax filings;

48 (7) To employ or retain a plan administrator; executive director; staff; trustee;
49 record-keeper; investment managers; investment advisors; and other administrative,
50 professional, and expert advisors and service providers, none of whom shall be members
51 of the board and all of whom shall serve at the pleasure of the board, which shall
52 determine their duties and compensation. The board may authorize the executive
53 director and other officials to oversee requests for proposals or other public
54 competitions and enter into contracts on behalf of the board or conduct any business
55 necessary for the efficient operation of the plan or the board;

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

59 (9) To develop and implement an investment policy that defines the plan's
60 investment objectives, consistent with the objectives of the plan, and that provides for
61 policies and procedures consistent with those investment objectives;

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

64 (b) To seek to minimize participant fees and expenses of investment and
65 administration;

66 (c) To strive to design and implement investment options available to holders of
67 accounts established as part of the plan and other plan features that are intended to
68 achieve maximum possible income replacement balanced with an appropriate level of
69 risk, consistent with the investment objectives under the investment policy. The
70 investment options may encompass a range of risk and return opportunities and allow
71 for a rate of return commensurate with an appropriate level of risk in view of the
72 investment objectives under the policy. The menu of investment options shall be
73 determined taking into account the nature and objectives of the plan, the desirability of
74 limiting investment choices under the plan to a reasonable number, based on behavioral
75 research findings, and the extensive investment choices available to participants in the
76 event that funds roll over to an individual retirement account (IRA) outside the
77 program; and

78 (d) In accordance with subdivision (7) of this subsection, the board, to the extent
79 it deems necessary or advisable, in carrying out its responsibilities and exercising its

80 powers under sections 285.1000 to 285.1055, shall employ or retain appropriate entities
81 or personnel to assist or advise it or to whom to delegate the carrying out of such
82 responsibilities and exercising of such powers;

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

85 (a) For the exclusive purpose of providing benefits to participants and defraying
86 reasonable expenses of administering the plan; and

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

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

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

98 (14) To make and enter into competitively procured contracts, agreements, or
99 arrangements with; to collaborate and cooperate with; and to retain, employ, and
100 contract with or for any of the following to the extent necessary or desirable for the
101 effective and efficient design, implementation, and administration of the plan consistent
102 with the purposes set forth in sections 285.1000 to 285.1055 and to maximize outreach to
103 eligible employers and eligible employees:

104 (a) Services of private and public financial institutions, depositories, consultants,
105 actuaries, counsel, auditors, investment advisors, investment administrators, investment
106 management firms, other investment firms, third-party administrators, other
107 professionals and service providers, and state public retirement systems;

108 (b) Research, technical, financial, administrative, and other services; and

109 (c) Services of other state agencies to assist the board in the exercise of its powers
110 and duties;

111 (15) To develop and implement an outreach plan to gain input and disseminate
112 information regarding the plan and retirement savings in general;

113 (16) To cause moneys to be held and invested and reinvested under the plan;

114 (17) To ensure that all contributions under the plan shall be used only to:

115 (a) Pay benefits to participants under the plan;

116 (b) Pay the costs of administering the plan; and

117 (c) Make investments for the benefit of the plan, and ensure that no assets of the
118 plan or trust are transferred to the general revenue fund or to any other fund of the
119 state or are otherwise encumbered or used for any purpose other than those specified in
120 this paragraph or section 285.1045;

121 (18) To make provisions for the payment of costs of administration and
122 operation of the program and trust;

123 (19) To evaluate the need for and procure as needed insurance against any and
124 all loss in connection with the property, assets, or activities of the program, including
125 fiduciary liability coverage;

126 (20) To evaluate the need for and procure as needed pooled private insurance;

127 (21) To indemnify, including procurement of insurance as needed for this
128 purpose, each member of the board from personal loss or liability resulting from a
129 member's action or inaction as a member of the board and as a fiduciary;

130 (22) To collaborate with and evaluate the role of financial advisors or other
131 financial professionals, including in assisting and providing guidance for covered
132 employees; and

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

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

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

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

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

143 4. Each board member shall be subject to the provisions of sections 105.452 and
144 105.454.

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

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

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

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

- 10 **(3) Allow all eligible employees who choose to participate in the plan after**
11 **providing appropriate written notice to opt in;**
- 12 **(4) Enroll self-employed individuals who wish to participate;**
- 13 **(5) Provide participants the option to terminate their participation at any time;**
- 14 **(6) Allow voluntary pre-tax or designated Roth 401(k) contributions;**
- 15 **(7) Allow voluntary employer contributions;**
- 16 **(8) Be overseen by the board and its designees;**
- 17 **(9) Be administered and managed by one or more trustees, other fiduciaries,**
18 **custodians, third-party administrators, investment managers, record-keepers, or other**
19 **service providers;**
- 20 **(10) An eligible employee may opt-in to contribute a minimum of one percent or**
21 **any percentage, up to the maximum, in increments of one-half of one percent, of his or**
22 **her salary or wages to the plan, or may at a later date elect to opt out of the plan or may**
23 **contribute at a higher or lower rate, expressed as a percentage of salary or wages;**
- 24 **(11) Provide on a uniform basis, if and when the board so determines, in its**
25 **discretion, for an increase of each participant's contribution rate, by a minimum**
26 **increment of one-half of one percent of salary or wages per year, for each additional**
27 **year the participant is employed or is participating in the plan up to the maximum**
28 **percentage of such participant's salary or wages that may be contributed to the plan**
29 **under federal law. Any such increases shall apply to participants, as determined by the**
30 **board, by default or only if initiated by affirmative participant election;**
- 31 **(12) Provide for direct deposit of contributions into investments under the plan.**
32 **To the extent consistent with ERISA, the investment alternatives under the plan shall be**
33 **limited to an automatic investment for participants who do not actively and**
34 **affirmatively elect a particular investment option, which unless the board provides**
35 **otherwise, shall be a diversified target date fund, including a series of such diversified**
36 **funds to apply to different participants depending on their choice or their target**
37 **retirement dates, a principal-protected option, and up to four additional investment**
38 **alternatives as may be selected by the board in its discretion. To the extent consistent**
39 **with ERISA, the investment options may, at the discretion of the board, include a**
40 **principal-protection fund as a temporary "security corridor" option that applies as the**
41 **sole initial investment before participants may choose other investments or as the initial**
42 **default investment for a specified period of time or up to a specified dollar amount of**
43 **contributions or account balance;**
- 44 **(13) Be professionally managed;**
- 45 **(14) Provide for reports on the status of each participant's account to be**
46 **provided to each participant at least annually and make best efforts to provide**

47 participants frequent or continual online access to information on the status of their
48 accounts;

49 (15) When possible and practicable, use existing employer and public
50 infrastructure to facilitate contributions, record keeping, and outreach and use
51 pooled or collective investment arrangements;

52 (16) Provide that each account holder owns the contributions to or earnings on
53 amounts contributed to his or her account under the plan and that the state and
54 employers have no proprietary interest in those contributions or earnings;

55 (17) Be designed and implemented in a manner consistent with federal law to the
56 extent that it applies;

57 (18) Make provisions for the participation in the plan of individuals who are not
58 employees, if allowed under federal law;

59 (19) Establish rules and procedures governing the distribution of funds from the
60 plan, including such distributions as may be permitted or required by the plan and any
61 applicable provisions of ERISA, the tax-qualification rules, and the other tax laws, with
62 the objectives of maximizing financial security in retirement, protecting spousal rights,
63 and assisting participants to effectively manage the decumulation of their savings and to
64 receive payment of their benefits under the plan. The board shall have the authority, in
65 its discretion, to provide for one or more reasonably priced distribution options to
66 provide a source of fixed regular retirement income, including income for life or for the
67 participant's life expectancy, or for joint lives and life expectancies, as applicable;

68 (20) Establish rules and procedures promoting portability of benefits, including
69 the ability to make tax-free roll-overs or transfers to and from the plan, provided that
70 any roll-over is initiated by participants; and

71 (21) Encourage choices by employers in the state to adopt a specified tax-favored
72 retirement plan, including the plan.

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

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

10 (2) Conduct outreach to individuals, employers, other stakeholders, and the
11 public regarding the plan. The rules shall specify the contents, frequency, timing, and

12 means of required disclosures from the plan to eligible employees, participants, and self-
13 employed individuals, eligible employers, participating employers, and other interested
14 parties. These disclosures shall include, but not be limited to:

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

16 (b) The potential advantages and disadvantages associated with participating in
17 the plan;

18 (c) Instructions for enrolling, making contributions, and opting out of
19 participation;

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

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

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

28 (g) A disclaimer that the account owner is solely responsible for investment
29 performance, including market gains and losses, and that plan accounts and rates of
30 return are not guaranteed by any employer, the state, the board, any board member or
31 state official, or the plan;

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

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

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

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

3 (1) An employee's decision to participate in or opt out of the plan;

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

5 (3) Participants' or the board's investment decisions;

6 (4) The administration, investment, investment returns, or investment
7 performance of the plan, including without limitation any interest rate or other rate
8 of return on any contribution or account balance, provided that the eligible employer,

9 participating employer, or other employer is not involved in the administration or
10 investment of the plan;

11 (5) The plan design or the benefits paid to participants; or

12 (6) Any loss, failure to realize any gain, or any other adverse consequences,
13 including without limitation any adverse tax consequences or loss of favorable tax
14 treatment, public assistance, or other benefits, incurred by any person as a result of
15 participating in the plan.

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

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

6 (2) Shall not be liable or responsible for any loss, deficiency, failure to realize any
7 gain, or any other adverse consequences, including without limitation any adverse tax
8 consequences or loss of favorable tax treatment, public assistance, or other benefits,
9 incurred by any person as a result of participating in the plan.

10 2. The debts, contracts, and obligations of the plan or the board are not the
11 debts, contracts, and obligations of the state, and neither the faith and credit nor the
12 taxing power of the state is pledged directly or indirectly to the payment of the debts,
13 contracts, and obligations of the plan or the board.

14 3. Nothing in sections 285.1000 to 285.1055 shall be construed to guarantee any
15 interest rate or other rate of return on or investment performance of any contribution
16 or account balance.

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

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

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

11 2. Information required to be confidential under subsection 1 of this section shall
12 be considered a "closed record" as that term is defined in section 610.010.

285.1040. The board may enter into an intergovernmental agreement or
2 memorandum of understanding with the state of Missouri and any agency thereof to

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

285.1045. 1. There is hereby created in the state treasury the "Missouri
2 Workplace Retirement Savings Administrative Fund", which shall consist of moneys
3 collected under this section. The state treasurer shall be custodian of the fund. In
4 accordance with sections 30.170 and 30.180, the state treasurer may approve
5 disbursements. Subject to appropriation, moneys in the fund shall be distributed by
6 the state treasurer solely for the administration of sections 285.1000 to 285.1055.

7 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

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

13 4. The Missouri workplace retirement savings administrative fund shall consist
14 of:

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

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

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

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

22 (5) Moneys collected for the administrative fund from contributions to, or
23 investment returns or assets of, the plan or other moneys collected by or for the plan or
24 pursuant to arrangements established under the plan to the extent permitted under
25 federal and Missouri law; and

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

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

29 from the state; any unit of federal, state, or local government; or any other person, firm,
30 partnership, corporation, or other entity solely for deposit into the administrative fund,
31 whether for investment or administrative expenses.

32 6. To enable or facilitate the start-up and continuing operation, maintenance,
33 administration, and management of the program until the plan accumulates sufficient
34 balances and can generate sufficient funding through fees assessed on program accounts
35 for the plan to become financially self-sustaining:

36 (1) The board may borrow from the state of Missouri; any unit of federal, state,
37 or local government; or any other person, firm, partnership, corporation, or other entity
38 working capital funds and other funds as may be necessary for this purpose, provided
39 that such funds are borrowed in the name of the plan and board only and that any such
40 borrowings shall be payable solely from the revenues of the plan; and

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

44 7. Subject to appropriation, the state of Missouri may pay administrative costs
45 associated with the creation, maintenance, operation, and management of the plan and
46 trust until sufficient assets are available in the administrative fund for that purpose.
47 Thereafter, all administrative costs of the administrative fund, including any repayment
48 of start-up funds provided by the state of Missouri, shall be repaid only out of moneys
49 on deposit therein. However, private funds or federal funding received in order to
50 implement the program until the administrative fund is self-sustaining shall not be
51 repaid unless those funds were offered contingent upon the promise of such repayment.

52 8. The board may use the moneys in the administrative fund solely to pay the
53 administrative costs and expenses of the plan and the administrative costs and expenses
54 the board incurs in the performance of its duties under sections 285.1000 to 285.1055.

285.1050. 1. The board shall keep an accurate account of all the activities,
2 operations, receipts, and expenditures of the plan, the trust, and the board. Each year, a
3 full audit of the books and accounts of the board pertaining to those activities,
4 operations, receipts and expenditures, personnel, services, or facilities shall be
5 conducted by a certified public accountant and shall include, but not be limited to,
6 direct and indirect costs attributable to the use of outside consultants, independent
7 contractors, and any other persons who are not state employees for the administration
8 of the plan. For the purposes of the audit, the auditors shall have access to the
9 properties and records of the plan and board and may prescribe methods of accounting
10 and the rendering of periodic reports in relation to projects undertaken by the plan.

11 **2. By August first of each year, the board shall submit to the governor, the state**
 12 **treasurer, the president pro tempore of the senate, and the speaker of the house of**
 13 **representatives a public report on the operation of the plan and trust and activities of**
 14 **the board, including an audited financial report, prepared in accordance with generally**
 15 **accepted accounting principles, detailing the activities, operations, receipts, and**
 16 **expenditures of the plan and board during the preceding calendar year. The report**
 17 **shall also include a summary of the benefits provided by the plan, the number of**
 18 **participants, the names of the participating employers, the contribution formulas and**
 19 **amounts of contributions made by participants and by each participating employer, the**
 20 **withdrawals, the account balances, investments, investment returns, and fees and**
 21 **expenses associated with the investments and with the administration of the plan,**
 22 **projected activities of the plan for the current calendar year, and any other information**
 23 **regarding the plan and its operations that the board may determine to provide.**

285.1055. 1. The board shall establish the plan so that individuals are able to
 2 **begin contributing under the plan no later than September 1, 2024.**

3 **2. The board may, in its discretion, phase in the plan so that the ability to**
 4 **contribute first applies on different dates for different classes of individuals, including**
 5 **employees of employers of different sizes or types and individuals who are not**
 6 **employees; provided that, any such staged or phased-in implementation schedule shall**
 7 **be substantially completed no later than September 1, 2024.**

 361.020. 1. The division of finance shall have charge of the execution of:
 2 **(1) The laws relating to banks, trust companies, and the banking business of this state;**
 3 **[credit unions; and of]**
 4 **(2) The laws relating to persons[~~-, copartnerships and corporations~~] or entities**
 5 **engaged in the small loan or consumer credit business in this state;**
 6 **(3) The laws relating to persons and entities engaged in the mortgage loan**
 7 **business in this state; and**
 8 **(4) The laws relating to persons and entities engaged in any other financial-**
 9 **services-related business over which the division of finance is granted express authority.**

10 **2. The director of finance may institute, in the name of the state of Missouri, and**
 11 **defend suits in the courts of this state and the United States.**

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

6 2. ~~[A majority of the]~~ **Three** members of the board shall constitute a quorum for the
7 transaction of any business, for the performance of any duty, or for the exercise of any power
8 of the board.

9 3. The board may meet and exercise its powers in any place in this state and shall
10 meet at any time upon the call of its chairman or of the director of the division of finance or of
11 any two members of the board.

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

14 **5. The division of finance may provide administrative services to the board to**
15 **assist the board with fulfilling its statutory responsibilities.**

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

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

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

10 **2. Notwithstanding any law to the contrary, the director of finance may at his or**
11 **her discretion issue bulletins addressing the business of the individuals and entities**
12 **licensed, chartered, or regulated by the division in this state. Bulletins shall not have the**
13 **force or effect of law and shall not be considered statements of general applicability that**
14 **would require promulgation by rule.**

15 **3. Notwithstanding any law to the contrary, the director of finance may at his or**
16 **her discretion issue industry letters in response to a written request from an individual**
17 **or entity licensed, chartered, or regulated by the division that seeks the position of the**
18 **division of finance on the application of law. In addition to any materials or information**
19 **requested by the division, the written request for an industry letter shall include:**

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

21 **(2) A detailed statement of facts regarding every relevant aspect of the proposed**
22 **business activity, transaction, event, or circumstance;**

23 **(3) A discussion of current statutes, rules, and legal principles relevant to the**
24 **factual representation;**

25 **(4) A statement of the requesting person's or entity's opinion and the basis for**
26 **such opinion; and**

27 **(5) A statement that the proposed business activity, transaction, event, or**
28 **circumstance has not commenced or, if it has commenced, the present status of the**
29 **proposed business activity, transaction, event, or circumstance.**

30 **4. With respect to the requesting person or entity, an industry letter is binding**
31 **on the division. The requesting person or entity shall not be subject to any**
32 **administrative proceeding or penalty for any acts or omissions done in reliance on an**
33 **industry letter, so long as no change in any material fact or law has occurred and so long**
34 **as the requesting person or entity did not misrepresent or omit a material fact.**

35 **5. An industry letter request and response shall be confidential, but the director**
36 **may publish an industry letter with nonidentifying facts and information from the**
37 **request.**

38 **6. After redacting all identifying information, the director may publish industry**
39 **letters for informational purposes. Because the division may have a different position in**
40 **response to similar but nonidentical facts and circumstances, published industry letters**
41 **shall not have the force or effect of law, shall not be binding on the division, and shall**
42 **not be considered statements of general applicability that would require promulgation**
43 **by rule.**

44 **7. Industry letters issued under this section are distinct from letters issued by the**
45 **director under subsection 5 of section 362.106, and this section shall not apply to section**
46 **362.106.**

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

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

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

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

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

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

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

46 7. The result of each examination shall be certified by the director or the examiner
47 upon the records of the corporation examined [~~and the result of all examinations during the~~
48 ~~biennial period shall be embodied in the report to be made by the director of the department~~
49 ~~of commerce and insurance to the legislature].~~

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

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

5 2. Whenever ~~[it shall appear to]~~ the director **has reason to believe**, from any
6 examination **or investigation** made by ~~[him]~~ **the director** or his **or her** examiners, that any
7 corporation subject to the provisions of this chapter, or any director, officer, employee, agent,
8 or other person participating in the conduct of the affairs of such corporation, or any foreign
9 corporation licensed by the director to do business under this chapter or chapter 362 is
10 engaging in~~[-or]~~, has engaged in, or ~~[there is reasonable cause to believe that the corporation~~
11 ~~or any director, officer, employee, agent, or other person participating in the conduct of the~~
12 ~~affairs of such corporation]~~ is about to engage in~~[-]~~:

13 (1) An unsafe or unsound practice in conducting the business of such corporation ~~[or~~
14 ~~is violating or has violated, or there is reasonable cause to believe that the corporation or any~~
15 ~~director, officer, employee, agent, or other person participating in the conduct of the affairs of~~
16 ~~such corporation is about to violate]~~;

17 (2) A **violation of law, rule, or director-imposed written** condition ~~[imposed, in~~
18 ~~writing, by the director in connection with the granting of any application or other request by~~
19 ~~the corporation or]~~;

20 (3) A **violation of** any written agreement entered into with the director~~[-]~~; or

21 (4) A **violation of** the corporation's charter,
22

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

25 3. Whenever it shall appear to the director that any corporation subject to the
26 provisions of this chapter does not keep its books and accounts in such manner as to enable
27 him **or her** readily to ascertain its true condition or that wrong entries or unlawful uses of the
28 funds of the corporation have been made, the director may issue and serve upon the
29 corporation or any appropriate director, officer, employee, agent, or other person a notice of
30 charges in respect thereof.

31 4. The notice of charges shall contain a statement of the facts constituting the
32 deficiencies, ~~[the]~~ alleged violation or violations, improper use of funds, or ~~[the]~~ unsafe or
33 unsound practice or practices~~[-]~~ and shall fix a time and place at which a **contested** hearing
34 will be held to determine whether an order to cease and desist therefrom should issue against
35 the corporation or the director, officer, employee, agent, or other person participating in the
36 conduct of the affairs of such corporation.

37 5. In the event the party or parties so served shall fail to appear at the hearing, or shall
38 consent to the cease and desist order, or in the event the director shall find that the fact of any
39 deficiency, violation, unsafe or unsound practice, inadequate recordkeeping, or improper use
40 of funds specified has been established, the director may issue and serve upon the corporation
41 or the director, officer, employee, agent, or other person participating in the conduct of the
42 affairs of the corporation an order to cease and desist from the actions, violations, or practices
43 charged.

44 **6. The cease and desist order:**

45 **(1)** May require the corporation or its directors, officers, employees, agents, and other
46 persons participating in the conduct of the affairs of such corporation to cease and desist from
47 ~~[same and, further,]~~ **such actions, violations, or practices;**

48 **(2)** **May require the corporation or its directors, officers, employees, agents, and**
49 **other persons participating in the conduct of the affairs of such corporation** to take
50 affirmative action to correct the conditions resulting from any such actions, violations, or
51 practices~~[- If the director determines that the capital of the corporation is impaired, the~~
52 ~~order];~~

53 **(3)** Shall require that, **if the director determines that the capital of the corporation**
54 **is impaired**, the corporation make good the deficiency forthwith or within a time specified in
55 the order~~[- If the director determines that the corporation does not keep adequate records, the~~
56 ~~order];~~

57 **(4)** **May, if the director determines that the corporation does not keep adequate**
58 **records**, determine and prescribe such books of account as the director, in his **or her**
59 discretion, shall require of the corporation for the purpose of keeping accurate and convenient
60 records of the transactions and accounts~~[- If the director shall determine that wrong entries or~~
61 ~~unlawful uses of the funds of the corporation have been made, he]; and~~

62 **(5)** Shall, **if the director determines that wrong entries or unlawful uses of the**
63 **funds of the corporation have been made**, order that the entries shall be corrected, and the
64 sums unlawfully paid out restored by the person or persons responsible for the wrongful or
65 illegal payment thereof.

66 ~~[6-]~~ **7.** If a notice of charges served under this section specifies, on the basis of
67 particular facts and circumstances, that a corporation's books and records are so incomplete or
68 inaccurate that the director is unable, through the normal supervisory process, to determine
69 the financial condition of that corporation or the details or purpose of any transaction or
70 transactions that may have a material effect on the financial condition of that corporation, the
71 director may issue a temporary order requiring the cessation of any activity or practice which
72 gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or
73 records, or affirmative action to restore such books or records to a complete and accurate

74 state, until the completion of the proceedings under this section. Any temporary order issued
75 under this subsection shall become effective upon service and, unless set aside, limited or
76 suspended by a court, shall remain in effect and enforceable until the earlier of the completion
77 of the proceedings initiated under this section or the date on which the director determines by
78 examination or otherwise that the corporation's books and records are accurate and reflect the
79 financial condition of the corporation.

80 ~~[7-]~~ **8.** Whenever it shall appear to the director that the violation or threatened
81 violation or the unsafe or unsound practice or practices specified in the notice of charges
82 served upon the corporation or any director, officer, employee, agent, or other person
83 participating in the conduct of the affairs of such corporation pursuant to subsection 4 of this
84 section, or the continuation thereof, is likely to cause insolvency or significant dissipation of
85 assets or earnings of the corporation, or is likely to weaken the condition of the corporation or
86 otherwise prejudice the interests of its depositors prior to the completion of the proceedings
87 conducted pursuant to said subsection, the director may issue a temporary order, effective
88 immediately, requiring the corporation or such director, officer, employee, agent, or other
89 person to cease and desist from any such violation or practice and to take affirmative action to
90 prevent such insolvency, dissipation, condition, or prejudice pending completion of such
91 proceedings. Such order shall remain effective and enforceable pending the completion of the
92 administrative proceedings pursuant to such notice and until such time as the director shall
93 dismiss the charges specified in such notice or if a cease and desist order is issued against the
94 corporation or such director, officer, employee, agent, or other person, until the effective date
95 of such order. The corporation, director, officer, employee, agent, or other person may, within
96 ten days after having been served with a temporary cease and desist order, apply to the circuit
97 court of Cole County for an order setting aside, limiting, or suspending the enforcement,
98 operation, or effectiveness of such order.

99 ~~[8-]~~ **9.** If any corporation, or any director, officer, employee, agent, or other person
100 participating in the conduct of the affairs of such corporation shall fail or refuse to comply
101 with any duly issued order provided for in this chapter and chapter 362, the corporation or
102 such director, officer, employee, agent, or other person shall pay a civil penalty of not more
103 than one thousand dollars per day for each day the failure or refusal shall continue. The
104 penalty shall be assessed and collected by the director of the division. In determining the
105 amount of the penalty, the director shall take into account the appropriateness of the penalty
106 with respect to the size of the financial resources and good faith of the corporation or person
107 charged, the gravity of the violation, the history of previous violations, and such other matters
108 as justice may require. In addition to the penalty, the director may, in his **or her** discretion,
109 report the delinquency to the attorney general, with a request that ~~[he]~~ **the attorney general**

110 proceed as provided in section 361.270, and in the event of such request, the attorney general
111 shall proceed.

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

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

5 (a) **Violated** a law or regulation ~~or of~~;

6 (b) **Violated** a cease and desist order ~~or has violated~~;

7 (c) **Violated** any **director-imposed written** condition ~~imposed in writing by the~~
8 ~~director~~ in connection with the grant of any application or other request by such corporation~~[~~
9 ~~or~~];

10 (d) **Violated** any written agreement between such corporation and the director ~~or~~
11 ~~has~~;

12 (e) Engaged or participated in any unsafe or unsound practice in connection with the
13 corporation ~~or has~~; **or**

14 (f) Committed or engaged in any act, omission, or practice ~~which~~ **that** constitutes a
15 breach of his **or her** fiduciary duty to the corporation~~];~~ and

16 (2) The director determines that:

17 (a) The corporation has suffered or will probably suffer financial loss or other
18 damage ~~or that~~;

19 (b) The interests of its depositors, **beneficiaries, or other customers** could be
20 prejudiced by reason of such violation or practice or breach of fiduciary duty ~~or that~~; **or**

21 (c) The director ~~or~~, officer, or other person has received financial gain by reason of
22 ~~such~~ **his or her** violation or practice or breach of fiduciary duty~~];~~ and

23 (3) **The director determines that** such violation or practice or breach of fiduciary
24 duty is:

25 (a) One involving personal dishonesty on the part of such director, officer, or other
26 person~~];~~ or

27 (b) One ~~which~~ **that** demonstrates a willful or continuing disregard for the safety or
28 soundness of the corporation,

29

30 the director may serve upon such director, officer, or other person a written notice of ~~his~~ **the**
31 **director's** intention to remove him **or her** from office.

32 2. ~~When~~ **If** it ~~shall appear~~ **appears from any examination or investigation** to the
33 director, ~~from any examination made by him or his examiners~~ that any director or officer of
34 a corporation subject to this chapter, by conduct or practice with respect to another such
35 corporation or any business ~~institution which~~ **that**:

36 (1) Resulted in financial loss or other damage~~[-has];~~

37 (2) Evidenced either:

38 (a) His **or her** personal dishonesty; or

39 (b) A willful or continuing disregard for ~~[its]~~ **the corporation's** safety and soundness;
40 and~~[-in addition, has]~~

41 (3) Evidenced his **or her** unfitness to continue as a director or officer~~[-and whenever~~
42 ~~it shall appear to the director that any other person participating in the conduct of the affairs of~~
43 ~~a corporation subject to this chapter, by conduct or practice with respect to such corporation~~
44 ~~or other corporation or other business institution which resulted in financial loss or other~~
45 ~~damage, has evidenced either his personal dishonesty or willful or continuing disregard for its~~
46 ~~safety and soundness and, in addition, has evidenced his unfitness to participate in the~~
47 ~~conduct of the affairs of such corporation],~~

48

49 the director may serve upon such director~~[-]~~ **or officer**~~[-or other person]~~ a written notice of
50 intention to remove him **or her** from office or to prohibit his **or her** further participation in
51 any manner in the conduct of the affairs of the corporation or from any other banking,
52 savings, or trust institution supervised by the director.

53 **3. If, in the director's discretion, the results of an examination or investigation**
54 **indicate:**

55 (1) **A financial loss or other damage;**

56 (2) **A director, officer, or other person participating in the affairs of a**
57 **corporation subject to this chapter, through his or her conduct or practice with respect**
58 **to such corporation, other corporation, or other business institution, caused the loss or**
59 **damage as a result of either:**

60 (a) **Personal dishonesty; or**

61 (b) **A willful or continuing disregard for safety and sound practices; and**

62 (3) **The person is unfit to participate in the affairs of the corporation,**

63

64 **the director may serve upon such person a written notice of intention to remove him or**
65 **her from office or to prohibit him or her from any further participation in the affairs of**
66 **the corporation or any other banking, savings, or trust institution supervised by the**
67 **director.**

68 ~~[3-]~~ **4.** Whenever it shall appear to the director to be necessary for the protection of
69 any corporation or its depositors, ~~[he]~~ **beneficiaries, or other customers, the director** may,
70 by written notice to such effect served upon any director, officer, or other person referred to in
71 subsection 1, **2,** or ~~[2]~~ **3** of this section, suspend him **or her** from office or prohibit him **or her**
72 from further participation in any manner in the conduct of the affairs of the corporation. Such

73 suspension or prohibition shall become effective upon service of such notice and shall remain
74 in effect pending the completion of the administrative proceedings pursuant to the notice
75 served under subsection 1, 2, or [2] 3 of this section and until such time as the director shall
76 dismiss the charges specified in such notice or, if an order of removal or prohibition is issued
77 against the director or officer or other person, until the effective date of any such order.
78 Copies of any such notice shall also be served upon the corporation of which he **or she** is a
79 director or officer or in the conduct of whose affairs he **or she** has participated.

80 [4:] 5. Except as provided in subsection [5] 6 of this section, any person who,
81 pursuant to an order issued under this section, has been removed or suspended from office in
82 a corporation or prohibited from participating in the conduct of the affairs of a corporation
83 may not, while such order is in effect, continue or commence to hold any office in, or
84 participate in any manner in, the conduct of the affairs of any other corporation subject to the
85 provisions of this chapter.

86 [~~5:] 6. If, on or after the date an order is issued under this section [which] that~~
87 removes or suspends from office any person or prohibits such person from participating in the
88 conduct of the affairs of a corporation, such party receives the written consent of the director,
89 subsection [4] 5 of this section shall, to the extent of such consent, cease to apply to such
90 person with respect to the [~~corporation] terms and conditions~~ described in the written
91 consent and the director shall publicly disclose such consent. Any violation of subsection [4]
92 5 of this section by any person who is subject to an order described in such subsection shall be
93 treated as a violation of the order.

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

10 2. Each licensee shall pay to the director before the issuance of the license, and
11 annually thereafter on or before April fifteenth of each year, a license fee of three hundred
12 **fifty** dollars.

13 3. The director may assess a reasonable charge, not to exceed three hundred **fifty**
14 dollars, for any application to amend and reissue an existing license.

364.030. 1. No person shall engage in the business of a financing institution in this
2 state without a license therefor as provided in this chapter; except, however, that no bank,

3 trust company, loan and investment company, licensed sales finance company, registrant
4 under the provisions of sections 367.100 to 367.200, or person who makes only occasional
5 purchases of retail time contracts or accounts under retail charge agreements and which
6 purchases are not being made in the course of repeated or successive purchase of retail
7 installment contracts from the same seller, shall be required to obtain a license under this
8 chapter but shall comply with all the laws of this state applicable to the conduct and operation
9 of a financing institution.

10 2. The application for the license shall be in writing, under oath and in the form
11 prescribed by the director. The application shall contain the name of the applicant; date of
12 incorporation, if incorporated; the address where the business is or is to be conducted and
13 similar information as to any branch office of the applicant; the name and resident address of
14 the owner or partners or, if a corporation or association, of the directors, trustees and principal
15 officers, and other pertinent information as the director may require.

16 3. The license fee for each calendar year or part thereof shall be the sum of five
17 hundred **fifty** dollars for each place of business of the licensee in this state which shall be paid
18 into the general revenue fund. The director may establish a biennial licensing arrangement
19 but in no case shall the fees be payable for more than one year at a time.

20 4. Each license shall specify the location of the office or branch and must be
21 conspicuously displayed therein. In case the location is changed, the director shall either
22 endorse the change of location of the license or mail the licensee a certificate to that effect,
23 without charge.

24 5. Upon the filing of an application, and the payment of the fee, the director shall
25 issue a license to the applicant to engage in the business of a financing institution under and in
26 accordance with the provisions of this chapter for a period which shall expire the last day of
27 December next following the date of its issuance. The license shall not be transferable or
28 assignable. No licensee shall transact any business provided for by this chapter under any
29 other name.

364.105. 1. No person shall engage in the business of a premium finance company in
2 this state without first registering as a premium finance company with the director.

3 2. The annual registration fee shall be five hundred **fifty** dollars payable to the
4 director as of the first day of July of each year. The director may establish a biennial licensing
5 arrangement but in no case shall the fees be payable for more than one year at a time.

6 3. Registration shall be made on forms prepared by the director and shall contain the
7 following information:

- 8 (1) Name, business address and telephone number of the premium finance company;
9 (2) Name and business address of corporate officers and directors or principals or
10 partners;

11 (3) A sworn statement by an appropriate officer, principal or partner of the premium
12 finance company that:

13 (a) The premium finance company is financially capable to engage in the business of
14 insurance premium financing; and

15 (b) If a corporation, that the corporation is authorized to transact business in this state;

16 (4) If any material change occurs in the information contained in the registration
17 form, a revised statement shall be submitted to the director accompanied by an additional fee
18 of three hundred dollars.

365.030. 1. No person shall engage in the business of a sales finance company in this
2 state without a license as provided in this chapter; except, that no bank, trust company,
3 savings and loan association, loan and investment company or registrant under the provisions
4 of sections 367.100 to 367.200 authorized to do business in this state is required to obtain a
5 license under this chapter but shall comply with all of the other provisions of this chapter.

6 2. The application for the license shall be in writing, under oath and in the form
7 prescribed by the director. The application shall contain the name of the applicant; date of
8 incorporation, if incorporated; the address where the business is or is to be conducted and
9 similar information as to any branch office of the applicant; the name and resident address of
10 the owner or partners or, if a corporation or association, of the directors, trustees and principal
11 officers, and such other pertinent information as the director may require.

12 3. The license fee for each calendar year or part thereof shall be the sum of five
13 hundred **fifty** dollars for each place of business of the licensee in this state. The director may
14 establish a biennial licensing arrangement but in no case shall the fees be payable for more
15 than one year at a time.

16 4. Each license shall specify the location of the office or branch and must be
17 conspicuously displayed there. In case the location is changed, the director shall either
18 endorse the change of location on the license or mail the licensee a certificate to that effect,
19 without charge.

20 5. Upon the filing of the application, and the payment of the fee, the director shall
21 issue a license to the applicant to engage in the business of a sales finance company under and
22 in accordance with the provisions of this chapter for a period which shall expire the last day
23 of December next following the date of its issuance. The license shall not be transferable or
24 assignable. No licensee shall transact any business provided for by this chapter under any
25 other name.

367.140. 1. Every lender shall, at the time of filing application for certificate of
2 registration as provided in section 367.120 hereof, pay the sum of five hundred **fifty** dollars as
3 an annual registration fee for the period ending the thirtieth day of June next following the
4 date of payment and in full payment of all expenses for investigations, examinations and for

5 the administration of sections 367.100 to 367.200, except as provided in section 367.160, and
6 thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a
7 lender is supervised by the commissioner of finance under any other law, the charges for
8 examination and supervision required to be paid under said law shall be in lieu of the annual
9 fee for registration and examination required under this section. The fee shall be made
10 payable to the director of revenue. If the initial registration fee for any certificate of
11 registration is for a period of less than twelve months, the registration fee shall be prorated
12 according to the number of months that said period shall run. The director may establish a
13 biennial licensing arrangement but in no case shall the fees be payable for more than one year
14 at a time.

15 2. Upon receipt of such fee and application for registration, and provided the bond, if
16 required by the director, has been filed, the director shall issue to the lender a certificate
17 containing the lender's name and address and reciting that such lender is duly and properly
18 registered to conduct the supervised business. The lender shall keep this certificate of
19 registration posted in a conspicuous place at the place of business recited in the registration
20 certificate. Where the lender engages in the supervised business at or from more than one
21 office or place of business, such lender shall obtain a separate certificate of registration for
22 each such office or place of business.

23 3. Certificates of registration shall not be assignable or transferable except that the
24 lender named in any such certificate may obtain a change of address of the place of business
25 therein set forth. Each certificate of registration shall remain in full force and effect until
26 surrendered, revoked, or suspended as herein provided.

407.640. 1. A credit services organization shall file a registration statement with the
2 director of finance before conducting business in this state. The registration statement must
3 contain:

4 (1) The name and address of the credit services organization; and
5 (2) The name and address of any person who directly or indirectly owns or controls
6 ten percent or more of the outstanding shares of stock in the credit services organization.

7 2. The registration statement must also contain either:

8 (1) A full and complete disclosure of any litigation or unresolved complaint filed by
9 or with a governmental authority of this state relating to the operation of the credit services
10 organization; or

11 (2) A notarized statement that states that there has been no litigation or unresolved
12 complaint filed by or with a governmental authority of this state relating to the operation of
13 the credit services organization.

26 This lender offers short-term loans. Please read and understand the terms of the loan
27 agreement before signing.

28 5. The lender shall provide the borrower with a notice in substantially the following
29 form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by
30 signature of the borrower:

31 (1) This lender offers short-term loans. Please read and understand the terms of the
32 loan agreement before signing.

33 (2) You may cancel this loan without costs by returning the full principal balance to
34 the lender by the close of the lender's next full business day.

35 6. The lender shall renew the loan upon the borrower's written request and the
36 payment of any interest and fees due at the time of such renewal; however, upon the first
37 renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall
38 reduce the principal amount of the loan by not less than five percent of the original amount of
39 the loan until such loan is paid in full. However, no loan may be renewed more than six
40 times.

41 7. When making or negotiating loans, a licensee shall consider the financial ability of
42 the borrower to reasonably repay the loan in the time and manner specified in the loan
43 contract. All records shall be retained at least two years.

44 8. A licensee who ceases business pursuant to this section must notify the director to
45 request an examination of all records within ten business days prior to cessation. All records
46 must be retained at least two years.

47 9. Any lender licensed pursuant to this section who fails, refuses or neglects to
48 comply with the provisions of this section, or any laws relating to consumer loans or commits
49 any criminal act may have its license suspended or revoked by the director of finance after a
50 hearing before the director on an order of the director to show cause why such order of
51 suspension or revocation should not be entered specifying the grounds therefor which shall be
52 served on the licensee at least ten days prior to the hearing.

53 10. Whenever it shall appear to the director that any lender licensed pursuant to this
54 section is failing, refusing or neglecting to make a good faith effort to comply with the
55 provisions of this section, or any laws relating to consumer loans, the director may issue an
56 order to cease and desist which order may be enforceable by a civil penalty of not more than
57 one thousand dollars per day for each day that the neglect, failure or refusal shall continue.
58 The penalty shall be assessed and collected by the director. In determining the amount of the
59 penalty, the director shall take into account the appropriateness of the penalty with respect to
60 the gravity of the violation, the history of previous violations, and such other matters as
61 justice may require.

427.300. 1. This section shall be known, and may be cited, as the "Commercial Financing Disclosure Law".

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

(1) "Accounts receivable purchase transaction", any transaction in which the business forwards or otherwise sells to the provider all or a portion of the business's accounts or payment intangibles at a discount to their expected value;

(2) "Broker", any person or entity that, for compensation or the expectation of compensation, obtains a commercial financing product or an offer for a commercial financing product from a third party for a business located in this state;

(3) "Business", an individual or group of individuals, sole proprietorship, corporation, limited liability company, trust, estate, cooperative, association, or limited or general partnership engaged in a business activity;

(4) "Business purpose transaction", any transaction where the proceeds are provided to a business or are intended to be used to carry on a business and not for personal, family, or household purposes. For purposes of determining whether a transaction is a business purpose transaction, the provider may rely on any written statement of intended purpose signed by the business. The statement may be a separate statement or may be contained in an application, agreement, or other document signed by the business or the business owner or owners;

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

(6) "Commercial loan", a loan to a business, whether secured or unsecured;

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

(a) The provider reasonably contemplates repeat transactions; and

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

(8) "Depository institution", any of the following:

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

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

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

40 (9) "Provider", a person or entity that consummates more than five commercial
41 financing products to a business located in this state in any calendar year. "Provider"
42 also includes a person or entity that enters into a written agreement with a depository
43 institution to arrange for the extension of a commercial financing product by the
44 depository institution to a business via an online lending platform administered by the
45 person or entity. The fact that a provider extends a specific offer for a commercial
46 financing product on behalf of a depository institution shall not be construed to mean
47 that the provider engaged in lending or financing or originated that loan or financing.

48 3. (1) A provider that consummates a commercial financing product shall
49 disclose the terms of the commercial financing product as required by this section. The
50 disclosures shall be provided at or before consummation of the transaction and, in the
51 case of a commercial open-end credit plan, the disclosures shall also be provided for any
52 disbursement of funds after consummation within fifteen days following the last day of
53 the month in which the disbursement of funds occurred under the commercial open-end
54 credit plan.

55 (2) A provider shall disclose the following in connection with each commercial
56 financing product:

57 (a) The total amount of funds provided to the business under the terms of the
58 commercial financing product. This disclosure shall be labeled "Total Amount of Funds
59 Provided";

60 (b) The total amount of funds disbursed to the business under the terms of the
61 commercial financing product, if less than the total amount of funds provided, as a
62 result of any fees deducted or withheld at disbursement and any amount paid to a third
63 party on behalf of the business. This disclosure shall be labeled "Total Amount of Funds
64 Disbursed";

65 (c) The total amount to be paid to the provider pursuant to the commercial
66 financing product agreement. This disclosure shall be labeled "Total of Payments";

67 (d) The total dollar cost of the commercial financing product under the terms of
68 the agreement, derived by subtracting the total amount of funds provided from the total
69 of payments. This calculation shall include any fees or charges deducted by the provider
70 from the total amount of funds provided disclosure. This disclosure shall be labeled
71 "Total Dollar Cost of Financing";

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

74 the manner, frequency, and the estimated amount of the initial payment labeled
75 "Estimated Payments" and the commercial financing product agreement shall include a
76 description of the methodology for calculating any variable payment and the
77 circumstances when payments may vary;

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

82 (g) A statement of whether any amount of the total amount of funds provided
83 described under paragraph (a) of this subdivision are paid to a broker in connection
84 with the commercial financing product and the amount of compensation.

85 4. This section shall not apply to the following:

86 (1) A provider that is a depository institution, or a subsidiary or service
87 corporation of a depository institution, that is:

88 (a) Owned and controlled by a depository institution; and

89 (b) Regulated by a federal banking agency;

90 (2) A provider that is a lender regulated under the Farm Credit Act, 12 U.S.C.
91 Section 2001 et seq.;

92 (3) A commercial financing product:

93 (a) That is secured by real property;

94 (b) That is a lease, as defined under section 400.2A-103; or

95 (c) That is a purchase-money obligation, as defined under section 400.9-103;

96 (d) In which the recipient is a motor vehicle dealer or an affiliate of such a dealer
97 or a vehicle rental company or an affiliate of such a company, pursuant to a commercial
98 loan or commercial open-end credit plan of at least fifty thousand dollars;

99 (e) Offered by a person in connection with the sale of products or services that
100 such person manufactures, licenses, or distributes or whose parent company or any
101 owned and controlled subsidiary thereof manufactures, licenses, or distributes; or

102 (f) That is a factoring transaction, purchase, sale, advance, or similar
103 transaction of accounts receivables owed to a health care provider because the health
104 care provider treated a patient's personal injury;

105 (4) A provider that is licensed as a money transmitter in accordance with a
106 license, certificate, or charter issued by this state or any other state, district, territory, or
107 commonwealth of the United States; or

108 (5) A provider that consummates not more than five commercial financing
109 products in this state in a twelve-month period.

110 **5. (1) Any person or entity that violates any provision of this section shall be**
111 **punished by a fine of five hundred dollars per incident, not to exceed twenty thousand**
112 **dollars for all aggregated violations arising from the use of the transaction**
113 **documentation or materials found to be in violation of this section. Any person or**
114 **entity that violates any provision of this section after receiving written notice of a prior**
115 **violation from the attorney general shall be punished by a fine of one thousand dollars**
116 **per incident, not to exceed fifty thousand dollars for all aggregated violations arising**
117 **from the use of the transaction documentation or materials found to be in violation of**
118 **this section.**

119 **(2) Violation of any provision of this section shall not affect the enforceability or**
120 **validity of the underlying agreement.**

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

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

 513.430. 1. The following property shall be exempt from attachment and execution
2 to the extent of any person's interest therein:

3 (1) Household furnishings, household goods, wearing apparel, appliances, books,
4 animals, crops or musical instruments that are held primarily for personal, family or
5 household use of such person or a dependent of such person, not to exceed three thousand
6 dollars in value in the aggregate;

7 (2) A wedding ring not to exceed one thousand five hundred dollars in value and other
8 jewelry held primarily for the personal, family or household use of such person or a
9 dependent of such person, not to exceed five hundred dollars in value in the aggregate;

10 (3) Any other property of any kind, not to exceed in value six hundred dollars in the
11 aggregate;

12 (4) Any implements or professional books or tools of the trade of such person or the
13 trade of a dependent of such person not to exceed three thousand dollars in value in the
14 aggregate;

15 (5) Any motor vehicles, not to exceed three thousand dollars in value in the
16 aggregate;

17 (6) Any mobile home used as the principal residence but not attached to real property
18 in which the debtor has a fee interest, not to exceed five thousand dollars in value;

19 (7) Any one or more unmatured life insurance contracts owned by such person, other
20 than a credit life insurance contract, and up to fifteen thousand dollars of any matured life
21 insurance proceeds for actual funeral, cremation, or burial expenses where the deceased is the
22 spouse, child, or parent of the beneficiary;

23 (8) The amount of any accrued dividend or interest under, or loan value of, any one or
24 more unmaturing life insurance contracts owned by such person under which the insured is
25 such person or an individual of whom such person is a dependent; provided, however, that if
26 proceedings under Title 11 of the United States Code are commenced by or against such
27 person, the amount exempt in such proceedings shall not exceed in value one hundred fifty
28 thousand dollars in the aggregate less any amount of property of such person transferred by
29 the life insurance company or fraternal benefit society to itself in good faith if such transfer is
30 to pay a premium or to carry out a nonforfeiture insurance option and is required to be so
31 transferred automatically under a life insurance contract with such company or society that
32 was entered into before commencement of such proceedings. No amount of any accrued
33 dividend or interest under, or loan value of, any such life insurance contracts shall be exempt
34 from any claim for child support. Notwithstanding anything to the contrary, no such amount
35 shall be exempt in such proceedings under any such insurance contract which was purchased
36 by such person within one year prior to the commencement of such proceedings;

37 (9) Professionally prescribed health aids for such person or a dependent of such
38 person;

39 (10) Such person's right to receive:

40 (a) A Social Security benefit, unemployment compensation or a public assistance
41 benefit;

42 (b) A veteran's benefit;

43 (c) A disability, illness or unemployment benefit;

44 (d) Alimony, support or separate maintenance, not to exceed seven hundred fifty
45 dollars a month;

46 (e) **a.** Any payment under a stock bonus plan, pension plan, disability or death
47 benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or
48 established pursuant to section 456.014, the person's right to a participant account in any
49 deferred compensation program offered by the state of Missouri or any of its political
50 subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age
51 or length of service, to the extent reasonably necessary for the support of such person and any
52 dependent of such person unless:

53 ~~[a-]~~ **(i)** Such plan or contract was established by or under the auspices of an insider
54 that employed such person at the time such person's rights under such plan or contract arose;

55 ~~[b-]~~ **(ii)** Such payment is on account of age or length of service; and

56 ~~[e-]~~ **(iii)** Such plan or contract does not qualify under Section 401(a), 403(a), 403(b),
57 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. Section 401
58 (a), 403(a), 403(b), 408, 408A or 409)[~~]~~].

59 ~~[except that]~~ **b. Notwithstanding the exemption provided in subparagraph a. of**
60 **this paragraph**, any such payment to any person shall be subject to attachment or execution
61 pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal
62 Revenue Code of 1986 (**26 U.S.C. Section 414(p)**), as amended, issued by a court in any
63 proceeding for dissolution of marriage or legal separation or a proceeding for disposition of
64 property following dissolution of marriage by a court which lacked personal jurisdiction over
65 the absent spouse or lacked jurisdiction to dispose of marital property at the time of the
66 original judgment of dissolution;

67 (f) Any money or assets, payable to a participant or beneficiary from, or any interest
68 of any participant or beneficiary in, a retirement plan, profit-sharing plan, health savings plan,
69 or similar plan, including an inherited account or plan, that is qualified under Section 401(a),
70 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986 (**26 U.S.C. 401(a),**
71 **403(a), 403(b), 408, 408A, or 409**), as amended, whether such participant's or beneficiary's
72 interest arises by inheritance, designation, appointment, or otherwise, except as provided in
73 this paragraph. Any plan or arrangement described in this paragraph shall not be exempt
74 from the claim of an alternate payee under a qualified domestic relations order; however, the
75 interest of any and all alternate payees under a qualified domestic relations order shall be
76 exempt from any and all claims of any creditor, other than the state of Missouri through its
77 department of social services. As used in this paragraph, the terms "alternate payee" and
78 "qualified domestic relations order" have the meaning given to them in Section 414(p) of the
79 Internal Revenue Code of 1986 (**26 U.S.C. Section 414(p)**), as amended. If proceedings
80 under Title 11 of the United States Code are commenced by or against such person, no
81 amount of funds shall be exempt in such proceedings under any such plan, contract, or trust
82 which is fraudulent as defined in subsection 2 of section 428.024 and for the period such
83 person participated within three years prior to the commencement of such proceedings. For
84 the purposes of this section, when the fraudulently conveyed funds are recovered and after,
85 such funds shall be deducted and then treated as though the funds had never been contributed
86 to the plan, contract, or trust;

87 (11) The debtor's right to receive, or property that is traceable to, a payment on
88 account of the wrongful death of an individual of whom the debtor was a dependent, to the
89 extent reasonably necessary for the support of the debtor and any dependent of the debtor;

90 (12) Firearms, firearm accessories, and ammunition, not to exceed one thousand five
91 hundred dollars in value in the aggregate;

92 (13) Any moneys accruing to and deposited in individual savings accounts or
93 individual deposit accounts under sections 166.400 to 166.456 or sections 166.500 to
94 166.529, subject to the following provisions:

95 (a) This subdivision shall apply to any proceeding that:

96 **a. Is filed on or before January 1, 2022; or**

97 **b. Was filed before January 1, 2022, and is pending or on appeal after January 1,**
98 **2022;**

99 **(b) Except as provided by paragraph (c) of this subdivision, if the designated**
100 **beneficiary of an individual savings account or individual deposit account established**
101 **under sections 166.400 to 166.456 or sections 166.500 to 166.529 is a lineal descendant of**
102 **the account owner, all moneys in the account shall be exempt from any claims of**
103 **creditors of the account owner or designated beneficiary;**

104 **(c) The provisions of paragraph (b) of this subdivision shall not apply to:**

105 **a. Claims of any creditor of an account owner as to amounts contributed within**
106 **a two-year period preceding the date of the filing of a bankruptcy petition under 11**
107 **U.S.C. Section 101 et seq., as amended; or**

108 **b. Claims of any creditor of an account owner as to amounts contributed within**
109 **a one-year period preceding an execution on judgment for such claims against the**
110 **account owner.**

111 2. Nothing in this section shall be interpreted to exempt from attachment or execution
112 for a valid judicial or administrative order for the payment of child support or maintenance
113 any money or assets, payable to a participant or beneficiary from, or any interest of any
114 participant or beneficiary in, a retirement plan which is qualified pursuant to Sections 408 and
115 408A of the Internal Revenue Code of 1986 (**26 U.S.C. Sections 408 and 408A**), as
116 amended.

569.010. As used in this chapter the following terms mean:

2 (1) "Cave or cavern", any naturally occurring subterranean cavity enterable by a
3 person including, without limitation, a pit, pothole, natural well, grotto, and tunnel, whether
4 or not the opening has a natural entrance;

5 (2) "Enter unlawfully or remain unlawfully", a person enters or remains in or upon
6 premises when he or she is not licensed or privileged to do so. A person who, regardless of
7 his or her purpose, enters or remains in or upon premises which are at the time open to the
8 public does so with license and privilege unless he or she defies a lawful order not to enter or
9 remain, personally communicated to him or her by the owner of such premises or by other
10 authorized person. A license or privilege to enter or remain in a building which is only partly
11 open to the public is not a license or privilege to enter or remain in that part of the building
12 which is not open to the public;

13 (3) "Nuclear power plant", a power generating facility that produces electricity by
14 means of a nuclear reactor owned by a utility or a consortium utility. Nuclear power plant
15 shall be limited to property within the structure or fenced yard, as defined in section 563.011;

16 (4) "To tamper", to interfere with something improperly, to meddle with it, displace it,
17 make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner
18 or possessor of that thing;

19 (5) **"Teller machine", an automated teller machine (ATM) or interactive teller**
20 **machine (ITM) is a remote computer terminal owned or controlled by a financial**
21 **institution or a private business that allows individuals to obtain financial services**
22 **including obtaining cash, transferring or transmitting money or digital currencies,**
23 **payment of bills, loading money or digital currency to a payment card or other device**
24 **without physical in-person assistance from another person. "Teller machine" does not**
25 **include personally owned electronic devices used to access financial services;**

26 (6) "Utility", an enterprise which provides gas, electric, steam, water, sewage
27 disposal, or communication, video, internet, or voice over internet protocol services, and any
28 common carrier. It may be either publicly or privately owned or operated.

569.100. 1. A person commits the offense of property damage in the first degree if
2 such person:

3 (1) Knowingly damages property of another to an extent exceeding seven hundred
4 fifty dollars; or

5 (2) Damages property to an extent exceeding seven hundred fifty dollars for the
6 purpose of defrauding an insurer; ~~or~~

7 (3) Knowingly damages a motor vehicle of another and the damage occurs while such
8 person is making entry into the motor vehicle for the purpose of committing the crime of
9 stealing therein or the damage occurs while such person is committing the crime of stealing
10 within the motor vehicle; or

11 **(4) Knowingly damages, modifies, or destroys a teller machine or otherwise**
12 **makes it inoperable.**

13 2. The offense of property damage in the first degree committed under subdivision (1)
14 or (2) of subsection 1 of this section is a class E felony, unless the offense of property damage
15 in the first degree was committed under subdivision (1) of subsection 1 of this section and the
16 victim was intentionally targeted as a law enforcement officer, as defined in section 556.061,
17 or the victim is targeted because he or she is a relative within the second degree of
18 consanguinity or affinity to a law enforcement officer, in which case it is a class D felony.
19 The offense of property damage in the first degree committed under subdivision (3) of
20 subsection 1 of this section is a class D felony unless committed as a second or subsequent
21 violation of subdivision (3) of subsection 1 of this section in which case it is a class B felony.
22 **The offense of property damage in the first degree committed under subdivision (4) of**
23 **subsection 1 of this section is a class D felony unless committed for the purpose of**
24 **executing any scheme or artifice to defraud or obtain any property, the value of which**

25 exceeds seven hundred fifty dollars or the damage to the teller machine exceeds seven
 26 hundred fifty dollars in which case it is a class C felony. If the offense of property
 27 damage in the first degree committed under subdivision (4) of subsection 1 of this
 28 section is committed to obtain the personal financial credentials of another person or
 29 unless committed as a second or subsequent violation of subdivision (4) of subsection 1
 30 of this section in which case it is a class B felony.

569.190. 1. A person commits the offense of tampering with a teller machine as
 2 defined under section 570.010 if he or she knowingly and without authorization or
 3 reasonable grounds to believe that he or she has authorization:

- 4 (1) Modifies, destroys, damages, or takes a teller machine; or
- 5 (2) Otherwise renders a teller machine inoperable.

6 2. The offense of tampering with a teller machine is a class D felony unless:

7 (1) The offense is committed for the purpose of executing any scheme or artifice
 8 to defraud or obtain any property, the value of which is one thousand dollars or more,
 9 or to obtain the personal financial credentials of another person; or

10 (2) The damage to the teller machine is one thousand dollars or more,

11
 12 in which case it is a class C felony.

570.010. As used in this chapter, the following terms mean:

2 (1) "Adulterated", varying from the standard of composition or quality prescribed by
 3 statute or lawfully promulgated administrative regulations of this state lawfully filed, or if
 4 none, as set by commercial usage;

5 (2) "Appropriate", to take, obtain, use, transfer, conceal, retain or dispose;

6 (3) "Check", a check or other similar sight order or any other form of presentment
 7 involving the transmission of account information for the payment of money;

8 (4) "Coercion", a threat, however communicated:

9 (a) To commit any offense; or

10 (b) To inflict physical injury in the future on the person threatened or another; or

11 (c) To accuse any person of any offense; or

12 (d) To expose any person to hatred, contempt or ridicule; or

13 (e) To harm the credit or business reputation of any person; or

14 (f) To take or withhold action as a public servant, or to cause a public servant to take
 15 or withhold action; or

16 (g) To inflict any other harm which would not benefit the actor. A threat of
 17 accusation, lawsuit or other invocation of official action is justified and not coercion if the
 18 property sought to be obtained by virtue of such threat was honestly claimed as restitution or
 19 indemnification for harm done in the circumstances to which the accusation, exposure,

20 lawsuit or other official action relates, or as compensation for property or lawful service. The
21 defendant shall have the burden of injecting the issue of justification as to any threat;

22 (5) "Credit device", a writing, card, code, number or other device purporting to
23 evidence an undertaking to pay for property or services delivered or rendered to or upon the
24 order of a designated person or bearer;

25 (6) "Dealer", a person in the business of buying and selling goods;

26 (7) "Debit device", a writing, card, code, number or other device, other than a check,
27 draft or similar paper instrument, by the use of which a person may initiate an electronic fund
28 transfer, including but not limited to devices that enable electronic transfers of benefits to
29 public assistance recipients;

30 (8) "Deceit or deceive", making a representation which is false and which the actor
31 does not believe to be true and upon which the victim relies, as to a matter of fact, law, value,
32 intention or other state of mind, or concealing a material fact as to the terms of a contract or
33 agreement. The term "deceit" does not, however, include falsity as to matters having no
34 pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the
35 group addressed. Deception as to the actor's intention to perform a promise shall not be
36 inferred from the fact alone that he did not subsequently perform the promise;

37 (9) "Deprive":

38 (a) To withhold property from the owner permanently; or

39 (b) To restore property only upon payment of reward or other compensation; or

40 (c) To use or dispose of property in a manner that makes recovery of the property by
41 the owner unlikely;

42 (10) "Electronic benefits card" or "EBT card", a debit card used to access food stamps
43 or cash benefits issued by the department of social services;

44 (11) "Financial institution", a bank, trust company, savings and loan association, or
45 credit union;

46 (12) "Food stamps", the nutrition assistance program in Missouri that provides food
47 and aid to low-income individuals who are in need of benefits to purchase food operated by
48 the United States Department of Agriculture (USDA) in conjunction with the department of
49 social services;

50 (13) "Forcibly steals", a person, in the course of stealing, uses or threatens the
51 immediate use of physical force upon another person for the purpose of:

52 (a) Preventing or overcoming resistance to the taking of the property or to the
53 retention thereof immediately after the taking; or

54 (b) Compelling the owner of such property or another person to deliver up the
55 property or to engage in other conduct which aids in the commission of the theft;

56 (14) "Internet service", an interactive computer service or system or an information
57 service, system, or access software provider that provides or enables computer access by
58 multiple users to a computer server, and includes, but is not limited to, an information service,
59 system, or access software provider that provides access to a network system commonly
60 known as the internet, or any comparable system or service and also includes, but is not
61 limited to, a world wide web page, newsgroup, message board, mailing list, or chat area on
62 any interactive computer service or system or other online service;

63 (15) "Means of identification", anything used by a person as a means to uniquely
64 distinguish himself or herself;

65 (16) "Merchant", a person who deals in goods of the kind or otherwise by his or her
66 occupation holds oneself out as having knowledge or skill peculiar to the practices or goods
67 involved in the transaction or to whom such knowledge or skill may be attributed by his or
68 her employment of an agent or broker or other intermediary who by his or her occupation
69 holds oneself out as having such knowledge or skill;

70 (17) "Misabeled", varying from the standard of truth or disclosure in labeling
71 prescribed by statute or lawfully promulgated administrative regulations of this state lawfully
72 filed, or if none, as set by commercial usage; or represented as being another person's product,
73 though otherwise accurately labeled as to quality and quantity;

74 (18) "Pharmacy", any building, warehouse, physician's office, hospital,
75 pharmaceutical house or other structure used in whole or in part for the sale, storage, or
76 dispensing of any controlled substance as defined in chapter 195;

77 (19) "Property", anything of value, whether real or personal, tangible or intangible, in
78 possession or in action, and shall include but not be limited to the evidence of a debt actually
79 executed but not delivered or issued as a valid instrument;

80 (20) "Public assistance benefits", anything of value, including money, food, EBT
81 cards, food stamps, commodities, clothing, utilities, utilities payments, shelter, drugs and
82 medicine, materials, goods, and any service including institutional care, medical care, dental
83 care, child care, psychiatric and psychological service, rehabilitation instruction, training,
84 transitional assistance, or counseling, received by or paid on behalf of any person under
85 chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or
86 administered by the Missouri department of social services or any of its divisions;

87 (21) "Services" includes transportation, telephone, electricity, gas, water, or other
88 public service, cable television service, video service, voice over internet protocol service, or
89 internet service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions
90 and use of vehicles;

91 (22) "Stealing-related offense", federal and state violations of criminal statutes
92 against stealing, robbery, or buying or receiving stolen property and shall also include

93 municipal ordinances against the same if the offender was either represented by counsel or
94 knowingly waived counsel in writing and the judge accepting the plea or making the findings
95 was a licensed attorney at the time of the court proceedings;

96 (23) **"Teller machine", an automated teller machine (ATM) or interactive teller**
97 **machine (ITM) that is a remote computer terminal or other device owned or controlled**
98 **by a financial institution or a private business that allows individuals to obtain financial**
99 **services, including obtaining cash, transferring or transmitting moneys or digital**
100 **currencies, payment of bills, or loading moneys or digital currency to a payment card,**
101 **without physical in-person assistance from another person. "Teller machine" does not**
102 **include personally owned electronic devices used to access financial services;**

103 (24) "Video service", the provision of video programming provided through wireline
104 facilities located at least in part in the public right-of-way without regard to delivery
105 technology, including internet protocol technology whether provided as part of a tier, on
106 demand, or a per-channel basis. This definition includes cable service as defined by 47
107 U.S.C. Section 522(6), but does not include any video programming provided by a
108 commercial mobile service provider as "commercial mobile service" is defined in 47 U.S.C.
109 Section 332(d), or any video programming provided solely as part of and via a service that
110 enables users to access content, information, electronic mail, or other services offered over
111 the public internet, and includes microwave television transmission, from a multipoint
112 distribution service not capable of reception by conventional television receivers without the
113 use of special equipment;

114 ~~[(24)]~~ (25) "Voice over internet protocol service", a service that:

- 115 (a) Enables real-time, two-way voice communication;
116 (b) Requires a broadband connection from the user's location;
117 (c) Requires internet protocol-compatible customer premises equipment; and
118 (d) Permits users generally to receive calls that originate on the public switched
119 telephone network and to terminate calls to the public switched telephone network;

120 ~~[(25)]~~ (26) "Writing" includes printing, any other method of recording information,
121 money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks
122 and any other symbols of value, right, privilege or identification.

570.030. 1. A person commits the offense of stealing if he or she:

- 2 (1) Appropriates property or services of another with the purpose to deprive him or
3 her thereof, either without his or her consent or by means of deceit or coercion;
4 (2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the
5 purpose to deprive him or her thereof, either without his or her consent or by means of deceit
6 or coercion; or

7 (3) For the purpose of depriving the owner of a lawful interest therein, receives,
8 retains or disposes of property of another knowing that it has been stolen, or believing that it
9 has been stolen.

10 2. The offense of stealing is a class A felony if the property appropriated consists of
11 any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer,
12 rail tank car, bulk storage tank, field nurse, field tank or field applicator.

13 3. The offense of stealing is a class B felony if:

14 (1) The property appropriated or attempted to be appropriated consists of any amount
15 of anhydrous ammonia or liquid nitrogen;

16 (2) The property consists of any animal considered livestock as the term livestock is
17 defined in section 144.010, or any captive wildlife held under permit issued by the
18 conservation commission, and the value of the animal or animals appropriated exceeds three
19 thousand dollars and that person has previously been found guilty of appropriating any animal
20 considered livestock or captive wildlife held under permit issued by the conservation
21 commission. Notwithstanding any provision of law to the contrary, such person shall serve a
22 minimum prison term of not less than eighty percent of his or her sentence before he or she is
23 eligible for probation, parole, conditional release, or other early release by the department of
24 corrections;

25 (3) A person appropriates property consisting of a motor vehicle, watercraft, or
26 aircraft, and that person has previously been found guilty of two stealing-related offenses
27 committed on two separate occasions where such offenses occurred within ten years of the
28 date of occurrence of the present offense;

29 (4) The property appropriated or attempted to be appropriated consists of any animal
30 considered livestock as the term is defined in section 144.010 if the value of the livestock
31 exceeds ten thousand dollars; or

32 (5) The property appropriated or attempted to be appropriated is owned by or in the
33 custody of a financial institution and the property is taken or attempted to be taken physically
34 from an individual person to deprive the owner or custodian of the property.

35 4. The offense of stealing is a class C felony if the value of the property or services
36 appropriated is twenty-five thousand dollars or more **or the property is a teller machine or**
37 **the contents of a teller machine, including cash, regardless of the value or amount.**

38 5. The offense of stealing is a class D felony if:

39 (1) The value of the property or services appropriated is seven hundred fifty dollars or
40 more;

41 (2) The offender physically takes the property appropriated from the person of the
42 victim; or

43 (3) The property appropriated consists of:

- 44 (a) Any motor vehicle, watercraft or aircraft;
45 (b) Any will or unrecorded deed affecting real property;
46 (c) Any credit device, debit device or letter of credit;
47 (d) Any firearms;
48 (e) Any explosive weapon as defined in section 571.010;
49 (f) Any United States national flag designed, intended and used for display on
50 buildings or stationary flagstaffs in the open;
51 (g) Any original copy of an act, bill or resolution, introduced or acted upon by the
52 legislature of the state of Missouri;
53 (h) Any pleading, notice, judgment or any other record or entry of any court of this
54 state, any other state or of the United States;
55 (i) Any book of registration or list of voters required by chapter 115;
56 (j) Any animal considered livestock as that term is defined in section 144.010;
57 (k) Any live fish raised for commercial sale with a value of seventy-five dollars or
58 more;
59 (l) Any captive wildlife held under permit issued by the conservation commission;
60 (m) Any controlled substance as defined by section 195.010;
61 (n) Ammonium nitrate;
62 (o) Any wire, electrical transformer, or metallic wire associated with transmitting
63 telecommunications, video, internet, or voice over internet protocol service, or any other
64 device or pipe that is associated with conducting electricity or transporting natural gas or
65 other combustible fuels; or
66 (p) Any material appropriated with the intent to use such material to manufacture,
67 compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of
68 their analogues.
- 69 6. The offense of stealing is a class E felony if:
70 (1) The property appropriated is an animal;
71 (2) The property is a catalytic converter; or
72 (3) A person has previously been found guilty of three stealing-related offenses
73 committed on three separate occasions where such offenses occurred within ten years of the
74 date of occurrence of the present offense.
- 75 7. The offense of stealing is a class D misdemeanor if the property is not of a type
76 listed in subsection 2, 3, 5, or 6 of this section, the property appropriated has a value of less
77 than one hundred fifty dollars, and the person has no previous findings of guilt for a stealing-
78 related offense.
- 79 8. The offense of stealing is a class A misdemeanor if no other penalty is specified in
80 this section.

81 9. If a violation of this section is subject to enhanced punishment based on prior
82 findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as
83 required by section 558.021.

84 10. The appropriation of any property or services of a type listed in subsection 2, 3, 5,
85 or 6 of this section or of a value of seven hundred fifty dollars or more may be considered a
86 separate felony and may be charged in separate counts.

87 11. The value of property or services appropriated pursuant to one scheme or course
88 of conduct, whether from the same or several owners and whether at the same or different
89 times, constitutes a single criminal episode and may be aggregated in determining the grade
90 of the offense, except as set forth in subsection 10 of this section.

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

2 (1) "Conducts", initiating, concluding or participating in initiating or concluding a
3 transaction;

4 (2) "Criminal activity", any act or activity constituting an offense punishable as a
5 felony pursuant to the laws of Missouri or the United States;

6 (3) [~~"Currency", currency and coin of the United States;~~

7 (4) ~~"Currency transaction", a transaction involving the physical transfer of currency
8 from one person to another. A transaction which is a transfer of funds by means of bank
9 check, bank draft, wire transfer or other written order, and which does not include the
10 physical transfer of currency is not a currency transaction]~~ **"Cryptocurrency", a digital
11 currency in which transactions are verified and records are maintained by a
12 decentralized system using cryptography;**

13 (4) **"Financial transaction", a transaction:**

14 (a) **Involving:**

15 a. **The movement of funds by wire or other means, including blockchain;**

16 b. **One or more monetary instruments; or**

17 c. **The transfer of title to any real property, vehicle, vessel, or aircraft; or**

18 (b) **Involving the use of a financial institution as defined under 31 U.S.C. Section
19 5312, as amended;**

20 (5) **"Monetary instruments":**

21 (a) **Currency and coin of the United States or of any other country,
22 cryptocurrency, travelers' checks, personal checks, bank checks, bank wires, or
23 money orders; or**

24 (b) **Investment securities or negotiable instruments, in bearer form or otherwise
25 in such form that title thereto passes upon delivery;**

26 [~~5~~] (6) **"Person", natural persons, partnerships, trusts, estates, associations,
27 corporations and all entities cognizable as legal personalities;**

28 (7) **"Transaction", a purchase, sale, loan, pledge, gift, transfer, delivery, or other**
29 **disposition, and with respect to a financial institution includes a deposit; withdrawal;**
30 **transfer between accounts; exchange of currency; loan; extension of credit; purchase or**
31 **sale of any stock, bond, certificate of deposit, or other monetary instrument; use of a**
32 **safe deposit box; or any other payment, transfer, or delivery by, through, or to a**
33 **financial institution, by whatever means effected.**

34 2. A person commits the offense of money laundering if he or she:

35 (1) Conducts or attempts to conduct a [~~currency~~] **financial** transaction with the
36 purpose to promote or aid the carrying on of criminal activity; or

37 (2) Conducts or attempts to conduct a [~~currency~~] **financial** transaction with the
38 purpose to conceal or disguise in whole or in part the nature, location, source, ownership or
39 control of the proceeds of criminal activity; or

40 (3) Conducts or attempts to conduct a [~~currency~~] **financial** transaction with the
41 purpose to avoid [~~currency~~] **financial** transaction reporting requirements under federal law; or

42 (4) Conducts or attempts to conduct a [~~currency~~] **financial** transaction with the
43 purpose to promote or aid the carrying on of criminal activity for the purpose of furthering or
44 making a terrorist threat or act.

45 3. The offense of money laundering is a class B felony and in addition to penalties
46 otherwise provided by law, a fine of not more than five hundred thousand dollars or twice the
47 amount involved in the transaction, whichever is greater, may be assessed.

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