

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 585

102ND GENERAL ASSEMBLY

1223S.02C

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 287.690, 287.715, 287.900, 287.902, 287.905, 287.907, 287.909, 287.910, 287.912, 287.915, 287.917, 287.919, 287.920, 361.020, 361.098, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 375.1275, 379.316, 407.640, 408.145, and 408.500, RSMo, and to enact in lieu thereof thirty-one new sections relating to services regulated by the department of commerce and insurance, with penalty provisions and a delayed effective date for certain sections.

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

Section A. Sections 287.690, 287.715, 287.900, 287.902,  
2 287.905, 287.907, 287.909, 287.910, 287.912, 287.915, 287.917,  
3 287.919, 287.920, 361.020, 361.098, 361.160, 361.260, 361.262,  
4 361.715, 364.030, 364.105, 365.030, 367.140, 375.1275, 379.316,  
5 407.640, 408.145, and 408.500, RSMo, are repealed and thirty-  
6 one new sections enacted in lieu thereof, to be known as  
7 sections 287.690, 287.715, 287.921, 361.020, 361.098, 361.106,  
8 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030,  
9 367.140, 375.1275, 379.316, 379.1850, 379.1851, 379.1853,  
10 379.1855, 379.1857, 379.1859, 379.1861, 379.1863, 379.1865,  
11 379.1867, 379.1869, 407.640, 408.145, 408.500, and 427.300, to  
12 read as follows:

287.690. [1.] Prior to December 31, 1993, for the  
2 purpose of providing for the expense of administering this  
3 chapter [and for the purpose set out in subsection 2 of this  
4 section], every person, partnership, association,

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

5 corporation, whether organized under the laws of this or any  
6 other state or country, the state of Missouri, including any  
7 of its departments, divisions, agencies, commissions, and  
8 boards or any political subdivisions of the state who self-  
9 insure or hold themselves out to be any part self-insured,  
10 company, mutual company, the parties to any interindemnity  
11 contract, or other plan or scheme, and every other insurance  
12 carrier, insuring employers in this state against liability  
13 for personal injuries to their employees, or for death  
14 caused thereby, under this chapter, shall pay, as provided  
15 in this chapter, tax upon the net deposits, net premiums or  
16 net assessments received, whether in cash or notes in this  
17 state, or on account of business done in this state, for  
18 such insurance in this state at the rate of two percent in  
19 lieu of all other taxes on such net deposits, net premiums  
20 or net assessments, which amount of taxes shall be assessed  
21 and collected as herein provided. Beginning October 31,  
22 1993, and every year thereafter, the director of the  
23 division of workers' compensation shall estimate the amount  
24 of revenue required to administer this chapter and the  
25 director shall determine the rate of tax to be paid in the  
26 following calendar year pursuant to this section commencing  
27 with the calendar year beginning on January 1, 1994. If the  
28 balance of the fund estimated to be on hand on December  
29 thirty-first of the year each tax rate determination is made  
30 is less than one hundred ten percent of the previous year's  
31 expenses plus any additional revenue required due to new  
32 statutory requirements given to the division by the general  
33 assembly, then the director shall impose a tax not to exceed  
34 two percent in lieu of all other taxes on net deposits, net  
35 premiums or net assessments, rounded up to the nearest one-  
36 half of a percentage point, which amount of taxes shall be

37 assessed and collected as herein provided. The net premium  
38 equivalent for individual self-insured employers shall be  
39 based on average rate classifications calculated by the  
40 department of commerce and insurance as taken from premium  
41 rates filed by the twenty insurance companies providing the  
42 greatest volume of workers' compensation insurance coverage  
43 in this state. For employers qualified to self-insure their  
44 liability pursuant to this chapter, the rates filed by such  
45 group of employers in accordance with subsection 4 of  
46 section 287.280 shall be the net premium equivalent. Any  
47 group of political subdivisions of this state qualified to  
48 self-insure their liability pursuant to this chapter as  
49 authorized by section 537.620 may choose either the average  
50 rate classification method or the filed rate method,  
51 provided that the method used may only be changed once  
52 without receiving the consent of the director of the  
53 division of workers' compensation. Every entity required to  
54 pay the tax imposed pursuant to this section and section  
55 287.730 shall be notified by the division of workers'  
56 compensation within ten calendar days of the date of the  
57 determination of the rate of tax to be imposed for the  
58 following year. Net premiums, net deposits or net  
59 assessments are defined as gross premiums, gross deposits or  
60 gross assessments less cancelled or returned premiums,  
61 premium deposits or assessments and less dividends or  
62 savings, actually paid or credited.

63 [2. After January 1, 1994, the director of the  
64 division shall make one or more loans to the Missouri  
65 employers mutual insurance company in an amount not to  
66 exceed an aggregate amount of five million dollars from the  
67 fund maintained to administer this chapter for start-up  
68 funding and initial capitalization of the company. The

69 board of the company shall make application to the director  
70 for the loans, stating the amount to be loaned to the  
71 company. The loans shall be for a term of five years and,  
72 at the time the application for such loans is approved by  
73 the director, shall bear interest at the annual rate based  
74 on the rate for linked deposit loans as calculated by the  
75 state treasurer pursuant to section 30.758.]

287.715. 1. For the purpose of providing for revenue  
2 for the second injury fund, every authorized self-insurer,  
3 and every workers' compensation policyholder insured  
4 pursuant to the provisions of this chapter, shall be liable  
5 for payment of an annual surcharge in accordance with the  
6 provisions of this section. The annual surcharge imposed  
7 under this section shall apply to all workers' compensation  
8 insurance policies and self-insurance coverages which are  
9 written or renewed on or after April 26, 1988, including the  
10 state of Missouri, including any of its departments,  
11 divisions, agencies, commissions, and boards or any  
12 political subdivisions of the state who self-insure or hold  
13 themselves out to be any part self-insured. Notwithstanding  
14 any law to the contrary, the surcharge imposed pursuant to  
15 this section shall not apply to any reinsurance or  
16 retrocessional transaction.

17 2. Beginning October 31, 2005, and each year  
18 thereafter, the director of the division of workers'  
19 compensation shall estimate the amount of benefits payable  
20 from the second injury fund during the following calendar  
21 year and shall calculate the total amount of the annual  
22 surcharge to be imposed during the following calendar year  
23 upon all workers' compensation policyholders and authorized  
24 self-insurers. The amount of the annual surcharge  
25 percentage to be imposed upon each policyholder and self-

26 insured for the following calendar year commencing with the  
27 calendar year beginning on January 1, 2006, shall be set at  
28 and calculated against a percentage, not to exceed three  
29 percent, of the policyholder's or self-insured's workers'  
30 compensation net deposits, net premiums, or net assessments  
31 for the previous policy year, rounded up to the nearest one-  
32 half of a percentage point, that shall generate, as nearly  
33 as possible, one hundred ten percent of the moneys to be  
34 paid from the second injury fund in the following calendar  
35 year, less any moneys contained in the fund at the end of  
36 the previous calendar year. All policyholders and self-  
37 insurers shall be notified by the division of workers'  
38 compensation within ten calendar days of the determination  
39 of the surcharge percent to be imposed for, and paid in, the  
40 following calendar year. The net premium equivalent for  
41 individual self-insured employers shall be based on average  
42 rate classifications calculated by the department of  
43 commerce and insurance as taken from premium rates filed by  
44 the twenty insurance companies providing the greatest volume  
45 of workers' compensation insurance coverage in this state.  
46 For employers qualified to self-insure their liability  
47 pursuant to this chapter, the rates filed by such group of  
48 employers in accordance with subsection 4 of section 287.280  
49 shall be the net premium equivalent. Any group of political  
50 subdivisions of this state qualified to self-insure their  
51 liability pursuant to this chapter as authorized by section  
52 537.620 may choose either the average rate classification  
53 method or the filed rate method, provided that the method  
54 used may only be changed once without receiving the consent  
55 of the director of the division of workers' compensation.  
56 The director may advance funds from the workers'  
57 compensation fund to the second injury fund if surcharge

58 collections prove to be insufficient. Any funds advanced  
59 from the workers' compensation fund to the second injury  
60 fund must be reimbursed by the second injury fund no later  
61 than December thirty-first of the year following the  
62 advance. The surcharge shall be collected from  
63 policyholders by each insurer at the same time and in the  
64 same manner that the premium is collected, but no insurer or  
65 its agent shall be entitled to any portion of the surcharge  
66 as a fee or commission for its collection. The surcharge is  
67 not subject to any taxes, licenses or fees.

68 3. All surcharge amounts imposed by this section shall  
69 be deposited to the credit of the second injury fund.

70 4. Such surcharge amounts shall be paid quarterly by  
71 insurers and self-insurers, and insurers shall pay the  
72 amounts not later than the thirtieth day of the month  
73 following the end of the quarter in which the amount is  
74 received from policyholders. If the director of the  
75 division of workers' compensation fails to calculate the  
76 surcharge by the thirty-first day of October of any year for  
77 the following year, any increase in the surcharge ultimately  
78 set by the director shall not be effective for any calendar  
79 quarter beginning less than sixty days from the date the  
80 director makes such determination.

81 5. If a policyholder or self-insured fails to make  
82 payment of the surcharge or an insurer fails to make timely  
83 transfer to the division of surcharges actually collected  
84 from policyholders, as required by this section, a penalty  
85 of one-half of one percent of the surcharge unpaid, or  
86 untransferred, shall be assessed against the liable  
87 policyholder, self-insured or insurer. Penalties assessed  
88 under this subsection shall be collected in a civil action

89 by a summary proceeding brought by the director of the  
90 division of workers' compensation.

91 6. Notwithstanding subsection 2 of this section to the  
92 contrary, the director of the division of workers'  
93 compensation shall collect a supplemental surcharge not to  
94 exceed ~~[three]~~ **one** percent for calendar years 2014 to ~~[2022]~~  
95 **2026** of the policyholder's or self-insured's workers'  
96 compensation net deposits, net premiums, or net assessments  
97 for the previous policy year, rounded up to the nearest ~~[one-~~  
98 ~~half]~~ **one-quarter** of a percentage point. ~~[For calendar year~~  
99 ~~2023, the director of the division of workers' compensation~~  
100 ~~shall collect a supplemental surcharge not to exceed two and~~  
101 ~~one-half percent of the policyholder's or self-insured's~~  
102 ~~workers' compensation net deposits, net premiums, or net~~  
103 ~~assessments for the previous policy year, rounded up to the~~  
104 ~~nearest one-half of a percentage point.]~~ All policyholders  
105 and self-insurers shall be notified by the division of the  
106 supplemental surcharge percentage to be imposed for such  
107 period of time as part of the notice provided in subsection  
108 2 of this section. The provisions of this subsection shall  
109 expire on December 31, ~~[2023]~~ **2026**.

110 7. Funds collected under the provisions of this  
111 chapter shall be the sole funding source of the second  
112 injury fund.

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

3 **(1) "Company", any independent public corporation  
4 created for the purpose of insuring Missouri employers  
5 against liability for workers' compensation, occupational  
6 disease, and employers' liability coverage;**

7 **(2) "Department", the department of commerce and  
8 insurance;**

9           (3) "Director", the director of the department of  
10 commerce and insurance.

11           2. Before January 1, 2025, any company may file  
12 amended and restated articles of incorporation with the  
13 department and the secretary of state converting the company  
14 from an independent public corporation to a private mutual  
15 insurance corporation under the provisions of chapter 379.  
16 If the director determines that the amended and restated  
17 articles of incorporation comply with the applicable  
18 provisions of chapter 379, the following shall occur:

19           (1) The director shall issue an amended certificate of  
20 authority effective January 1, 2025, to the company to  
21 operate as a private mutual insurance corporation licensed  
22 to write any lines of insurance authorized under the  
23 provisions of chapter 379;

24           (2) The director shall reauthorize the company's  
25 existing filings, forms, or other administrative matters on  
26 file with the department so that the company's filings,  
27 rates, forms, or other administrative matters shall be  
28 effective January 1, 2025; and

29           (3) The secretary of state shall issue an amended  
30 certificate of incorporation effective January 1, 2025,  
31 certifying and declaring the company to be a body corporate  
32 duly organized, existing, and entitled to all rights and  
33 privileges granted corporations organized under chapter 379.

34           3. The company may continue to conduct business under  
35 its existing name or adopt any other name that complies with  
36 state law.

37           4. (1) From and after January 1, 2025, the converted  
38 private mutual insurance corporation shall become the  
39 successor in interest to all assets and liabilities of the  
40 company as of the conversion date directed in this section



41 without any conveyance or transfer and without any further  
42 act or deed and shall be vested by operation of law to all  
43 property of the company.

44 (2) The state is not liable for the expenses,  
45 liabilities, or debts of:

46 (a) The converted private mutual insurance corporation  
47 described in this section;

48 (b) The company; or

49 (c) A subsidiary or joint enterprise involving the  
50 private mutual insurance corporation or the company.

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

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

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

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

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

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

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

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

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

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

15           2. Notwithstanding any other provision of law to the  
16 contrary, the director of finance may at his or her  
17 discretion issue bulletins addressing the business of the  
18 individuals and entities licensed, chartered, or regulated

19 by the division in this state. Bulletins do not have the  
20 force or effect of law and shall not be considered  
21 statements of general applicability that would require  
22 promulgation by rule.

23 3. Notwithstanding any other provision of law to the  
24 contrary, the director of finance may at his or her  
25 discretion issue industry letters in response to a written  
26 request from an individual or entity licensed, chartered, or  
27 regulated by the division, and that seeks the division's  
28 position on an application of law. In addition to any  
29 materials or information requested by the division, the  
30 written request shall include:

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

33 (2) A detailed factual representation concerning every  
34 relevant aspect of the proposed business activity or  
35 activities, transaction, event, or circumstance;

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

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

41 (5) A representation that the proposed business or  
42 transaction in question have not commenced or, if they have  
43 commenced, the present status of the proposed business or  
44 transaction.

45 4. With respect to the requesting party, an industry  
46 letter is binding on the division, and the requesting party  
47 shall not be subject to any administrative proceeding or  
48 penalty for any acts or omissions done in reliance on an  
49 industry letter, so long as there is no change in any

50 material fact or law or the discovery of a material  
51 misrepresentation or omission made by the requesting party.

52 5. An industry letter request and response shall be  
53 confidential, but a resulting industry letter, if published  
54 by the director, may contain non-identifying facts and  
55 information derived from the request.

56 6. After redacting all identifying information, the  
57 director may publish industry letters for informational  
58 purposes. Because the division may have a different  
59 position in response to similar but non-identical facts and  
60 circumstances, published industry letters do not have the  
61 force or effect of law, are not binding on the division, and  
62 shall not be considered statements of general applicability  
63 that would require promulgation by rule.

64 7. Industry letters issued under this section are  
65 distinct from letters issued by the director under  
66 subdivision (5) of section 362.106, which shall be governed  
67 by that section.

361.160. 1. The director of finance at least once  
2 each year, either personally or by a deputy or examiner  
3 appointed by the director, shall visit and examine every  
4 bank and trust company organized and doing business under  
5 the laws of this state, and every other corporation which is  
6 by law required to report to the director; except, for banks  
7 or trust companies receiving a Camel/MOECA 1 or Camel/MOECA  
8 2 rating from the division of finance, the director of  
9 finance at least once each eighteen calendar months, or for  
10 a private trust company at least once each thirty-six  
11 months, either personally or by a deputy or examiner  
12 appointed by the director, shall visit and examine such bank  
13 or trust company, and the director of finance, at the  
14 director's discretion, may conduct the director's

15 examination, or any part thereof, on the basis of  
16 information contained in examination reports of other  
17 states, the Federal Deposit Insurance Corporation or the  
18 Federal Reserve Board or in audits performed by certified  
19 public accountants. For purposes of this subsection, a  
20 private trust company is one that does not engage in trust  
21 company business with the general public or otherwise hold  
22 itself out as a trustee or fiduciary for hire by  
23 advertising, solicitation, or other means and instead  
24 operates for the primary benefit of a family, relative of  
25 same family, or single family lineage, regardless of whether  
26 compensation is received or anticipated. The director shall  
27 be afforded prompt and free access to any workpapers upon  
28 which a certified public accountant bases an audit. A  
29 certified public accountant shall retain workpapers for a  
30 minimum of three years after the date of issuance of the  
31 certified public accountant's report to the bank or trust  
32 company. The director or the director's agent may  
33 concentrate the examinations on institutions which the  
34 director believes have safety or soundness concerns.

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

45 3. The director and the director's deputy and  
46 examiners shall have power to administer oaths to any person

47 whose testimony may be required in such examination or  
48 investigation of any such corporation or agency, and to  
49 compel the appearance and attendance of any person for the  
50 purpose of any such examination or investigation.

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

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

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

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

76 8. The director may contract with regulators in other  
77 states to provide for the examination of Missouri branches  
78 of out-of-state banks and branches of banks whose home state

79 is Missouri. The agreements may provide for the payment by  
80 the home state of the cost of examinations conducted by the  
81 host state at the request of the home state regulators.

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

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

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

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

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

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

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

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

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

55           5. In the event the party or parties so served shall  
56 fail to appear at the hearing, or shall consent to the cease  
57 and desist order, or in the event the director shall find  
58 that the fact of any deficiency, violation, unsafe or  
59 unsound practice, inadequate recordkeeping, or improper use  
60 of funds specified has been established, the director may



61 issue and serve upon the corporation or the director,  
62 officer, employee, agent, or other person participating in  
63 the conduct of the affairs of the corporation an order to  
64 cease and desist from the actions, violations, or practices  
65 charged.

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

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

72           **(2) [Further,] May require the corporation or its**  
73 **directors, officers, employees, agents, or other persons**  
74 **participating in the conduct of the affairs of such**  
75 **corporation to take affirmative action to correct the**  
76 **conditions resulting from any such actions, violations, or**  
77 **practices[. If the director determines that the capital of**  
78 **the corporation is impaired,];**

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

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

89           **(5) Shall, if the director [shall determine]**  
90 **determines that wrong entries or unlawful uses of the funds**  
91 **of the corporation have been made, [he shall] order that the**  
92 **entries shall be corrected, and the sums unlawfully paid out**

93 restored by the person or persons responsible for the  
94 wrongful or illegal payment thereof.

95 [6.] 7. If a notice of charges served under this  
96 section specifies, on the basis of particular facts and  
97 circumstances, that a corporation's books and records are so  
98 incomplete or inaccurate that the director is unable,  
99 through the normal supervisory process, to determine the  
100 financial condition of that corporation or the details or  
101 purpose of any transaction or transactions that may have a  
102 material effect on the financial condition of that  
103 corporation, the director may issue a temporary order  
104 requiring the cessation of any activity or practice which  
105 gave rise, whether in whole or in part, to the incomplete or  
106 inaccurate state of the books or records, or affirmative  
107 action to restore such books or records to a complete and  
108 accurate state, until the completion of the proceedings  
109 under this section. Any temporary order issued under this  
110 subsection shall become effective upon service and, unless  
111 set aside, limited or suspended by a court, shall remain in  
112 effect and enforceable until the earlier of the completion  
113 of the proceedings initiated under this section or the date  
114 on which the director determines by examination or otherwise  
115 that the corporation's books and records are accurate and  
116 reflect the financial condition of the corporation.

117 [7.] 8. Whenever it shall appear to the director that  
118 the violation or threatened violation or the unsafe or  
119 unsound practice or practices specified in the notice of  
120 charges served upon the corporation or any director,  
121 officer, employee, agent, or other person participating in  
122 the conduct of the affairs of such corporation pursuant to  
123 subsection 4 of this section, or the continuation thereof,  
124 is likely to cause insolvency or significant dissipation of

125 assets or earnings of the corporation, or is likely to  
126 weaken the condition of the corporation or otherwise  
127 prejudice the interests of its depositors prior to the  
128 completion of the proceedings conducted pursuant to said  
129 subsection, the director may issue a temporary order,  
130 effective immediately, requiring the corporation or such  
131 director, officer, employee, agent, or other person to cease  
132 and desist from any such violation or practice and to take  
133 affirmative action to prevent such insolvency, dissipation,  
134 condition, or prejudice pending completion of such  
135 proceedings. Such order shall remain effective and  
136 enforceable pending the completion of the administrative  
137 proceedings pursuant to such notice and until such time as  
138 the director shall dismiss the charges specified in such  
139 notice or if a cease and desist order is issued against the  
140 corporation or such director, officer, employee, agent, or  
141 other person, until the effective date of such order. The  
142 corporation, director, officer, employee, agent, or other  
143 person may, within ten days after having been served with a  
144 temporary cease and desist order, apply to the circuit court  
145 of Cole County for an order setting aside, limiting, or  
146 suspending the enforcement, operation, or effectiveness of  
147 such order.

148 [8.] 9. If any corporation, or any director, officer,  
149 employee, agent, or other person participating in the  
150 conduct of the affairs of such corporation shall fail or  
151 refuse to comply with any duly issued order provided for in  
152 this chapter and chapter 362, the corporation or such  
153 director, officer, employee, agent, or other person shall  
154 pay a civil penalty of not more than one thousand dollars  
155 per day for each day the failure or refusal shall continue.  
156 The penalty shall be assessed and collected by the director

157 of the division. In determining the amount of the penalty,  
158 the director shall take into account the appropriateness of  
159 the penalty with respect to the size of the financial  
160 resources and good faith of the corporation or person  
161 charged, the gravity of the violation, the history of  
162 previous violations, and such other matters as justice may  
163 require. In addition to the penalty, the director may, in  
164 his **or her** discretion, report the delinquency to the  
165 attorney general, with a request that **[he] the attorney**  
166 **general** proceed as provided in section 361.270, and in the  
167 event of such request, the attorney general shall proceed.

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

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

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

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

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

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

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

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

20 (2) The director determines that:

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

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

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

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

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

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

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

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

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

47           **(2)** Evidenced either:

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

49           **(b)** A willful or continuing disregard for its safety  
50 and soundness; and[, in addition, has]

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

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

68           **3. When it shall appear from any examination or**  
69 **investigation to the director that any person participating**  
70 **in the conduct of the affairs of a corporation subject to**  
71 **this chapter, by conduct or practice with respect to such**  
72 **corporation or other corporation or other business**  
73 **institution that:**

74           **(1) Resulted in financial loss or other damage, has**

75           **(2) Evidenced either:**

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

77           **(b) A willful or continuing disregard for its safety**  
78 **and soundness; and**

79           **(3) Evidenced his or her unfitness to participate in**  
80 **the conduct of the affairs of such corporation,**

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

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

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

113 participate in any manner in, the conduct of the affairs of  
114 any other corporation subject to the provisions of this  
115 chapter.

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

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



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

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

364.030. 1. No person shall engage in the business of  
2 a financing institution in this state without a license  
3 therefor as provided in this chapter; except, however, that  
4 no bank, trust company, loan and investment company,  
5 licensed sales finance company, registrant under the  
6 provisions of sections 367.100 to 367.200, or person who  
7 makes only occasional purchases of retail time contracts or  
8 accounts under retail charge agreements and which purchases  
9 are not being made in the course of repeated or successive  
10 purchase of retail installment contracts from the same  
11 seller, shall be required to obtain a license under this  
12 chapter but shall comply with all the laws of this state  
13 applicable to the conduct and operation of a financing  
14 institution.

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

25           3. The license fee for each calendar year or part  
26 thereof shall be the sum of **[five] six** hundred dollars for  
27 each place of business of the licensee in this state which  
28 shall be paid into the general revenue fund. The director  
29 may establish a biennial licensing arrangement but in no  
30 case shall the fees be payable for more than one year at a  
31 time.

32           4. Each license shall specify the location of the  
33 office or branch and must be conspicuously displayed  
34 therein. In case the location is changed, the director  
35 shall either endorse the change of location of the license  
36 or mail the licensee a certificate to that effect, without  
37 charge.

38           5. Upon the filing of an application, and the payment  
39 of the fee, the director shall issue a license to the  
40 applicant to engage in the business of a financing  
41 institution under and in accordance with the provisions of  
42 this chapter for a period which shall expire the last day of  
43 December next following the date of its issuance. The  
44 license shall not be transferable or assignable. No  
45 licensee shall transact any business provided for by this  
46 chapter under any other name.

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

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

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

11           (1) Name, business address and telephone number of the  
12 premium finance company;

13           (2) Name and business address of corporate officers  
14 and directors or principals or partners;

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

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

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

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

          365.030. 1. No person shall engage in the business of  
2 a sales finance company in this state without a license as  
3 provided in this chapter; except, that no bank, trust  
4 company, savings and loan association, loan and investment  
5 company or registrant under the provisions of sections  
6 367.100 to 367.200 authorized to do business in this state  
7 is required to obtain a license under this chapter but shall  
8 comply with all of the other provisions of this chapter.

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

19           3. The license fee for each calendar year or part  
20 thereof shall be the sum of **[five] six** hundred dollars for  
21 each place of business of the licensee in this state. The  
22 director may establish a biennial licensing arrangement but  
23 in no case shall the fees be payable for more than one year  
24 at a time.

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

30           5. Upon the filing of the application, and the payment  
31 of the fee, the director shall issue a license to the  
32 applicant to engage in the business of a sales finance  
33 company under and in accordance with the provisions of this  
34 chapter for a period which shall expire the last day of  
35 December next following the date of its issuance. The  
36 license shall not be transferable or assignable. No  
37 licensee shall transact any business provided for by this  
38 chapter under any other name.

367.140. 1. Every lender shall, at the time of filing  
2 application for certificate of registration as provided in  
3 section 367.120 hereof, pay the sum of **[five] six** hundred  
4 dollars as an annual registration fee for the period ending  
5 the thirtieth day of June next following the date of payment  
6 and in full payment of all expenses for investigations,  
7 examinations and for the administration of sections 367.100  
8 to 367.200, except as provided in section 367.160, and  
9 thereafter a like fee shall be paid on or before June  
10 thirtieth of each year; provided, that if a lender is  
11 supervised by the commissioner of finance under any other  
12 law, the charges for examination and supervision required to

13 be paid under said law shall be in lieu of the annual fee  
14 for registration and examination required under this  
15 section. The fee shall be made payable to the director of  
16 revenue. If the initial registration fee for any  
17 certificate of registration is for a period of less than  
18 twelve months, the registration fee shall be prorated  
19 according to the number of months that said period shall  
20 run. The director may establish a biennial licensing  
21 arrangement but in no case shall the fees be payable for  
22 more than one year at a time.

23 2. Upon receipt of such fee and application for  
24 registration, and provided the bond, if required by the  
25 director, has been filed, the director shall issue to the  
26 lender a certificate containing the lender's name and  
27 address and reciting that such lender is duly and properly  
28 registered to conduct the supervised business. The lender  
29 shall keep this certificate of registration posted in a  
30 conspicuous place at the place of business recited in the  
31 registration certificate. Where the lender engages in the  
32 supervised business at or from more than one office or place  
33 of business, such lender shall obtain a separate certificate  
34 of registration for each such office or place of business.

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

375.1275. 1. For RBC reports required to be filed by  
2 life and health insurers with respect to 1993, the following  
3 requirements shall apply in lieu of the provisions of  
4 section 375.1255:

5           (1) In the event of a company action level event with  
6 respect to an insurer, the director shall take no regulatory  
7 action;

8           (2) In the event of a regulatory action level event  
9 pursuant to section 375.1257, the director shall take the  
10 actions required pursuant to section 375.1255;

11           (3) In the event of a regulatory action level event  
12 pursuant to section 375.1257 or an authorized control level  
13 event, the director shall take the actions required pursuant  
14 to section 375.1257 with respect to the insurer;

15           (4) In the event of a mandatory control level event  
16 with respect to an insurer, the director shall take the  
17 actions required pursuant to section 375.1260 with respect  
18 to the insurer.

19           2. For RBC reports required to be filed by property  
20 and casualty insurers with respect to 1996, the following  
21 requirements shall apply in lieu of the provisions of  
22 sections 375.1255 to 375.1262:

23           (1) In the event of a company action level event with  
24 respect to a domestic insurer, the director shall take no  
25 regulatory action under sections 375.1250 to 375.1275;

26           (2) In the event of a regulatory action level event  
27 under subdivision (1), (2) or (3) of subsection 1 of section  
28 375.1257, the director shall take the actions required under  
29 section 375.1255;

30           (3) In the event of a regulatory action level event  
31 under subdivision (4), (5), (6), (7), (8) or (9) of  
32 subsection 1 of section 375.1257 or an authorized control  
33 level event, the director shall take the actions required  
34 under section 375.1257, with respect to the insurer;

35           (4) In the event of a mandatory control level event,  
36 the director shall take the actions required under section  
37 375.1260 with respect to the insurer.

38           3. For RBC reports required to be filed by health  
39 organizations with respect to 2014, the following  
40 requirements shall apply in lieu of the provisions of  
41 sections 375.1255 to 375.1262:

42           (1) In the event of a company action level event with  
43 respect to a domestic health organization, the director  
44 shall take no regulatory action;

45           (2) In the event of a regulatory action level event  
46 under subdivisions (1) to (3) of subsection 1 of section  
47 375.1257, the director shall take the actions required  
48 pursuant to section 375.1255;

49           (3) In the event of a regulatory action level event  
50 under subdivisions (4) to (9) of subsection 1 of section  
51 375.1257 or an authorized control level event, the director  
52 shall take the actions required under section 375.1257 with  
53 respect to the health organization;

54           (4) In the event of a mandatory control level event  
55 with respect to a health organization, the director shall  
56 take the actions required under section 375.1260 with  
57 respect to the health organization.

58           [4. The actions required under sections 375.1255 to  
59 375.1262 or this section shall not apply to any insurer  
60 operating under the provisions of sections 287.900 to  
61 287.920 which is under any order of supervision, including  
62 waivers of requirements for capital and surplus, issued or  
63 commenced by the director prior to August 28, 1996. This  
64 provision shall remain in effect until such order or  
65 proceeding expires or is otherwise terminated by further  
66 order of the director.]

379.316. 1. Section 379.017 and sections 379.316 to  
2 379.361 apply to insurance companies incorporated pursuant  
3 to sections 379.035 to 379.355, section 379.080, sections  
4 379.060 to 379.075, sections 379.085 to 379.095, sections  
5 379.205 to 379.310, and to insurance companies of a similar  
6 type incorporated pursuant to the laws of any other state of  
7 the United States, and alien insurers licensed to do  
8 business in this state, which transact fire and allied  
9 lines, marine and inland marine insurance, to any and all  
10 combinations of the foregoing or parts thereof, and to the  
11 combination of fire insurance with other types of insurance  
12 within one policy form at a single premium, on risks or  
13 operations in this state, except:

14 (1) Reinsurance, other than joint reinsurance to the  
15 extent stated in section 379.331;

16 (2) Insurance of vessels or craft, their cargoes,  
17 marine builders' risks, marine protection and indemnity, or  
18 other risks commonly insured pursuant to marine, as  
19 distinguished from inland marine, insurance policies;

20 (3) Insurance against loss **of** or damage to aircraft,  
21 **or against liability, other than employers' liability,**  
22 **arising out of the ownership, maintenance, or use of**  
23 **aircraft;**

24 (4) All forms of motor vehicle insurance; and

25 (5) All forms of life, accident and health, and  
26 workers' compensation insurance.

27 2. Inland marine insurance shall be deemed to include  
28 insurance now or hereafter defined by statute, or by  
29 interpretation thereof, or if not so defined or interpreted,  
30 by ruling of the director, or as established by general  
31 custom of the business, as inland marine insurance.



32           3. Commercial property and commercial casualty  
33 insurance policies are subject to rate and form filing  
34 requirements as provided in section 379.321.

          379.1850. 1. Sections 379.1850 to 379.1869 shall  
2 apply to insurers and insurance producers engaged in any  
3 transaction involving lender-placed insurance, as defined in  
4 section 379.1851.

          2. All lender-placed insurance written in connection  
6 with mortgaged real property, including manufactured homes  
7 and modular units, as defined in section 700.010, is subject  
8 to the provisions of sections 379.1850 to 379.1869, except:

          (1) Transactions involving extensions of credit  
10 primarily for business, commercial, or agricultural purposes;

          (2) Insurance offered by the lender or servicer and  
12 elected by the mortgagor at the mortgagor's option;

          (3) Insurance purchased by a lender or servicer on  
14 real estate owned property;

          (4) Insurance for which no specific charge is made to  
16 the mortgagor or the mortgagor's account.

          379.1851. As used in sections 379.1850 to 379.1869,  
2 the following terms shall mean:

          (1) "Affiliate", a person who directly, or indirectly  
4 through one or more intermediaries, controls, is controlled  
5 by, or is under common control with, the person specified;

          (2) "Individual lender-placed insurance", coverage for  
7 individual real property evidenced by a certificate of  
8 coverage under a master lender-placed insurance policy or a  
9 lender-placed insurance policy for individual real property;

          (3) "Insurance producer", a person or entity, or its  
11 affiliates, required to be licensed under the laws of this  
12 state to sell, solicit, or negotiate insurance;

13           (4) "Insurer", an insurance company, association, or  
14 exchange, or its affiliates, authorized to issue lender-  
15 placed insurance in this state;

16           (5) "Investor", a person or entity, or its affiliates,  
17 holding a beneficial interest in loans secured by real  
18 property;

19           (6) "Lapse", the moment in time in which a mortgagor  
20 has failed to secure or maintain valid or sufficient  
21 insurance upon mortgaged real property as required by a  
22 mortgage agreement;

23           (7) "Lender", a person or entity, or its affiliates,  
24 making loans secured by an interest in real property;

25           (8) "Lender-placed insurance", insurance obtained by a  
26 lender or servicer when a mortgagor does not maintain valid  
27 or sufficient insurance upon mortgaged real property as  
28 required by the terms of the mortgage agreement. Such term  
29 shall include insurance purchased unilaterally by the lender  
30 or servicer, who is the named insured, subsequent to the  
31 date of the credit transaction, providing coverage against  
32 loss, expense, or damage to collateralized property as a  
33 result of fire, theft, collision, or other risks of loss  
34 that would either impair a lender, servicer, or investor's  
35 interest, or adversely affect the value of collateral  
36 covered by limited dual interest insurance. Such term is  
37 limited to insurance purchased according to the terms of a  
38 mortgage agreement as a result of the mortgagor's failure to  
39 provide evidence of required insurance;

40           (9) "Loss ratio", the ratio of incurred losses to  
41 earned premium;

42           (10) "Master lender-placed policy", a group policy  
43 issued to a lender or servicer providing coverage for all  
44 loans in the lender or servicer's loan portfolio as needed;

45           (11) "Mortgage agreement", the written document that  
46 sets forth an obligation or liability of any kind secured by  
47 a lien on real property and due from, owing, or incurred by  
48 a mortgagor to a lender on account of a mortgage loan,  
49 including a security agreement, deed of trust, or any other  
50 document of similar effect, and any other documents  
51 incorporated by reference;

52           (12) "Mortgage loan", a loan, advance, guarantee, or  
53 other extension of credit from a lender to a mortgagor;

54           (13) "Mortgage transaction", a transaction by the  
55 terms of which the repayment of money loaned or payment of  
56 real property sold is to be made at a future date or dates;

57           (14) "Mortgagee", the person who holds mortgaged real  
58 property as security for repayment of a mortgage agreement;

59           (15) "Mortgagor", the person who is obligated on a  
60 mortgage loan pursuant to a mortgage agreement;

61           (16) "Person", an individual or entity;

62           (17) "Real estate owned property", property owned or  
63 held by a lender or servicer following foreclosure under the  
64 related mortgage agreement or the acceptance of a deed in  
65 lieu of foreclosure;

66           (18) "Replacement cost value" or "RCV", the estimated  
67 cost to replace covered property at the time of the loss or  
68 damage without deduction for depreciation. Replacement cost  
69 value is not market value, but it is instead the cost to  
70 replace covered property to its pre-loss condition, as best  
71 determined under section 379.1855;

72           (19) "Servicer", a person or entity, or its  
73 affiliates, contractually obligated to service one or more  
74 mortgage loans for a lender or investor. Such term shall  
75 include entities involved in subservicing arrangements.

379.1853. 1. Lender-placed insurance shall become  
2 effective no earlier than the date of lapse of insurance  
3 upon mortgaged real property subject to the terms of a  
4 mortgage agreement or any other state or federal law  
5 requiring the same.

6 2. Individual lender-placed insurance shall terminate  
7 on the earliest of the following dates:

8 (1) The date insurance that is acceptable under the  
9 mortgage agreement becomes effective, subject to the  
10 mortgagor providing sufficient evidence of such acceptable  
11 insurance;

12 (2) The date the applicable real property no longer  
13 serves as collateral for a mortgage loan pursuant to a  
14 mortgage agreement;

15 (3) Such other date as specified by the individual  
16 policy or certificate of insurance;

17 (4) Such other date as specified by the lender or  
18 servicer; or

19 (5) The termination date of the policy.

20 3. An insurance charge shall not be made to a  
21 mortgagor for lender-placed insurance for a term longer than  
22 the scheduled term of the lender-placed insurance, nor shall  
23 an insurance charge be made to the mortgagor for lender-  
24 placed insurance before the effective date of the lender-  
25 placed insurance.

379.1855. 1. Any lender-placed insurance coverage,  
2 and subsequent calculation of premium, should be based upon  
3 the replacement cost value of the property. Replacement  
4 cost value of the property shall be determined as follows:

5 (1) The dwelling coverage amount set forth in the most  
6 recent evidence of insurance coverage provided by the

7 mortgagee ("last known coverage amount" or "LKCA"), if known  
8 to the lender or servicer;

9 (2) The insurer shall inquire of the insured at least  
10 once as to the LKCA, and if it is not able to obtain the  
11 LKCA from the insured or in another manner, the replacement  
12 cost value may be determined as set forth in subdivision (3)  
13 or (4) of this subsection;

14 (3) If the LKCA is unknown and cannot be obtained from  
15 the insured or in another manner, the replacement cost of  
16 the property serving as collateral as calculated by the  
17 insurer, unless the use of replacement cost for this purpose  
18 is prohibited by other law;

19 (4) If the LKCA is unknown and cannot be obtained from  
20 the insured or in another manner, and the replacement cost  
21 is not available or its use is prohibited, the unpaid  
22 principal balance of the mortgage loan.

23 2. In the event of a covered loss, any replacement  
24 cost coverage provided by an insurer in excess of the unpaid  
25 principal balance of the mortgage loan shall be paid to the  
26 mortgagor.

27 3. No insurer shall write lender-placed insurance for  
28 which the premium rate differs from that determined by the  
29 schedules of the insurer on file with the department of  
30 commerce and insurance as of the effective date of the  
31 policy.

379.1857. 1. No insurer or insurance producer shall  
2 issue lender-placed insurance on mortgaged property if the  
3 insurer or insurance producer, or an affiliate of the  
4 insurer or insurance producer, owns, performs the servicing  
5 for, or owns the servicing right to, the mortgaged property.

6 2. No insurer or insurance producer shall compensate a  
7 lender, insurer, investor, or servicer, including through

8 the payment of commissions, for lender-placed insurance  
9 policies issued by the insurer.

10 3. No insurer or insurance producer shall share lender-  
11 placed insurance premium or risk with the lender, investor,  
12 or servicer that obtained the lender-placed insurance.

13 4. No insurer or insurance producer shall offer  
14 contingent commissions, profit sharing, or other payments  
15 dependent on profitability or loss ratios to any person  
16 affiliated with a servicer or the insurer in connection with  
17 lender-placed insurance.

18 5. No insurer shall provide free or below-cost  
19 outsourced services to lenders, investors, or servicers, and  
20 no insurer shall outsource its own functions to lenders,  
21 insurance producers, investors, or servicers on an above-  
22 cost basis.

23 6. No insurer or insurance producer shall make any  
24 payments, including, but not limited to, the payment of  
25 expenses to a lender, insurer, investor, or servicer, for  
26 the purpose of securing lender-placed insurance business or  
27 related outsourced services.

379.1859. Nothing in sections 379.1850 to 379.1869  
2 shall be construed to allow an insurance producer or an  
3 insurer solely underwriting lender-placed insurance to  
4 circumvent the requirements set forth within those  
5 sections. Any part of any requirements, limitations, or  
6 exclusions provided in sections 379.1850 to 379.1869 shall  
7 apply in any part to any insurer or insurance producer  
8 involved in lender-placed insurance.

379.1861. Lender-placed insurance shall be set forth  
2 in an individual policy or certificate of insurance. A copy  
3 of the individual policy, certificate of insurance, or other  
4 evidence of insurance coverage shall be mailed, first class

5 mailed, or delivered in person to the last known address of  
6 the mortgagor, or delivered in accordance with sections  
7 432.200 to 432.295. In addition to any information  
8 otherwise required by law, the individual policy or  
9 certificate of insurance coverage shall include the  
10 following information:

- 11 (1) The address and identification of the insured  
12 property;
- 13 (2) The coverage amount, or amounts if multiple  
14 coverages are provided;
- 15 (3) The effective date of the coverage;
- 16 (4) The term of coverage;
- 17 (5) The premium charge for the coverage;
- 18 (6) Contact information for filing a claim; and
- 19 (7) A complete description of the coverage provided.

379.1863. 1. All policy forms and certificates of  
2 insurance to be delivered or issued for delivery in this  
3 state, and the schedules of premium rates pertaining  
4 thereto, shall be filed with the department of commerce and  
5 insurance.

6 2. The department of commerce and insurance shall  
7 review the rates to determine whether the rates are  
8 excessive, inadequate, or unfairly discriminatory. This  
9 analysis shall include a determination as to whether  
10 expenses included by the insurer in the rate are appropriate.

11 3. All insurers shall re-file lender-placed insurance  
12 rates at least once every four years.

13 4. All insurers writing lender-placed insurance shall  
14 have separate rates for lender-placed insurance and  
15 voluntary insurance obtained by a mortgage servicer on real  
16 estate owned property.

17           5. Upon the introduction of a new lender-placed  
18 insurance program, the insurer shall reference its  
19 experience in existing programs in the associated filings.  
20 Nothing in sections 379.1850 to 379.1869 shall limit an  
21 insurer's discretion, as actuarially appropriate, to  
22 distinguish different terms, conditions, exclusions,  
23 eligibility criteria, or other unique or different  
24 characteristics. Moreover, an insurer may, where  
25 actuarially acceptable, rely upon models or, in the case of  
26 flood filings where applicable experience is not credible,  
27 on Federal Emergency Management Agency National Flood  
28 Insurance Program data.

29           6. (1) No later than April first of each year, each  
30 insurer with at least one hundred thousand dollars in direct  
31 written premium for lender-placed insurance in this state  
32 during the prior calendar year shall report to the  
33 department of commerce and insurance the following  
34 information for the prior calendar year:

- 35           (a) Actual loss ratio;  
36           (b) Earned premium;  
37           (c) Any aggregate schedule rating debit or credit to  
38 earned premium;  
39           (d) Itemized expenses;  
40           (e) Paid losses;  
41           (f) Loss reserves, including case reserves and  
42 reserves for incurred but not reported losses.

43           (2) The report under subdivision (1) of this  
44 subsection shall be separately produced for each lender-  
45 placed program and presented on both an individual-  
46 jurisdiction and countrywide basis.

47           7. If an insurer experiences an annual loss ratio of  
48 less than thirty five percent in any lender-placed program



49 for two consecutive years, it shall submit a rate filing,  
50 either adjusting its rates or supporting their continuance,  
51 to the department of commerce and insurance no more than  
52 ninety days after the submission of the data required in  
53 subsection 6 of this section. This subsection shall not  
54 apply with regard to lender-placed flood insurance.

55 8. Except as otherwise specifically set forth in this  
56 section, rates and forms shall be filed as required under  
57 the insurance laws of this state.

379.1865. 1. (1) The director of the department of  
2 commerce and insurance shall have authority to enforce the  
3 provisions of sections 379.1850 to 379.1869 as specified in  
4 chapter 374.

5 (2) A final order of the director enforcing sections  
6 379.1850 to 379.1869 shall be subject to judicial review in  
7 accordance with the provisions of chapter 536 in the circuit  
8 court of Cole County.

9 (3) No order of the director enforcing sections  
10 379.1850 to 379.1869 or order of a court to enforce the same  
11 shall in any way relieve or absolve any person affected by  
12 such order from any liability under any other laws of this  
13 state.

14 2. Nothing in sections 379.1850 to 379.1869 shall be  
15 construed to create or imply a private cause of action for  
16 violations of sections 379.1850 to 379.1869.

17 3. Nothing in sections 379.1850 to 379.1869 shall be  
18 construed to extinguish any mortgagor rights otherwise  
19 available under state, federal, or common law.

379.1867. An insurer that violates an order of the  
2 director while the order is in effect may, after notice and  
3 hearing and upon order of the director, be subject at the

4 discretion of the director to either or both of the  
5 following:

6 (1) Payment of a monetary penalty of not more than one  
7 thousand dollars per violation, not to exceed an aggregate  
8 penalty of one hundred thousand dollars, unless the  
9 violation was committed flagrantly in a conscious disregard  
10 of sections 379.1850 to 379.1869, in which case the penalty  
11 shall not be more than twenty-five thousand dollars for each  
12 violation, not to exceed an aggregate penalty of two hundred  
13 fifty thousand dollars; or

14 (2) Suspension or revocation of the insurer's license.

379.1869. The department of commerce and insurance may  
2 promulgate rules as necessary for the implementation of  
3 sections 379.1850 to 379.1869. Any rule or portion of a  
4 rule, as that term is defined in section 536.010, that is  
5 created under the authority delegated in this section shall  
6 become effective only if it complies with and is subject to  
7 all of the provisions of chapter 536 and, if applicable,  
8 section 536.028. This section and chapter 536 are  
9 nonseverable and if any of the powers vested with the  
10 general assembly pursuant to chapter 536 to review, to delay  
11 the effective date, or to disapprove and annul a rule are  
12 subsequently held unconstitutional, then the grant of  
13 rulemaking authority and any rule proposed or adopted after  
14 August 28, 2023, shall be invalid and void.

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

5 (1) The name and address of the credit services  
6 organization; and

7           (2) The name and address of any person who directly or  
8 indirectly owns or controls ten percent or more of the  
9 outstanding shares of stock in the credit services  
10 organization.

11           2. The registration statement must also contain either:

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

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

20           3. The credit services organization shall update the  
21 statement not later than the ninetieth day after the date on  
22 which a change in the information required in the statement  
23 occurs.

24           4. Each credit services organization registering under  
25 this section shall maintain a copy of the registration  
26 statement in the office of the credit services  
27 organization. The credit services organization shall allow  
28 a buyer to inspect the registration statement on request.

29           5. The director of finance may charge each credit  
30 services organization that files a registration statement  
31 with the director of finance a reasonable fee not to exceed  
32 **[three] four** hundred dollars to cover the cost of filing.  
33 The director of finance may not require a credit services  
34 organization to provide information other than that provided  
35 in the registration statement as part of the registration  
36 process.

408.145. 1. To encourage competitive equality,  
2 lenders issuing credit cards in this state pursuant to the

3 authority of section 408.100 or 408.200[, ] may [in addition  
4 to lawful interest, contract for, charge and collect fees  
5 for] **issue** such credit cards [which] **under such terms and**  
6 **conditions that** any lender in any contiguous state is  
7 permitted to [charge] **utilize** for credit cards issued in  
8 such contiguous state by such state's statutes. State-  
9 chartered lenders [charging such fees] **issuing credit cards**  
10 in reliance on this subsection shall file a copy of the  
11 pertinent statutes of one contiguous state authorizing  
12 credit card [fees] **terms and conditions** with the director of  
13 finance or such lender's principal state regulator. The  
14 director of finance or other principal state regulator  
15 shall, within thirty days after receipt of the filing,  
16 approve or disapprove of such [fees] **terms and conditions** on  
17 the sole basis of whether the statutes of such contiguous  
18 state permit such [fees,] **terms and conditions** and without  
19 regard to the restrictions placed upon credit cards by  
20 subsection 2 of this section. When the lender is chartered  
21 by the federal government, or any agency thereunder, or is  
22 unregulated, such lender shall file with and be approved by  
23 the Missouri attorney general under the same provision as  
24 provided a state-chartered lender.

25 2. "Credit card" as used in this section shall mean a  
26 credit device defined as such in the federal Consumer Credit  
27 Protection Act and regulations thereunder, except:

28 (1) The term shall be limited to credit devices which  
29 permit the holder to purchase goods and service upon  
30 presentation to third parties whether or not the credit card  
31 also permits the holder to obtain loans of any other type;  
32 and

33 (2) Such credit device shall only provide credit which  
34 is not secured by real or personal property.

35           3. "Lender" as used in this section shall mean any  
36 category of depository or nondepository creditor.  
37 Notwithstanding the provisions of [section 408.140] **sections**  
38 **408.100 to 408.190 to the contrary**, the lender shall declare  
39 on each credit card contract whether the credit card [fees  
40 are governed by section 408.140, or by] **is issued pursuant**  
41 **to** this section.

          408.500. 1. Lenders, other than banks, trust  
2 companies, credit unions, savings banks and savings and loan  
3 companies, in the business of making unsecured loans of five  
4 hundred dollars or less shall obtain a license from the  
5 director of the division of finance. An annual license fee  
6 of [five] **six** hundred dollars per location shall be  
7 required. The license year shall commence on January first  
8 each year and the license fee may be prorated for expired  
9 months. The director may establish a biennial licensing  
10 arrangement but in no case shall the fees be payable for  
11 more than one year at a time. The provisions of this  
12 section shall not apply to pawnbroker loans, consumer credit  
13 loans as authorized under chapter 367, nor to a check  
14 accepted and deposited or cashed by the payee business on  
15 the same or the following business day. The disclosures  
16 required by the federal Truth in Lending Act and regulation  
17 Z shall be provided on any loan, renewal or extension made  
18 pursuant to this section and the loan, renewal or extension  
19 documents shall be signed by the borrower.

20           2. Entities making loans pursuant to this section  
21 shall contract for and receive simple interest and fees in  
22 accordance with sections 408.100 and 408.140. Any contract  
23 evidencing any fee or charge of any kind whatsoever, except  
24 for bona fide clerical errors, in violation of this section  
25 shall be void. Any person, firm or corporation who receives

26 or imposes a fee or charge in violation of this section  
27 shall be guilty of a class A misdemeanor.

28 3. Notwithstanding any other law to the contrary, cost  
29 of collection expenses, which include court costs and  
30 reasonable attorneys fees, awarded by the court in suit to  
31 recover on a bad check or breach of contract shall not be  
32 considered as a fee or charge for purposes of this section.

33 4. Lenders licensed pursuant to this section shall  
34 conspicuously post in the lobby of the office, in at least  
35 fourteen-point bold type, the maximum annual percentage  
36 rates such licensee is currently charging and the statement:

37 NOTICE:

38 This lender offers short-term loans. Please  
39 read and understand the terms of the loan  
40 agreement before signing.

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

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

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

52 6. The lender shall renew the loan upon the borrower's  
53 written request and the payment of any interest and fees due  
54 at the time of such renewal; however, upon the first renewal  
55 of the loan agreement, and each subsequent renewal  
56 thereafter, the borrower shall reduce the principal amount  
57 of the loan by not less than five percent of the original

58 amount of the loan until such loan is paid in full.

59 However, no loan may be renewed more than six times.

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

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

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

77 10. Whenever it shall appear to the director that any  
78 lender licensed pursuant to this section is failing,  
79 refusing or neglecting to make a good faith effort to comply  
80 with the provisions of this section, or any laws relating to  
81 consumer loans, the director may issue an order to cease and  
82 desist which order may be enforceable by a civil penalty of  
83 not more than one thousand dollars per day for each day that  
84 the neglect, failure or refusal shall continue. The penalty  
85 shall be assessed and collected by the director. In  
86 determining the amount of the penalty, the director shall  
87 take into account the appropriateness of the penalty with  
88 respect to the gravity of the violation, the history of

89 previous violations, and such other matters as justice may  
90 require.

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

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

5 (1) "Account":

6 (a) Includes:

7 a. A right to payment of a monetary obligation,  
8 whether or not earned by performance, for one of the  
9 following:

10 (i) Property that has been or is to be sold, leased,  
11 licensed, assigned, or otherwise disposed of;

12 (ii) Services rendered or to be rendered;

13 (iii) A policy of insurance issued or to be issued;

14 (iv) A secondary obligation incurred or to be incurred;

15 (v) Energy provided or to be provided;

16 (vi) The use or hire of a vessel under a charter or  
17 other contract;

18 (vii) Arising out of the use of a credit or charge  
19 card or information contained on or for use with the card; or

20 (viii) As winnings in a lottery or other game of  
21 chance operated or sponsored by a state, governmental unit  
22 of a state, or person licensed or authorized to operate the  
23 game by a state or governmental unit of a state; and

24 b. Health care insurance receivables; and

25 (b) Shall not include:

26 a. Rights to payment evidenced by chattel paper or an  
27 instrument;

28 b. Commercial tort claims;

29 c. Deposit accounts;

30 d. Investment property;



31 e. Letter-of-credit rights or letters of credit; or  
32 f. Rights to payment for moneys or funds advanced or  
33 sold, other than rights arising out of the use of a credit  
34 or charge card or information contained on or for use with  
35 the card;

36 (2) "Accounts receivable purchase transaction", any  
37 transaction in which the business forwards or otherwise  
38 sells to the provider all or a portion of the business's  
39 accounts or payment intangibles at a discount to their  
40 expected value. For purposes of this section, the  
41 provider's characterization of an accounts receivable  
42 purchase transaction as a purchase is conclusive that the  
43 accounts receivable purchase transaction is not a loan or a  
44 transaction for the use, forbearance, or detention of moneys;

45 (3) "Broker", any person who, for compensation or the  
46 expectation of compensation, obtains a commercial financing  
47 product or an offer for a commercial financing product from  
48 a third party that would, if executed, be binding upon that  
49 third party and communicates that offer to a business  
50 located in this state. The term "broker" excludes a  
51 "provider", or any individual or entity whose compensation  
52 is not based or dependent upon the terms of the specific  
53 commercial financing product obtained or offered;

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

58 (5) "Business purpose transaction", any transaction  
59 where the proceeds are provided to a business or are  
60 intended to be used to carry on a business and not for  
61 personal, family, or household purposes. For purposes of  
62 determining whether a transaction is a business purpose

63 transaction, the provider may rely on any written statement  
64 of intended purpose signed by the business. The statement  
65 may be a separate statement or may be contained in an  
66 application, agreement, or other document signed by the  
67 business or the business owner or owners;

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

72 (7) "Commercial loan", a loan to a business, whether  
73 secured or unsecured;

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

76 (a) The provider reasonably contemplates repeat  
77 transactions; and

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

82 (9) "Depository institution", any of the following:

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

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

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

95           (10) "General intangible", any personal property,  
96 including things in action, other than accounts, chattel  
97 paper, commercial tort claims, deposit accounts, documents,  
98 goods, instruments, investment property, letter-of-credit  
99 rights, letters of credit, moneys, and oil, gas, or other  
100 minerals before extraction. "General intangible" also  
101 includes payment intangibles and software;

102           (11) "Payment intangible", a general intangible under  
103 which the account debtor's principal obligation is a  
104 monetary obligation;

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

117           3. (1) A provider who consummates a commercial  
118 financing product shall disclose the terms of the commercial  
119 financing product as required by this section. The  
120 disclosures shall be provided at or before consummation of  
121 the transaction. Only one disclosure is required for each  
122 commercial financing product, and a disclosure is not  
123 required as a result of the modification, forbearance, or  
124 change to a consummated commercial financing product.

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

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

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

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

140           (d) The total dollar cost of the commercial financing  
141 product under the terms of the agreement, derived by  
142 subtracting the total amount of funds provided from the  
143 total of payments. This calculation shall include any fees  
144 or charges deducted by the provider from the "Total Amount  
145 of Funds Provided". This disclosure shall be labeled "Total  
146 Dollar Cost of Financing";

147           (e) The manner, frequency, and amount of each  
148 payment. This disclosure shall be labeled "Payments". If  
149 the payments may vary, the provider shall instead disclose  
150 the manner, frequency, and the estimated amount of the  
151 initial payment labeled "Estimated Payments", and the  
152 commercial financing product agreement shall include a  
153 description of the methodology for calculating any variable  
154 payment and the circumstances when payments may vary; and

155           (f) A statement of whether there are any costs or  
156 discounts associated with prepayment of the commercial  
157 financing product, including a reference to the paragraph in  
158 the agreement that creates the contractual rights of the

159 parties related to prepayment. This disclosure shall be  
160 labeled "Prepayment".

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

162 (1) A provider that is a depository institution or a  
163 subsidiary or service corporation that is:

164 (a) Owned and controlled by a depository institution;  
165 and

166 (b) Regulated by a federal banking agency;

167 (2) A provider that is a lender regulated under the  
168 federal Farm Credit Act, 12 U.S.C. Sec. 2001 et seq.;

169 (3) A commercial financing product that is:

170 (a) Secured by real property;

171 (b) A lease; or

172 (c) A purchase-money obligation that is incurred as  
173 all or part of the price of the collateral or for value  
174 given to enable the business to acquire rights in or the use  
175 of the collateral if the value is in fact so used;

176 (4) A commercial financing product in which the  
177 recipient is a motor vehicle dealer or an affiliate of such  
178 a dealer, or a vehicle rental company, or an affiliate of  
179 such a company, pursuant to a commercial loan or commercial  
180 open-end credit plan of at least fifty thousand dollars or a  
181 commercial financing product offered by a person in  
182 connection with the sale or lease of products or services  
183 that such person manufactures, licenses, or distributes, or  
184 whose parent company or any of its directly or indirectly  
185 owned and controlled subsidiaries manufactures, licenses, or  
186 distributes;

187 (5) A commercial financing product that is a factoring  
188 transaction, purchase, sale, advance, or similar of accounts  
189 receivables owed to a health care provider because of a

190 patient's personal injury treated by the health care  
191 provider;

192 (6) A provider who is licensed as a money transmitter  
193 in accordance with a license, certificate, or charter issued  
194 by this state, or any other state, district, territory, or  
195 commonwealth of the United States; or

196 (7) A provider who consummates no more than five  
197 commercial financing products in this state in a twelve-  
198 month period.

199 5. (1) No person shall engage in business as a broker  
200 for commercial financing within this state, for  
201 compensation, unless prior to conducting such business, the  
202 person has filed a registration with the division of finance  
203 within the department of commerce and insurance and has on  
204 file a good and sufficient bond as specified in this  
205 subsection. The registration shall be effective upon  
206 receipt by the division of finance of a completed  
207 registration form and the required registration fee, and  
208 shall remain effective until the time of renewal.

209 (2) After filing an initial registration form, a  
210 broker shall file, on or before January thirty-first of each  
211 year, a renewal registration form along with the required  
212 renewal registration fee.

213 (3) The broker shall pay a one-hundred-dollar  
214 registration fee upon the filing of an initial registration  
215 and a fifty-dollar renewal fee upon the filing of a renewal  
216 registration.

217 (4) The registration form required by this subsection  
218 shall include:

219 (a) The name of the broker;

220           (b) The name in which the broker is transacted if  
221 different from that stated in paragraph (a) of this  
222 subdivision;

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

225           (d) Whether any officer, director, manager, operator,  
226 or principal of the broker has been convicted of a felony  
227 involving an act of fraud, dishonesty, breach of trust, or  
228 money laundering; and

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

231           (5) If information in a registration form changes or  
232 otherwise becomes inaccurate after filing, the broker shall  
233 not be required to file a further registration form prior to  
234 the time of renewal.

235           (6) Each broker shall obtain a surety bond issued by a  
236 surety company authorized to do business in this state. The  
237 amount of the bond shall be ten thousand dollars. The bond  
238 shall be in favor of the state of Missouri. Any person  
239 damaged by the broker's breach of contract or of any  
240 obligation arising therefrom, or by any violation of this  
241 section, may bring an action against the bond to recover  
242 damages suffered. The aggregate liability of the surety  
243 shall be only for actual damages and in no event shall  
244 exceed the amount of the bond.

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

249           6. (1) Any person who violates any provision of this  
250 section shall be punished by a fine of five hundred dollars  
251 per incident, not to exceed twenty thousand dollars for all

252 aggregated violations arising from the use of the  
253 transaction documentation or materials found to be in  
254 violation of this section. Any person who violates any  
255 provision of this section after receiving written notice of  
256 a prior violation from the attorney general shall be  
257 punished by a fine of one thousand dollars per incident, not  
258 to exceed fifty thousand dollars for all aggregated  
259 violations arising from the use of the transaction  
260 documentation or materials found to be in violation of this  
261 section.

262 (2) Violation of any provision of this section shall  
263 not affect the enforceability or validity of the underlying  
264 agreement.

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

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

270 7. The requirements of subsections 3 and 5 of this  
271 section shall take effect upon the earlier of:

272 (1) Six months after the division of finance finalizes  
273 promulgating rules, if the division intends to promulgate  
274 rules; or

275 (2) February 28, 2024, if the division does not  
276 promulgate rules.

277 8. The division of finance may promulgate rules  
278 implementing this section. If the division of finance  
279 intends to promulgate rules, it shall declare its intent to  
280 do so no later than February 28, 2024. Any rule or portion  
281 of a rule, as that term is defined in section 536.010, that  
282 is created under the authority delegated in this section  
283 shall become effective only if it complies with and is



284 subject to all of the provisions of chapter 536 and, if  
285 applicable, section 536.028. This section and chapter 536  
286 are nonseverable and if any of the powers vested with the  
287 general assembly pursuant to chapter 536 to review, to delay  
288 the effective date, or to disapprove and annul a rule are  
289 subsequently held unconstitutional, then the grant of  
290 rulemaking authority and any rule proposed or adopted after  
291 August 28, 2023, shall be invalid and void.

2 [287.900. 1. Sections 287.900 to 287.920  
3 shall be known as the "Missouri Employers Mutual  
4 Insurance Company Act".

5 2. As used in sections 287.900 to 287.920,  
6 the following words mean:

7 (1) "Administrator", the chief executive  
8 officer of the Missouri employers mutual  
9 insurance company;

10 (2) "Board", the board of directors of the  
11 Missouri employers mutual insurance company;

12 (3) "Company", the Missouri employers  
13 mutual insurance company created in section  
287.902.]

2 [287.902. The "Missouri Employers Mutual  
3 Insurance Company" is created as an independent  
4 public corporation for the purpose of insuring  
5 Missouri employers against liability for  
6 workers' compensation, occupational disease and  
7 employers' liability coverage. The company  
8 shall be organized and operated as a domestic  
9 mutual insurance company and it shall not be a  
10 state agency. The company shall have the powers  
11 granted a general not-for-profit corporation  
12 pursuant to section 355.090 to the extent the  
13 provisions of such section do not conflict with  
14 the provisions of sections 287.900 to 287.920.  
15 The company shall be a member of the Missouri  
16 property and casualty guaranty association,  
17 sections 375.771 to 375.779, and as such will be  
18 subject to assessments therefrom, and the  
19 members of such association shall bear  
20 responsibility in the event of the insolvency of  
21 the company. The company shall be established  
22 pursuant to the provisions of sections 287.900  
23 to 287.920. Preference shall be given to  
24 Missouri employers that develop an annual  
25 premium of not greater than ten thousand  
26 dollars. The company shall use flexibility and  
27 experimentation in the development of types of  
28 policies and coverages offered to employers,  
29 subject to the approval of the director of the  
department of commerce and insurance.]

2 [287.905. 1. There is created a board of  
3 directors for the company. The board shall be  
4 appointed by January 1, 1994, and shall consist  
5 of five members appointed or selected as  
6 provided in this section. The governor shall  
7 appoint the initial five members of the board  
8 with the advice and consent of the senate. Each  
9 director shall serve a five-year term. Terms  
10 shall be staggered so that no more than one  
11 director's term expires each year on the first  
12 day of July. The five directors initially  
13 appointed by the governor shall determine their  
14 initial terms by lot. At the expiration of the  
15 term of any member of the board, the company's  
16 policyholders shall elect a new director in  
17 accordance with provisions determined by the  
18 board.]

18 2. Any person may be a director who:

19 (1) Does not have any interest as a  
20 stockholder, employee, attorney, agent, broker  
21 or contractor of an insurance entity who writes  
22 workers' compensation insurance or whose  
23 affiliates write workers' compensation  
24 insurance; and

25 (2) Is of good moral character and who has  
26 never pleaded guilty to, or been found guilty  
27 of, a felony.]

28 3. The board shall annually elect a  
29 chairman and any other officers it deems  
30 necessary for the performance of its duties.  
31 Board committees and subcommittees may also be  
32 formed.]

2 [287.907. 1. By March 1, 1994, the board  
3 shall hire an administrator who shall serve at  
4 the pleasure of the board and the company shall  
5 be fully prepared to be operational by March 1,  
6 1995, and assume its responsibilities pursuant  
7 to sections 287.900 to 287.920. The  
8 administrator shall receive compensation as  
9 established by the board and must have proven  
10 successful experience as an executive at the  
11 general management level in the insurance  
12 business.]

12 2. The board is vested with full power,  
13 authority and jurisdiction over the company.  
14 The board may perform all acts necessary or  
15 convenient in the administration of the company  
16 or in connection with the insurance business to  
17 be carried on by the company. In this regard,  
18 the board is empowered to function in all  
19 aspects as a governing body of a private  
20 insurance carrier.]

2 [287.909. 1. The administrator of the  
3 company shall act as the company's chief  
4 executive officer. The administrator shall be

4 in charge of the day-to-day operations and  
5 management of the company.

6 2. Before entering the duties of office,  
7 the administrator shall give an official bond in  
8 an amount and with sureties approved by the  
9 board. The premium for the bond shall be paid  
10 by the company.

11 3. The administrator or his designee shall  
12 be the custodian of the moneys of the company  
13 and all premiums, deposits or other moneys paid  
14 thereto shall be deposited with a financial  
15 institution as designated by the administrator.

16 4. No board member, officer or employee of  
17 the company is liable in a private capacity for  
18 any act performed or obligation entered into  
19 when done in good faith, without intent to  
20 defraud, and in an official capacity in  
21 connection with the administration, management  
22 or conduct of the company or affairs relating to  
23 it.]

2 [287.910. The board shall have full power  
3 and authority to establish rates to be charged  
4 by the company for insurance. The board shall  
5 contract for the services of or hire an  
6 independent actuary, a member in good standing  
7 with the American Academy of Actuaries, to  
8 develop and recommend actuarially sound rates.  
9 Rates shall be set at amounts sufficient, when  
10 invested, to carry all claims to maturity, meet  
11 the reasonable expenses of conducting the  
12 business of the company and maintain a  
13 reasonable surplus. The company shall conduct a  
14 workers' compensation program that shall be  
neither more nor less than self-supporting.]

2 [287.912. The board shall formulate and  
3 adopt an investment policy and supervise the  
4 investment activities of the company. The  
5 administrator may invest and reinvest the  
6 surplus or reserves of the company subject to  
7 the limitations imposed on domestic insurance  
8 companies by state law. The company may retain  
9 an independent investment counsel. The board  
10 shall periodically review and appraise the  
11 investment strategy being followed and the  
12 effectiveness of such services. Any investment  
13 counsel retained or hired shall periodically  
14 report to the board on investment results and  
related matters.]

2 [287.915. Any insurance agent or broker  
3 licensed to sell workers' compensation insurance  
4 in this state shall be authorized to sell  
5 insurance policies for the company in compliance  
6 with the bylaws adopted by the company. The  
7 board shall establish a schedule of commissions  
to pay for the services of the agent.]

2 [287.917. 1. The administrator shall  
3 formulate, implement and monitor a workplace  
4 safety program for all policyholders.

5 2. The company shall have representatives  
6 whose sole purpose is to develop, with  
7 policyholders, a written workplace accident and  
8 injury reduction plan that promotes safe working  
9 conditions and which is based upon clearly  
10 stated goals and objectives. Company  
11 representatives shall have reasonable access to  
12 the premises of any policyholder or applicant  
13 during regular working hours. The company shall  
14 communicate the importance of a well-defined  
15 safety plan and assist in any way to obtain this  
16 objective.

17 3. The administrator or board may refuse  
18 to insure, or may terminate the insurance of any  
19 subscriber who refuses to permit on-site  
20 examinations or disregards the workplace  
21 accident and injury reduction plan.

22 4. Upon the completion of a detailed  
23 inspection and recognition of a high regard for  
24 employee work safety, a deviation may be applied  
25 to the rate structure of that insured noting  
special recognition of those efforts.]

2 [287.919. 1. The Missouri employers  
3 mutual insurance company shall not receive any  
4 state appropriation, directly or indirectly,  
5 except as provided in section 287.690.

6 2. In order to provide funds for the  
7 creation, continued development and operation of  
8 the company, the board is authorized to issue  
9 revenue bonds from time to time, in a principal  
10 amount outstanding not to exceed forty million  
11 dollars at any given time, payable solely from  
12 premiums received from insurance policies and  
13 other revenues generated by the company.

14 3. The board may issue bonds to refund  
15 other bonds issued pursuant to this section.

16 4. The bonds shall have a maturity of no  
17 more than ten years from the date of issuance.  
18 The board shall determine all other terms,  
19 covenants and conditions of the bonds, except  
20 that no bonds may be redeemed prior to maturity  
21 unless the company has established adequate  
22 reserves for the risks it has insured.

23 5. The bonds shall be executed with the  
24 manual or facsimile signature of the  
25 administrator or the chairman of the board and  
26 attested by another member of the board. The  
27 bonds may bear the seal, if any, of the company.

28 6. The proceeds of the bonds and the  
29 earnings on those proceeds shall be used by the  
30 board for the development and operation of the  
31 Missouri employers mutual insurance company, to  
pay expenses incurred in the preparation,

32 issuance and sale of the bonds and to pay any  
33 obligations relating to the bonds and the  
34 proceeds of the bonds under the United States  
35 Internal Revenue Code of 1986, as amended.

36 7. The bonds may be sold at a public sale  
37 or a private sale. If the bonds are sold at a  
38 public sale, the notice of sale and other  
39 procedures for the sale shall be determined by  
40 the administrator or the company.

41 8. This section is full authority for the  
42 issuance and sale of the bonds and the bonds  
43 shall not be invalid for any irregularity or  
44 defect in the proceedings for their issuance and  
45 sale and shall be incontestable in the hands of  
46 bona fide purchasers or holders of the bonds for  
47 value.

48 9. An amount of money from the sources  
49 specified in subsection 2 of this section  
50 sufficient to pay the principal of and any  
51 interest on the bonds as they become due each  
52 year shall be set aside and is hereby pledged  
53 for the payment of the principal and interest on  
54 the bonds.

55 10. The bonds shall be legal investments  
56 for any person or board charged with the  
57 investment of public funds and may be accepted  
58 as security for any deposit of public money, and  
59 the bonds and interest thereon are exempt from  
60 taxation by the state and any political  
61 subdivision or agency of the state.

62 11. The bonds shall be payable by the  
63 company, which shall keep a complete record  
64 relating to the payment of the bonds.

65 12. Not more than fifty percent of the  
66 bonds sold shall be sold to public entities.]

2 [287.920. 1. The board shall cause an  
3 annual audit of the books of accounts, funds and  
4 securities of the company to be made by a  
5 competent and independent firm of certified  
6 public accountants, the cost of the audit to be  
7 charged against the company. A copy of the  
8 audit report shall be filed with the director of  
9 the department of commerce and insurance and the  
10 administrator. The audit shall be open to the  
11 public for inspection.

12 2. The board shall submit an annual  
13 independently audited report in accordance with  
14 procedures governing annual reports adopted by  
15 the National Association of Insurance  
16 Commissioners by March first of each year and  
17 the report shall be delivered to the governor  
18 and the general assembly and shall indicate the  
19 business done by the company during the previous  
20 year and contain a statement of the resources  
and liabilities of the company.

21 3. The administrator shall annually submit  
22 to the board for its approval an estimated  
23 budget of the entire expense of administering  
24 the company for the succeeding calendar year  
25 having due regard to the business interests and  
26 contract obligations of the company.

27 4. The incurred loss experience and  
28 expense of the company shall be ascertained each  
29 year to include but not be limited to estimates  
30 of outstanding liabilities for claims reported  
31 to the company but not yet paid and liabilities  
32 for claims arising from injuries which have  
33 occurred but have not yet been reported to the  
34 company. If there is an excess of assets over  
35 liabilities, necessary reserves and a reasonable  
36 surplus for the catastrophe hazard, then a cash  
37 dividend may be declared or a credit allowed to  
38 an employer who has been insured with the  
39 company in accordance with criteria approved by  
40 the board, which may account for the employer's  
41 safety record and performance.

42 5. The department of commerce and  
43 insurance shall conduct an examination of the  
44 company in the manner and under the conditions  
45 provided by the statutes of the insurance code  
46 for the examination of insurance carriers. The  
47 board shall pay the cost of the examination as  
48 an expense of the company. The company is  
49 subject to all provisions of the statutes which  
50 relate to private insurance carriers and to the  
51 jurisdiction of the department of commerce and  
52 insurance in the same manner as private  
53 insurance carriers, except as provided by the  
54 director.

55 6. For the purpose of ascertaining the  
56 correctness of the amount of payroll reported,  
57 the number of employees on the employer's  
58 payroll and for such other information as the  
59 administrator may require in the proper  
60 administration of the company, the records and  
61 payrolls of each employer insured by the company  
62 shall always be open to inspection by the  
63 administrator or his duly authorized agent or  
64 representative.

65 7. Every employer provided insurance  
66 coverage by the company, upon complying with the  
67 underwriting standards adopted by the company,  
68 and upon completing the application form  
69 prescribed by the company, shall be furnished  
70 with a policy showing the date on which the  
71 insurance becomes effective.]

Section B. The repeal of sections 287.900, 287.902,  
2 287.905, 287.907, 287.909, 287.910, 287.912, 287.915,  
3 287.917, 287.919, and 287.920 of this act and the repeal and

4 reenactment of sections 287.690 and 375.1275 of this act  
5 shall become effective on January 1, 2025.

✓