

SECOND REGULAR SESSION

HOUSE BILL NO. 1576

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASSON.

Read 1st time January 9, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3988L.01I

AN ACT

To repeal sections 43.543, 105.711, 135.520, 148.330, 209.285, 214.270, 256.453, 285.230, 320.082, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.265, 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.221, 334.123, 334.240, 334.400, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130, 339.120, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.366, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202, 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 381.410, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.105, 620.106, 620.111, 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140, 620.145, 620.146, 620.148, 620.149, 620.150, 620.151, 620.153, 620.154, and 620.1063, RSMo, and to enact in lieu thereof one hundred thirteen new sections relating to the reorganization of the department of insurance, financial institutions and professional registration in accordance with executive order 06-04, with penalty provisions.

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

Section A. Sections 43.543, 105.711, 135.520, 148.330, 209.285, 214.270, 256.453,
2 285.230, 320.082, 324.050, 324.128, 324.159, 324.200, 324.203, 324.240, 324.243, 324.400,
3 324.406, 324.475, 324.526, 325.010, 326.265, 327.051, 328.050, 329.025, 329.028, 329.210,
4 330.190, 331.100, 332.041, 332.327, 333.221, 334.123, 334.240, 334.400, 334.702, 334.735,

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

5 334.746, 334.800, 335.036, 336.160, 337.010, 337.090, 337.500, 337.600, 337.700, 338.130,
6 339.120, 339.507, 340.212, 345.035, 346.010, 354.305, 361.010, 361.092, 361.140, 361.160,
7 362.109, 362.332, 362.910, 367.500, 370.366, 374.045, 374.070, 374.075, 374.085, 374.115,
8 374.180, 374.202, 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 381.410,
9 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803, 620.010, 620.105, 620.106,
10 620.111, 620.120, 620.125, 620.127, 620.130, 620.132, 620.135, 620.140, 620.145, 620.146,
11 620.148, 620.149, 620.150, 620.151, 620.153, 620.154, and 620.1063, RSMo, are repealed and
12 one hundred thirteen new sections enacted in lieu thereof, to be known as sections 43.543,
13 105.711, 135.520, 148.330, 209.285, 214.270, 256.453, 285.230, 320.082, 324.001, 324.002,
14 324.016, 324.017, 324.021, 324.022, 324.024, 324.026, 324.028, 324.029, 324.031, 324.032,
15 324.034, 324.036, 324.038, 324.039, 324.041, 324.042, 324.043, 324.050, 324.128, 324.159,
16 324.200, 324.203, 324.240, 324.243, 324.400, 324.406, 324.475, 324.526, 325.010, 326.265,
17 327.051, 328.050, 329.025, 329.028, 329.210, 330.190, 331.100, 332.041, 332.327, 333.221,
18 334.123, 334.240, 334.400, 334.702, 334.735, 334.746, 334.800, 335.036, 336.160, 337.010,
19 337.090, 337.500, 337.600, 337.700, 338.130, 339.120, 339.507, 340.212, 345.035, 346.010,
20 354.305, 361.010, 361.092, 361.140, 361.160, 362.109, 362.332, 362.910, 367.500, 370.006,
21 370.366, 374.005, 374.007, 374.045, 374.070, 374.075, 374.085, 374.115, 374.180, 374.202,
22 374.217, 374.220, 374.250, 374.456, 375.001, 375.261, 375.923, 376.005, 377.005, 379.005,
23 380.005, 381.410, 383.005, 383.030, 407.020, 407.1085, 408.233, 408.570, 436.005, 443.803,
24 620.010, and 620.1063, to read as follows:

43.543. Any state agency listed in section 621.045, RSMo, the division of professional
2 registration of the department of [economic development] **insurance, financial institutions and**
3 **professional registration**, the department of social services, the supreme court of Missouri, the
4 state courts administrator, the department of elementary and secondary education, the Missouri
5 lottery, the Missouri gaming commission, or any state, municipal, or county agency which
6 screens persons seeking employment with such agencies or issuance or renewal of a license,
7 permit, certificate, or registration of authority from such agencies; or any state, municipal, or
8 county agency or committee, or state school of higher education which is authorized by state
9 statute or executive order, or local or county ordinance to screen applicants or candidates seeking
10 or considered for employment, assignment, contracting, or appointment to a position within state,
11 municipal, or county government; or the Missouri peace officers standards and training, POST,
12 commission which screens persons, not employed by a criminal justice agency, who seek
13 enrollment or access into a certified POST training academy police school, or persons seeking
14 a permit to purchase or possess a firearm for employment as a watchman, security personnel, or
15 private investigator; or law enforcement agencies which screen persons seeking issuance or
16 renewal of a license, permit, certificate, or registration to purchase or possess a firearm shall

17 submit two sets of fingerprints to the Missouri state highway patrol, Missouri criminal records
18 repository, for the purpose of checking the person's criminal history. The first set of fingerprints
19 shall be used to search the Missouri criminal records repository and the second set shall be
20 submitted to the Federal Bureau of Investigation to be used for searching the federal criminal
21 history files if necessary. The fingerprints shall be submitted on forms and in the manner
22 prescribed by the Missouri state highway patrol. Fees assessed for the searches shall be paid by
23 the applicant or in the manner prescribed by the Missouri state highway patrol. Notwithstanding
24 the provisions of section 610.120, RSMo, all records related to any criminal history information
25 discovered shall be accessible and available to the state, municipal, or county agency making the
26 record request.

105.711. 1. There is hereby created a "State Legal Expense Fund" which shall consist
2 of moneys appropriated to the fund by the general assembly and moneys otherwise credited to
3 such fund pursuant to section 105.716.

4 2. Moneys in the state legal expense fund shall be available for the payment of any claim
5 or any amount required by any final judgment rendered by a court of competent jurisdiction
6 against:

7 (1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or
8 536.087, RSMo, or section 537.600, RSMo;

9 (2) Any officer or employee of the state of Missouri or any agency of the state, including,
10 without limitation, elected officials, appointees, members of state boards or commissions, and
11 members of the Missouri national guard upon conduct of such officer or employee arising out
12 of and performed in connection with his or her official duties on behalf of the state, or any
13 agency of the state, provided that moneys in this fund shall not be available for payment of
14 claims made under chapter 287, RSMo;

15 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health
16 care provider licensed to practice in Missouri under the provisions of chapter **324**, 330, 332, 334,
17 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the
18 state, under formal contract to conduct disability reviews on behalf of the department of
19 elementary and secondary education or provide services to patients or inmates of state
20 correctional facilities on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist,
21 dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions
22 of chapter **324**, 330, 332, 334, 335, 336, 337, or 338, RSMo, who is under formal contract to
23 provide services to patients or inmates at a county jail on a part-time basis;

24 (b) Any physician licensed to practice medicine in Missouri under the provisions of
25 chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo,
26 who is employed by or under contract with a city or county health department organized under

27 chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city
28 charter, or a combined city-county health department to provide services to patients for medical
29 care caused by pregnancy, delivery, and child care, if such medical services are provided by the
30 physician pursuant to the contract without compensation or the physician is paid from no other
31 source than a governmental agency except for patient co-payments required by federal or state
32 law or local ordinance;

33 (c) Any physician licensed to practice medicine in Missouri under the provisions of
34 chapter 334, RSMo, who is employed by or under contract with a federally funded community
35 health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42
36 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery,
37 and child care, if such medical services are provided by the physician pursuant to the contract
38 or employment agreement without compensation or the physician is paid from no other source
39 than a governmental agency or such a federally funded community health center except for
40 patient co-payments required by federal or state law or local ordinance. In the case of any claim
41 or judgment that arises under this paragraph, the aggregate of payments from the state legal
42 expense fund shall be limited to a maximum of one million dollars for all claims arising out of
43 and judgments based upon the same act or acts alleged in a single cause against any such
44 physician, and shall not exceed one million dollars for any one claimant;

45 (d) Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and
46 receives no compensation from a nonprofit entity qualified as exempt from federal taxation under
47 Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health
48 screening in any setting or any physician, nurse, physician assistant, dental hygienist, dentist, or
49 other health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,
50 337, or 338, RSMo, who provides health care services within the scope of his or her license or
51 registration at a city or county health department organized under chapter 192, RSMo, or chapter
52 205, RSMo, a city health department operating under a city charter, or a combined city-county
53 health department, or a nonprofit community health center qualified as exempt from federal
54 taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such
55 services are restricted to primary care and preventive health services, provided that such services
56 shall not include the performance of an abortion, and if such health services are provided by the
57 health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337,
58 or 338, RSMo, without compensation. MO HealthNet or Medicare payments for primary care
59 and preventive health services provided by a health care professional licensed or registered under
60 chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, who volunteers at a free health clinic
61 is not compensation for the purpose of this section if the total payment is assigned to the free
62 health clinic. For the purposes of the section, "free health clinic" means a nonprofit community

63 health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal
64 Revenue Code of 1987, as amended, that provides primary care and preventive health services
65 to people without health insurance coverage for the services provided without charge. In the case
66 of any claim or judgment that arises under this paragraph, the aggregate of payments from the
67 state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all
68 claims arising out of and judgments based upon the same act or acts alleged in a single cause and
69 shall not exceed five hundred thousand dollars for any one claimant, and insurance policies
70 purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand
71 dollars. Liability or malpractice insurance obtained and maintained in force by or on behalf of
72 any health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,
73 337, or 338, RSMo, shall not be considered available to pay that portion of a judgment or claim
74 for which the state legal expense fund is liable under this paragraph;

75 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or
76 registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental
77 hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter
78 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license
79 or registration to students of a school whether a public, private, or parochial elementary or
80 secondary school, if such physician's treatment is restricted to primary care and preventive health
81 services and if such medical, dental, or nursing services are provided by the physician, dentist,
82 physician assistant, dental hygienist, or nurse without compensation. In the case of any claim
83 or judgment that arises under this paragraph, the aggregate of payments from the state legal
84 expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims
85 arising out of and judgments based upon the same act or acts alleged in a single cause and shall
86 not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased
87 pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars;
88 or

89 (f) Any physician licensed under chapter 334, RSMo, or dentist licensed under chapter
90 332, RSMo, providing medical care without compensation to an individual referred to his or her
91 care by a city or county health department organized under chapter 192 or 205, RSMo, a city
92 health department operating under a city charter, or a combined city-county health department,
93 or nonprofit health center qualified as exempt from federal taxation under Section 501(c)(3) of
94 the Internal Revenue Code of 1986, as amended, or a federally funded community health center
95 organized under Section 315, 329, 330, or 340 of the Public Health Services Act, 42 U.S.C.
96 Section 216, 254c; provided that such treatment shall not include the performance of an abortion.
97 In the case of any claim or judgment that arises under this paragraph, the aggregate of payments
98 from the state legal expense fund shall be limited to a maximum of one million dollars for all

99 claims arising out of and judgments based upon the same act or acts alleged in a single cause and
100 shall not exceed one million dollars for any one claimant, and insurance policies purchased under
101 the provisions of section 105.721 shall be limited to one million dollars. Liability or malpractice
102 insurance obtained and maintained in force by or on behalf of any physician licensed under
103 chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not be considered
104 available to pay that portion of a judgment or claim for which the state legal expense fund is
105 liable under this paragraph;

106 (4) Staff employed by the juvenile division of any judicial circuit;

107 (5) Any attorney licensed to practice law in the state of Missouri who practices law at
108 or through a nonprofit community social services center qualified as exempt from federal
109 taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through
110 any agency of any federal, state, or local government, if such legal practice is provided by the
111 attorney without compensation. In the case of any claim or judgment that arises under this
112 subdivision, the aggregate of payments from the state legal expense fund shall be limited to a
113 maximum of five hundred thousand dollars for all claims arising out of and judgments based
114 upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand
115 dollars for any one claimant, and insurance policies purchased pursuant to the provisions of
116 section 105.721 shall be limited to five hundred thousand dollars; or

117 (6) Any social welfare board created under section 205.770, RSMo, and the members
118 and officers thereof upon conduct of such officer or employee while acting in his or her capacity
119 as a board member or officer, and any physician, nurse, physician assistant, dental hygienist,
120 dentist, or other health care professional licensed or registered under chapter 330, 331, 332, 334,
121 335, 336, 337, or 338, RSMo, who is referred to provide medical care without compensation by
122 the board and who provides health care services within the scope of his or her license or
123 registration as prescribed by the board.

124 3. The department of health and senior services shall promulgate rules regarding contract
125 procedures and the documentation of care provided under paragraphs (b), (c), (d), (e), and (f) of
126 subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal
127 expense fund or any policy of insurance procured pursuant to the provisions of section 105.721,
128 provided in subsection 7 of this section, shall not apply to any claim or judgment arising under
129 paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section. Any claim
130 or judgment arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection
131 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured
132 pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to
133 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any
134 health care professional licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337,

135 or 338, RSMo, for coverage concerning his or her private practice and assets shall not be
136 considered available under subsection 7 of this section to pay that portion of a judgment or claim
137 for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of
138 subdivision (3) of subsection 2 of this section. However, a health care professional licensed or
139 registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may purchase liability
140 or malpractice insurance for coverage of liability claims or judgments based upon care rendered
141 under paragraphs (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this section which
142 exceed the amount of liability coverage provided by the state legal expense fund under those
143 paragraphs. Even if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of
144 this section is repealed or modified, the state legal expense fund shall be available for damages
145 which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of
146 subsection 2 of this section is in effect.

147 4. The attorney general shall promulgate rules regarding contract procedures and the
148 documentation of legal practice provided under subdivision (5) of subsection 2 of this section.
149 The limitation on payments from the state legal expense fund or any policy of insurance procured
150 pursuant to section 105.721 as provided in subsection 7 of this section shall not apply to any
151 claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or
152 judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state
153 legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent
154 damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice
155 insurance otherwise obtained and maintained in force shall not be considered available under
156 subsection 7 of this section to pay that portion of a judgment or claim for which the state legal
157 expense fund is liable under subdivision (5) of subsection 2 of this section. However, an
158 attorney may obtain liability or malpractice insurance for coverage of liability claims or
159 judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this
160 section that exceed the amount of liability coverage provided by the state legal expense fund
161 under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of
162 this section is repealed or amended, the state legal expense fund shall be available for damages
163 that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

164 5. All payments shall be made from the state legal expense fund by the commissioner
165 of administration with the approval of the attorney general. Payment from the state legal expense
166 fund of a claim or final judgment award against a health care professional licensed or registered
167 under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b),
168 (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an attorney in
169 subdivision (5) of subsection 2 of this section, shall only be made for services rendered in
170 accordance with the conditions of such paragraphs. In the case of any claim or judgment against

171 an officer or employee of the state or any agency of the state based upon conduct of such officer
172 or employee arising out of and performed in connection with his or her official duties on behalf
173 of the state or any agency of the state that would give rise to a cause of action under section
174 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive damages, for:

- 175 (1) Economic damages to any one claimant; and
176 (2) Up to three hundred fifty thousand dollars for noneconomic damages.

177

178 The state legal expense fund shall be the exclusive remedy and shall preclude any other civil
179 actions or proceedings for money damages arising out of or relating to the same subject matter
180 against the state officer or employee, or the officer's or employee's estate. No officer or
181 employee of the state or any agency of the state shall be individually liable in his or her personal
182 capacity for conduct of such officer or employee arising out of and performed in connection with
183 his or her official duties on behalf of the state or any agency of the state. The provisions of this
184 subsection shall not apply to any defendant who is not an officer or employee of the state or any
185 agency of the state in any proceeding against an officer or employee of the state or any agency
186 of the state. Nothing in this subsection shall limit the rights and remedies otherwise available
187 to a claimant under state law or common law in proceedings where one or more defendants is
188 not an officer or employee of the state or any agency of the state.

189 6. The limitation on awards for noneconomic damages provided for in this subsection
190 shall be increased or decreased on an annual basis effective January first of each year in
191 accordance with the Implicit Price Deflator for Personal Consumption Expenditures as published
192 by the Bureau of Economic Analysis of the United States Department of Commerce. The current
193 value of the limitation shall be calculated by the director of the department of insurance,
194 **financial institutions and professional registration**, who shall furnish that value to the
195 secretary of state, who shall publish such value in the Missouri Register as soon after each
196 January first as practicable, but it shall otherwise be exempt from the provisions of section
197 536.021, RSMo.

198 7. Except as provided in subsection 3 of this section, in the case of any claim or
199 judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri,
200 or an agency of the state, the aggregate of payments from the state legal expense fund and from
201 any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed
202 the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be
203 made from the state legal expense fund or any policy of insurance procured with state funds
204 pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other
205 policy of liability insurance have been exhausted.

206 8. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to
207 the credit of the state legal expense fund at the end of an appropriation period shall not be
208 transferred to general revenue.

209 9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
210 is promulgated under the authority delegated in sections 105.711 to 105.726 shall become
211 effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo.
212 Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or
213 adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo.
214 This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
215 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to
216 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
217 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

135.520. 1. The division of finance of the department of economic development shall
2 conduct an annual review of each Missouri certified capital company and any qualified investing
3 entities designated by it to determine if the Missouri certified capital company is abiding by the
4 requirements of certifications, to advise the Missouri certified capital company as to the
5 certification status of its qualified investments and to ensure that no investment has been made
6 in violation of sections 135.500 to 135.529. The cost of the annual review shall be paid by each
7 Missouri certified capital company according to a reasonable fee schedule adopted by the
8 department. The division of finance shall report its findings to the department as soon as
9 practicable following completion of the audit.

10 2. Any material violation of sections 135.500 to 135.529 shall be grounds for
11 decertification under this section. If the department determines that a company is not in
12 compliance with any requirements for continuing in certification, it shall, by written notice,
13 inform the officers of the company and the board of directors, managers, trustees or general
14 partners that they may be decertified in one hundred twenty days from the date of mailing of the
15 notice, unless they correct the deficiencies and are again in compliance with the requirements
16 for certification.

17 3. At the end of the one hundred twenty-day grace period, if the Missouri certified capital
18 company is still not in compliance, the department may send a notice of decertification to the
19 company and to the directors of the department of revenue and department of insurance,
20 **financial institutions and professional registration.** Decertification of a Missouri certified
21 capital company prior to the certified capital company meeting all requirements of subdivisions
22 (1) to (3) of subsection 1 of section 135.516 shall cause the recapture of all premium tax credits
23 previously claimed by an investor and the forfeiture of all future credits to be claimed by an
24 investor with respect to its investment in the certified capital company. Decertification of a

25 Missouri certified capital company after it has met all requirements of subdivisions (1) to (3) of
26 subsection 1 of section 135.516 shall cause the forfeiture of premium tax credits for the taxable
27 year of the investor in which the decertification arose and for future taxable years with no
28 recapture of tax credits obtained by an investor with respect to the investor's tax years which
29 ended before the decertification occurred. Once a certified capital company has made cumulative
30 qualified investments, including those made through a qualified investing entity and deemed to
31 have been made by the certified capital company, in an amount equal to at least one hundred
32 percent of its certified capital, all future premium tax credits to be claimed by investors with
33 respect to said certified capital company pursuant to sections 135.500 to 135.529 shall be
34 nonforfeitable. Once a certified capital company has made cumulative qualified investments,
35 including those made through a qualified investing entity and deemed to have been made by the
36 certified capital company, in an amount equal to at least one hundred percent of its certified
37 capital and has met all other requirements under sections 135.500 to 135.529, it shall no longer
38 be subject to regulation by the department except with respect to the payment of distributions to
39 the Missouri development finance board.

148.330. 1. Every such company shall, on or before the first day of March in each year,
2 make a return, verified by the affidavit of its president and secretary, or other authorized officers,
3 to the director of the department of insurance, **financial institutions and professional**
4 **registration** stating the amount of all premiums received on account of policies issued in this
5 state by the company, whether in cash or in notes, during the year ending on the thirty-first day
6 of December, next preceding. Upon receipt of such returns the director of the department of
7 insurance, **financial institutions and professional registration** shall verify the same and certify
8 the amount of tax due from the various companies on the basis and at the rates provided in
9 section 148.320, and shall certify the same to the director of revenue together with the amount
10 of the quarterly installments to be made as provided in subsection 2 of this section, on or before
11 the thirtieth day of April of each year.

12 2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each
13 succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly
14 installments, and a fifth reconciling installment. The first four installments shall be based upon
15 the tax for the immediately preceding taxable year ending on the thirty-first day of December,
16 next preceding. The quarterly installments shall be made on the first day of March, the first day
17 of June, the first day of September and the first day of December. Immediately after receiving
18 certification from the director of the department of insurance, **financial institutions and**
19 **professional registration** of the amount of tax due from the various companies the director of
20 revenue shall notify and assess each company the amount of taxes on its premiums for the
21 calendar year ending on the thirty-first day of December, next preceding. The director of revenue

22 shall also notify and assess each company the amount of the estimated quarterly installments to
23 be made for the calendar year. If the amount of the actual tax due for any year exceeds the total
24 of the installments made for such year, the balance of the tax due shall be paid on the first day
25 of June of the year following, together with the regular quarterly payment due at that time. If the
26 total amount of the tax actually due is less than the total amount of the installments actually paid,
27 the amount by which the amount paid exceeds the amount due shall be credited against the tax
28 for the following year and deducted from the quarterly installment otherwise due on the first day
29 of June. If the March first quarterly installment made by a company is less than the amount
30 assessed by the director of revenue, the difference will be due on June first, but no interest will
31 accrue to the state on the difference unless the amount paid by the company is less than eighty
32 percent of one-fourth of the total amount of tax assessed by the director of revenue for the
33 immediately preceding taxable year. The state treasurer, upon receiving the moneys paid as a
34 tax upon such premiums to the director of revenue, shall place the moneys to the credit of a fund
35 to be known as "The County Stock Insurance Fund", which is hereby created and established.
36 The county stock insurance fund shall be included in the calculation of total state revenue
37 pursuant to article X, section 18, of the Missouri Constitution.

38 3. If the estimated quarterly tax installments are not so paid, the director of revenue shall
39 certify such fact to the director of the [division] **department** of insurance, **financial institutions**
40 **and professional registration** who shall thereafter suspend such delinquent company or
41 companies from the further transaction of business in this state until such taxes shall be paid and
42 such companies shall be subject to the provisions of sections 148.410 to 148.461.

43 4. On or before the first day of September of each year the commissioner of
44 administration shall apportion all moneys in the county stock insurance fund to the general
45 revenue fund of the state, to the county treasurer and to the treasurer of the school district in
46 which the principal office of the company paying the same is located. All premium tax credits
47 described in sections 135.500 to 135.529, RSMo, and sections 348.430 and 348.432, RSMo,
48 shall only reduce the amounts apportioned to the general revenue fund of the state and shall not
49 reduce any moneys apportioned to any county treasurer or to the treasurer of the school district
50 in which the principal office of the company paying the same is located. Apportionments shall
51 be made in the same ratio which the rates of levy for the same year for state purposes, for county
52 purposes, and for all school district purposes, bear to each other; provided that any proceeds from
53 such tax for prior years remaining on hand in the hands of the county collector or county
54 treasurer undistributed on the effective date of sections 148.310 to 148.460 and any proceeds of
55 such tax for prior years collected thereafter shall be distributed and paid in accordance with the
56 provisions of such sections. Whenever the word "county" occurs herein it shall be construed to
57 include the city of St. Louis.

209.285. As used in sections 209.285 to 209.339, unless the context clearly requires otherwise, the following terms mean:

- 3 (1) "American sign language", a visual-gestural system of communication that has its
4 own syntax, rhetoric and grammar. American sign language is recognized, accepted and used
5 by many deaf Americans. This native language represents concepts rather than words;
- 6 (2) "Board", the Missouri board for certification of interpreters, established within the
7 commission in section 209.287;
- 8 (3) "Certification", a document issued by the Missouri commission for the deaf and hard
9 of hearing declaring that the holder is qualified to practice interpreting at a disclosed level;
- 10 (4) "Commission", the Missouri commission for the deaf and hard of hearing;
- 11 (5) "Committee", the Missouri state committee of interpreters, established in section
12 209.319;
- 13 (6) "Conversion levels", the process of granting levels of certification by the commission
14 to individuals holding certification from another state or within another certification system in
15 this state or another state;
- 16 (7) "Coordinator", a staff person, hired by the executive director of the Missouri
17 commission for the deaf and hard of hearing, who shall serve as coordinator for the Missouri
18 interpreter certification system;
- 19 (8) "Deaf person", any person who is not able to discriminate speech when spoken in a
20 normal conversational tone regardless of the use of amplification devices;
- 21 (9) "Department", the [Missouri department of economic development] **department of**
22 **insurance, financial institutions and professional registration**;
- 23 (10) "Director", the director of the division of professional registration [in the department
24 of economic development];
- 25 (11) "Division", the division of professional registration;
- 26 (12) "Executive director", the executive director of the Missouri commission for the deaf
27 and hard of hearing;
- 28 (13) "Interpreter", any person who offers to render interpreting services implying that
29 he or she is trained, and experienced in interpreting, and holds a current, valid certification and
30 license to practice interpreting in this state; provided that a telecommunications operator
31 providing deaf relay service or a person providing operator services for the deaf shall not be
32 considered to be an interpreter;
- 33 (14) "Interpreter trainer", a person, certified and licensed by the state of Missouri as an
34 interpreter, who trains new interpreters in the translating of spoken English or written concepts
35 to any necessary specialized vocabulary used by a deaf consumer. Necessary specialized

36 vocabularies include, but are not limited to, American sign language, Pidgin Signed English,
37 oral, tactile sign and language deficient skills;

38 (15) "Interpreting", the translating of English spoken or written concepts to any necessary
39 specialized vocabulary used by a deaf person or the translating of a deaf person's specialized
40 vocabulary to English spoken or written concepts; provided that a telecommunications operator
41 providing deaf relay service or a person providing operator services for the deaf shall not be
42 considered to be interpreting. Necessary specialized vocabularies include, but are not limited
43 to, American sign language, Pidgin Signed English, oral, tactile sign and language deficient
44 skills;

45 (16) "Language deficient", mode of communication used by deaf individuals who lack
46 crucial language components, including, but not limited to, vocabulary, language concepts,
47 expressive skills, language skills and receptive skills;

48 (17) "Missouri commission for the deaf", Missouri commission for the deaf and hard of
49 hearing established in section 161.400;

50 (18) "Oral", mode of communication having characteristics of speech, speech reading
51 and residual hearing as a primary means of communication using situational and culturally
52 appropriate gestures, without the use of sign language;

53 (19) "Pidgin Signed English", a mode of communication having characteristics of
54 American sign language;

55 (20) "Practice of interpreting", rendering or offering to render or supervise those who
56 render to individuals, couples, groups, organizations, institutions, corporations, schools,
57 government agencies or the general public any interpreting service involving the translation of
58 any mode of communication used by a deaf person to spoken English or of spoken English to
59 a mode of communication used by a deaf person;

60 (21) "Tactile sign", mode of communication, used by deaf and blind individuals, using
61 any one or a combination of the following: tactile sign, constricted space sign or notetaking.

214.270. As used in sections 214.270 to 214.410, the following terms mean:

2 (1) "Agent" or "authorized agent", any person empowered by the cemetery operator to
3 represent the operator in dealing with the general public, including owners of the burial space
4 in the cemetery;

5 (2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface
6 lawn crypt, niche or space used or intended for the interment of the human dead;

7 (3) "Cemetery", property restricted in use for the interment of the human dead by formal
8 dedication or reservation by deed but shall not include any of the foregoing held or operated by
9 the state or federal government or any political subdivision thereof, any incorporated city or

10 town, any county or any religious organization, cemetery association or fraternal society holding
11 the same for sale solely to members and their immediate families;

12 (4) "Cemetery association", any number of persons who shall have associated themselves
13 by articles of agreement in writing as a not-for-profit association or organization, whether
14 incorporated or unincorporated, formed for the purpose of ownership, preservation, care,
15 maintenance, adornment and administration of a cemetery. Cemetery associations shall be
16 governed by a board of directors. Directors shall serve without compensation;

17 (5) "Cemetery operator" or "operator", any person who owns, controls, operates or
18 manages a cemetery;

19 (6) "Cemetery service", those services performed by a cemetery owner or operator
20 licensed pursuant to this chapter as an endowed care cemetery including setting a monument,
21 setting a tent, excavating a grave, or setting a vault;

22 (7) "Columbarium", a building or structure for the inurnment of cremated human
23 remains;

24 (8) "Community mausoleum", a mausoleum containing a substantial area of enclosed
25 space and having either a heating, ventilating or air conditioning system;

26 (9) "Department", department of [economic development] **insurance, financial**
27 **institutions and professional registration;**

28 (10) "Developed acreage", the area which has been platted into grave spaces and has
29 been developed with roads, paths, features, or ornamentations and in which burials can be made;

30 (11) "Director", director of the division of professional registration;

31 (12) "Division", division of professional registration;

32 (13) "Endowed care", the maintenance, repair and care of all burial space subject to the
33 endowment within a cemetery, including any improvements made for the benefit of such burial
34 space. Endowed care shall include the general overhead expenses needed to accomplish such
35 maintenance, repair, care and improvements. Endowed care shall include the terms perpetual
36 care, permanent care, continual care, eternal care, care of duration, or any like term;

37 (14) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents
38 itself as offering endowed care and which complies with the provisions of sections 214.270 to
39 214.410;

40 (15) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent,
41 to include any income therefrom, impressed with a trust by the terms of any gift, grant,
42 contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust,
43 or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and
44 accepted by any endowed care cemetery operator or his agent. This definition includes the terms

45 endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like
46 term;

47 (16) "Family burial ground", a cemetery in which no burial space is sold to the public
48 and in which interments are restricted to persons related by blood or marriage;

49 (17) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any
50 fraternal organization or auxiliary organizations thereof, in which the sale of burial space is
51 restricted solely to its members and their immediate families;

52 (18) "Garden mausoleum", a mausoleum without a substantial area of enclosed space
53 and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced
54 air or otherwise does not constitute a garden mausoleum as a community mausoleum;

55 (19) "Government cemetery", or "municipal cemetery", a cemetery owned, operated,
56 controlled or managed by the federal government, the state or a political subdivision of the state,
57 including a county or municipality or instrumentality thereof;

58 (20) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for
59 burial of human remains;

60 (21) "Human remains", the body of a deceased person in any state of decomposition, as
61 well as cremated remains;

62 (22) "Inurnment", placing an urn containing cremated remains in a burial space;

63 (23) "Lawn crypt", a burial vault or other permanent container for a casket which is
64 permanently installed below ground prior to the time of the actual interment. A lawn crypt may
65 permit single or multiple interments in a grave space;

66 (24) "Mausoleum", a structure or building for the entombment of human remains in
67 crypts;

68 (25) "Niche", a space in a columbarium used or intended to be used for inurnment of
69 cremated remains;

70 (26) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section
71 of a cemetery for which no endowed care fund has been established in accordance with sections
72 214.270 to 214.410;

73 (27) "Owner of burial space", a person to whom the cemetery operator or his authorized
74 agent has transferred the right of use of burial space;

75 (28) "Person", an individual, corporation, partnership, joint venture, association, trust
76 or any other legal entity;

77 (29) "Registry", the list of cemeteries maintained in the division office for public review.
78 The division may charge a fee for copies of the registry;

79 (30) "Religious cemetery", a cemetery owned, operated, controlled or managed by any
80 church, convention of churches, religious order or affiliated auxiliary thereof in which the sale
81 of burial space is restricted solely to its members and their immediate families;

82 (31) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land
83 surface;

84 (32) "Total acreage", the entire tract which is dedicated to or reserved for cemetery
85 purposes;

86 (33) "Trustee of an endowed care fund", the separate legal entity appointed as trustee of
87 an endowed care fund.

256.453. As used in sections 256.450 to 256.483, the following words and phrases shall
2 mean:

3 (1) "Board of geologist registration" or "board", the board of geologist registration
4 created in section 256.459;

5 (2) "Certificate of registration", a license issued by the board of geologist registration
6 granting its licensee the privilege to conduct geologic work and make interpretations, reports,
7 and other actions in accordance with the provisions of sections 256.450 to 256.483;

8 (3) "Division [of professional registration]", the division of professional registration
9 [within the department of economic development];

10 (4) "Geologist", a person who has met or exceeded the minimum geological educational
11 requirements and who can interpret and apply geologic data, principles, and concepts and who
12 can conduct field or laboratory geological investigations;

13 (5) "Geologist-registrant in-training", a person who meets the requirements of subsection
14 7 of section 256.468;

15 (6) "Geology", that profession based on the investigation and interpretation of the earth,
16 including bedrock, overburden, groundwater and other liquids, minerals, gases, and the history
17 of the earth and its life;

18 (7) "Practice of geology", the practice of or the offer to practice geology for others, such
19 practice including, but not limited to, geological investigations to describe and interpret the
20 natural processes acting on earth materials, including gases and fluids; predicting and
21 interpreting mineral distribution, value, and production; predicting and interpreting geologic
22 factors affecting planning, design, construction, and maintenance of engineered facilities such
23 as waste disposal sites or dams; and the teaching of the science of geology;

24 (8) "Public health, safety and welfare" shall include the following: protection of
25 groundwater; buildings and other construction projects including dams, highways and
26 foundations; waste disposal or causes of waste pollution including human, animal, and other
27 wastes including radionuclides; stability of the earth's surface such as could be affected by

28 earthquakes, landslides, or collapse; the depth, casing, grouting, and other recommendations for
29 the construction of wells or other borings into earth that intersect one or more aquifers; and
30 excavation into the earth's materials where stability or other factors are at risk. "Public health,
31 safety, and welfare" does not refer to geologic work conducted to determine mineral resources
32 or other resources as could be available for various uses, teaching, or basic geologic work
33 including making geologic maps, cross sections, stratigraphic determinations, and associated
34 reports or other presentations;

35 (9) "Qualified geologist" or "professional geologist", a geologist who satisfies the
36 educational requirements of subsection 2 of section 256.468 and who has at least three years of
37 experience in the practice of geology subsequent to satisfying such educational requirements;

38 (10) "Registered geologist", a geologist who has met the qualifications established by
39 the board and has been issued a certificate of registration by the board of geologist registration;

40 (11) "Responsible charge of work", the independent control and direction of geological
41 work or the supervision of such work pertaining to the practice of geology;

42 (12) "Specialty", a branch of geologic study and work such as engineering geology,
43 environmental geology, hydrogeology, mineral resources, and other related work requiring
44 geologic education and experience.

285.230. 1. As used in this section, "transient employer" means an employer as defined
2 in sections 143.191, RSMo, 287.030, RSMo, and 288.032, RSMo, making payment of wages
3 taxable under chapters 143, RSMo, 287, RSMo, and 288, RSMo, who is not domiciled in this
4 state and who temporarily transacts any business within the state, but shall not include any
5 employer who is not subject to Missouri income tax because of the provisions of 15 U.S.C. 381.
6 The transaction of business shall be considered temporary at any time it cannot be reasonably
7 expected to continue for a period of twenty-four consecutive months. Professional athletic teams
8 and professional entertainers domiciled in a state other than Missouri shall be deemed a
9 "transient employer" for the purposes of this section, unless the person or entity who pays
10 compensation to the nonresident entertainer has fully complied with the provisions of section
11 143.183, RSMo, in which case the nonresident entertainer shall not be considered a transient
12 employer.

13 2. Employers meeting the following criteria shall not be required to file a financial
14 assurance instrument as required by this section:

15 (1) The principal place of business of the employer must be in a county of another state
16 which is contiguous to the state of Missouri; and

17 (2) The employer must have been under contract to perform work in Missouri for at least
18 sixty days cumulatively out of twelve months during each of the two calendar years immediately

19 preceding the employer's initial application for exemption from the provisions of this section;
20 and

21 (3) The employer must have in his possession a tax clearance from the department of
22 revenue and the division of employment security stating that the employer has faithfully
23 complied with the tax laws of this state during the period set out in subdivision (2) of this
24 subsection.

25

26 Within ninety days of August 13, 1988, such employers must obtain initial tax clearances in
27 accordance with subdivision (3) of this subsection. Any tax clearance issued under the
28 provisions of this section by the division of employment security shall be submitted to the
29 department of revenue. On or before January thirty-first of each year, except January thirty-first
30 following the year during which the employer first meets these criteria, the employer shall submit
31 application to the department of revenue and division of employment security for a renewed tax
32 clearance. Failure to submit such renewal applications or failure to comply with applicable
33 Missouri taxing and employment security laws during the period between annual renewal dates
34 or removal of the employer's principal place of business from a county in another state which is
35 contiguous to Missouri to a state other than Missouri shall immediately subject the employer to
36 all provisions of this section. An employer meeting the requirements of this subsection shall still
37 be subject to the provisions of subsection 5 of this section.

38 3. Every transient employer shall file with the director of revenue a financial assurance
39 instrument including, but not limited to, a cash bond, a surety bond, or an irrevocable letter of
40 credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution.
41 The financial assurance instrument shall be in an amount not less than the average estimated
42 quarterly withholding tax liability of the applicant, but in no case less than five thousand dollars
43 nor more than twenty-five thousand dollars. Any corporate surety shall be licensed to do such
44 business in this state and approved by the director of revenue to act as a surety. The transient
45 employer shall be the principal obligor and the state of Missouri shall be the obligee. The
46 financial assurance instrument shall be conditioned upon the prompt filing of true reports and
47 the payment by such employer to the director of revenue of any and all withholding taxes which
48 are now or which hereafter may be levied or imposed by the state of Missouri, upon the
49 employer, together with any and all penalties and interest thereon, and generally upon the faithful
50 compliance with the provisions of chapters 143, RSMo, 287, RSMo, and 288, RSMo.

51 4. Any transient employer who is already otherwise required to file a financial assurance
52 instrument as a condition of any contract, provided said financial assurance instrument
53 guarantees payment of all applicable state taxes and all withholding taxes levied or imposed by
54 the state and provided that such financial assurance instrument is delivered by certified mail to

55 the department of revenue by the applicable awarding entity at least fourteen days before the
56 execution of the contract for the performance of work, may use the same financial assurance
57 instrument to comply with the provisions of this section. Before such financial assurance
58 instrument is approved by the awarding entity, the director of revenue shall be satisfied that such
59 financial assurance instrument is sufficient to cover all taxes imposed by this state and the
60 director shall so notify the awarding entity of the decision within the fourteen days prior to the
61 execution of the contract. Failure to do so by the director shall waive any right to disapprove
62 such financial assurance instrument. Before a financial assurance instrument is released by the
63 entity awarding the contract, a tax clearance shall be obtained from the director of revenue that
64 such transient employer has faithfully complied with all the tax laws of this state.

65 5. Every transient employer shall certify to the director of revenue that such employer
66 has sufficient workers' compensation insurance either through a self-insurance program or a
67 policy of workers' compensation insurance issued by an approved workers' compensation carrier.
68 The self-insurance program shall be approved by the division of workers' compensation pursuant
69 to section 287.280, RSMo. The insurance policy shall be in a contract form approved by the
70 department of insurance, **financial institutions and professional registration**.

71 6. In the event that liability upon the financial assurance instrument thus filed by the
72 transient employer shall be discharged or reduced, whether by judgment rendered, payment made
73 or otherwise, or if in the opinion of the director of revenue any surety on a bond theretofore given
74 or financial institution shall have become unsatisfactory or unacceptable, then the director of
75 revenue may require the employer to file a new financial assurance instrument in the same form
76 and amount. If such new financial assurance instrument shall be furnished by such employer as
77 above provided, the director of revenue shall upon satisfaction of any liability that has accrued,
78 release the surety on the old bond or financial institution issuing the irrevocable letter of credit.

79 7. Any surety on any bond or financial institution issuing an irrevocable letter of credit
80 furnished by any transient employer as provided in this section shall be released and discharged
81 from any and all liability to the state of Missouri accruing on such bond or irrevocable letter of
82 credit after the expiration of sixty days from the date upon which such surety or financial
83 institution shall have lodged with the director of revenue a written request to be released and
84 discharged; but the request shall not operate to relieve, release or discharge such surety or
85 financial institution from any liability already accrued or which shall accrue during and before
86 the expiration of said sixty-day period. The director of revenue shall promptly on receipt of
87 notice of such request notify the employer who furnished such bond or irrevocable letter of credit
88 and such employer shall on or before the expiration of such sixty-day period file with the director
89 of revenue a new financial assurance instrument satisfactory to the director of revenue in the
90 amount and form provided in this section.

91 8. Notwithstanding the limitation as to the amount of any financial assurance instrument
92 fixed by this section, if a transient employer becomes delinquent in the payment of any tax or
93 tenders a check in payment of tax which check is returned unpaid because of insufficient funds,
94 the director may demand an additional instrument of such employer in an amount necessary, in
95 the judgment of the director, to protect the revenue of the state. The penal sum of the additional
96 instrument and the instrument furnished under the provisions of the law requiring such
97 instrument may not exceed two quarters' estimated tax liability.

98 9. For any period when a transient employer fails to meet the requirements of this
99 section, there shall be added to any deficiency assessed against a transient employer, in addition
100 to any other addition, interest, and penalties, an amount equal to twenty-five percent of the
101 deficiency.

102 10. A taxpayer commits the crime of failure to file a financial assurance instrument if
103 he knowingly fails to comply with the provisions of this section.

104 11. Failure to file a financial assurance instrument is a class A misdemeanor. Pursuant
105 to section 560.021, RSMo, a corporation found guilty of failing to file a financial assurance
106 instrument may be fined up to five thousand dollars or any higher amount not exceeding twice
107 the amount the employer profited from the commission of the offense.

108 12. Failing to register with the department of revenue and execute the financial assurance
109 instrument herein provided, prior to beginning the performance of any contract, shall prohibit
110 the employer from performing on such contract until he complies with such requirements.

111 13. Each employer shall keep full and accurate records clearly indicating the names,
112 occupations, and crafts, if applicable, of every person employed by him together with an accurate
113 record of the number of hours worked by each employee and the actual wages paid. The payroll
114 records required to be so kept shall be open to inspection by any authorized representative of the
115 department of revenue at any reasonable time and as often as may be necessary and such records
116 shall not be destroyed or removed from the state for a period of one year following the
117 completion of the contract in connection with which the records are made.

118 14. The entering into of any contract for the performance of work in the state of Missouri
119 by any such employer shall be deemed to constitute an appointment of the secretary of state as
120 registered agent of such employer for purposes of accepting service of any process, or of any
121 notice or demand required or permitted by law. The service of any such process, notice or
122 demand, when served on the secretary of state shall have the same legal force and validity as if
123 served upon the employer personally within the state.

124 15. In addition, any employer who fails to file a financial assurance instrument as
125 required by this section shall be prohibited from contracting for or performing labor on any
126 public works project in this state for a period of one year.

127 16. Whenever a transient employer ceases to engage in activity within the state it shall
128 be the duty of such transient employer to notify the director of revenue in writing at least ten days
129 prior to the time the discontinuance takes effect.

 320.082. Every insurance company doing the business of fire insurance within this state
2 which shall have reason to believe that any fire loss reported to it is the result of arson or
3 incendiarism shall forthwith report the same along with all relevant facts thereof to the
4 prosecuting or circuit attorney of the city or county in which said fire loss occurred and the
5 prosecuting or circuit attorney shall acknowledge receipt. The prosecuting or circuit attorney
6 shall give notification of receipt and shall provide such report, upon request, to the state fire
7 marshal, the [division of insurance] **department of insurance, financial institutions and**
8 **professional registration** and the law enforcement agency having jurisdiction over the fire loss.

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

2 (1) "Department", the **department of insurance, financial institutions and**
3 **professional registration**;

4 (2) "Director", the **director of the division of professional registration**;

5 (3) "Division", the **division of professional registration**.

6 2. There is hereby established a "Division of Professional Registration" assigned
7 to the **department of insurance, financial institutions and professional registration** as a type
8 III transfer, headed by a director appointed by the governor with the advice and consent
9 of the senate. All of the general provisions, definitions, and powers enumerated in section
10 1 of the Omnibus State Reorganization Act of 1974 and executive order 06-04 shall apply
11 to this department and its divisions, agencies, and personnel.

12 3. The director of the division of professional registration shall promulgate rules
13 which designate for each board or commission assigned to the division the renewal for
14 licenses or certificates. After the initial establishment of renewal dates, no director of the
15 division shall promulgate a rule which would change the renewal date for licenses or
16 certificates if such change in renewal date would occur prior to the date on which the
17 renewal date in effect at the time such new renewal date is specified next occurs. Each
18 board or commission shall by rule establish licensing periods of one, two, or three years.
19 Registration fees set by a board or commission shall be effective for the entire licensing
20 period involved, and shall not be increased during any current licensing period. Persons
21 who are required to pay their first registration fees shall be allowed to pay the pro rata
22 share of such fees for the remainder of the period remaining at the time the fees are paid.
23 Each board or commission shall provide the necessary forms for renewal of licenses and
24 certificates. Each board or commission shall by rule require each applicant to provide the

25 information which is required to keep the board's records current. Each board or
26 commission shall issue the original license or certificate.

27 **4. The division shall provide clerical and other staff services relating to the issuance**
28 **and renewal of licenses for all the professional licensing and regulating boards and**
29 **commissions assigned to the division. The division shall perform the financial management**
30 **and clerical functions as they each relate to issuance and renewal of licenses and**
31 **certificates. For purposes of this section, "issuance and renewal of licenses and**
32 **certificates" means the ministerial function of preparing and delivering licenses or**
33 **certificates, and obtaining material and information for the board or commission in**
34 **connection with the renewal thereof. It does not include any discretionary authority with**
35 **regard to the original review of an applicant's qualifications for licensure or certification,**
36 **or the subsequent review of licensee's or certificate holder's qualifications, or any**
37 **disciplinary action contemplated against the licensee or certificate holder. The division**
38 **may develop and implement microfilming systems and automated or manual management**
39 **information systems.**

40 **5. The director of the division shall maintain a system of accounting and budgeting,**
41 **in cooperation with the director of the department, the office of administration, and the**
42 **state auditor's office, to ensure proper charges are made to the various boards for services**
43 **rendered to them. The general assembly shall appropriate to the division and other state**
44 **agencies from each board's funds moneys sufficient to reimburse the division and other**
45 **state agencies for all services rendered and all facilities and supplies furnished to that**
46 **board.**

47 **6. For accounting purposes, the appropriation to the division and to the office of**
48 **administration for the payment of rent for quarters provided for the division shall be made**
49 **from the "Professional Registration Fees Fund", which is hereby created in the state**
50 **treasury, and is to be used solely for the purpose defined in subsection 5 of this section.**
51 **The fund shall consist of moneys deposited into it from each board's fund. Each board**
52 **shall contribute a prorated amount necessary to fund the division for services rendered**
53 **and rent based upon the system of accounting and budgeting established by the director**
54 **of the division as provided in subsection 5 of this section. Transfers of funds to the**
55 **professional registration fees fund shall be made by each board on July first of each year;**
56 **provided, however, that the director of the division may establish an alternative date or**
57 **dates of transfers at the request of any board. Such transfers shall be made until they**
58 **equal the prorated amount for services rendered and rent by the division. The provisions**
59 **of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be**
60 **transferred and placed to the credit of general revenue.**

61 **7. The director of the division shall be responsible for collecting and accounting for**
62 **all moneys received by the division or its component agencies. Any money received by a**
63 **board or commission shall be promptly given, identified by type and source, to the director.**
64 **The director shall keep a record by board and state accounting system classification of the**
65 **amount of revenue the director receives. The director shall promptly transmit all receipts**
66 **to the department of revenue for deposit in the state treasury to the credit of the**
67 **appropriate fund. The director shall provide each board with all relevant financial**
68 **information in a timely fashion. Each board shall cooperate with the director by providing**
69 **necessary information.**

70 **8. All educational transcripts, test scores, complaints, investigatory reports, and**
71 **information pertaining to any person who is an applicant or licensee of any agency**
72 **assigned to the division of professional registration by statute or by the department are**
73 **confidential and shall not be disclosed to the public or any member of the public, except**
74 **with the written consent of the person whose records are involved. The agency which**
75 **possesses the records or information shall disclose the records or information if the person**
76 **whose records or information is involved has consented to the disclosure. Each agency is**
77 **entitled to the attorney-client privilege and work-product privilege to the same extent as**
78 **any other person. Provided, however, that any board may disclose confidential**
79 **information without the consent of the person involved in the course of voluntary interstate**
80 **exchange of information, or in the course of any litigation concerning that person, or**
81 **pursuant to a lawful request, or to other administrative or law enforcement agencies acting**
82 **within the scope of their statutory authority. Information regarding identity, including**
83 **names and addresses, registration, and currency of the license of the persons possessing**
84 **licenses to engage in a professional occupation and the names and addresses of applicants**
85 **for such licenses is not confidential information.**

86 **9. Any deliberations conducted and votes taken in rendering a final decision after**
87 **a hearing before an agency assigned to the division shall be closed to the parties and the**
88 **public. Once a final decision is rendered, that decision shall be made available to the**
89 **parties and the public.**

90 **10. (1) The following boards and commissions are assigned by specific type**
91 **transfers to the division of professional registration: Missouri state board of accountancy,**
92 **chapter 326, RSMo; board of cosmetology and barber examiners, chapters 328 and 329,**
93 **RSMo; state board of registration for architects, professional engineers and professional**
94 **land surveyors and landscape architects, chapter 327, RSMo; state board of chiropractic**
95 **examiners, chapter 331, RSMo; state board of registration for the healing arts, chapter**
96 **334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and**

97 funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state
98 board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board
99 of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and
100 Missouri veterinary medical board, chapter 340, RSMo. The governor shall appoint
101 members of these boards by and with the advice and consent of the senate.

102 (2) The boards and commissions assigned to the division shall exercise all their
103 respective statutory duties and powers, except those clerical and other staff services
104 involving collecting and accounting for moneys and financial management relating to the
105 issuance and renewal of licenses, which services shall be provided by the division, within
106 the appropriation therefor. Nothing herein shall prohibit employment of professional
107 examining or testing services from professional associations or others as required by the
108 boards or commissions on contract. Nothing herein shall be construed to affect the power
109 of a board or commission to expend its funds as appropriated. However, the division shall
110 review the expense vouchers of each board. The results of such review shall be submitted
111 to the board reviewed and to the house and senate appropriations committees annually.

112 (3) Notwithstanding any other provisions of law, the director of the division shall
113 exercise only those management functions of the boards and commissions specifically
114 provided in the Omnibus Reorganization Act of 1974, and those relating to the allocation
115 and assignment of space, personnel other than board personnel, and equipment.

116 (4) "Board personnel", as used in this section or chapters 317, 324, 326, 327, 328,
117 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, RSMo, shall mean
118 personnel whose functions and responsibilities are in areas not related to the clerical duties
119 involving the issuance and renewal of licenses, to the collecting and accounting for moneys,
120 or to financial management relating to issuance and renewal of licenses; specifically
121 included are executive secretaries (or comparable positions), consultants, inspectors,
122 investigators, counsel, and secretarial support staff for these positions; and such other
123 positions as are established and authorized by statute for a particular board or
124 commission. Boards and commissions may employ legal counsel, if authorized by law, and
125 temporary personnel if the board is unable to meet its responsibilities with the employees
126 authorized above. Any board or commission which hires temporary employees shall
127 annually provide the division director and the appropriation committees of the general
128 assembly with a complete list of all persons employed in the previous year, the length of
129 their employment, the amount of their remuneration and a description of their
130 responsibilities.

131 (5) Board personnel for each board or commission shall be employed by and serve
132 at the pleasure of the board or commission, shall be supervised as the board or commission

133 designates, and shall have their duties and compensation prescribed by the board or
134 commission, within appropriations for that purpose; except that compensation for board
135 personnel shall not exceed that established for comparable positions as determined by the
136 board or commission pursuant to the job and pay plan of the department of insurance,
137 financial institutions and professional registration. Nothing herein shall be construed to
138 permit salaries for any board personnel to be lowered except by board action.

139 **11. All the powers, duties and functions of the division of athletics under chapter**
140 **317, RSMo, and other state law, are assigned by type I transfer under the authority of the**
141 **Omnibus State Reorganization Act of 1974 to the division of professional registration.**

142 **12. Wherever the laws or regulations of this state make reference to the "division**
143 **of professional registration of the department of economic development", such references**
144 **shall be deemed to refer to the division of professional registration.**

324.002. Each board or commission shall receive complaints concerning its
2 **licensees' business or professional practices. Each board or commission shall establish by**
3 **rule a procedure for the handling of such complaints prior to the filing of formal**
4 **complaints before the administrative hearing commission. The rule shall provide, at a**
5 **minimum, for the logging of each complaint received, the recording of the licensee's name,**
6 **the name of the complaining party, the date of the complaint, and a brief statement of the**
7 **complaint and its ultimate disposition. The rule shall provide for informing the**
8 **complaining party of the progress of the investigation, the dismissal of the charges or the**
9 **filing of a complaint before the administrative hearing commission.**

324.016. No new licensing activity or other statutory requirements assigned to the
2 **division of professional registration shall become effective until expenditures or personnel**
3 **are specifically appropriated for the purpose of conducting the business as required and**
4 **the initial rules filed, if appropriate, have become effective. The director of the division of**
5 **professional registration shall have the authority to borrow funds from any agency within**
6 **the division to commence operations upon appropriation for such purpose. Such authority**
7 **shall cease at such time that a sufficient fund has been established by the agency to fund**
8 **its operations and repay the amount borrowed.**

324.017. 1. Notwithstanding any provision of law to the contrary, no complaint,
2 **investigatory report or information received from any source must be disclosed prior to**
3 **its review by the appropriate agency.**

4 **2. At its discretion an agency may disclose complaints, completed investigatory**
5 **reports, and information obtained from state administrative and law enforcement agencies**
6 **to a licensee or license applicant in order to further an investigation or to facilitate**
7 **settlement negotiations.**

8 **3. Information obtained from a federal administrative or law enforcement agency**
9 **shall be disclosed only after the agency has obtained written consent to the disclosure from**
10 **the federal administrative or law enforcement agency.**

11 **4. At its discretion, an agency may disclose complaints and investigatory reports**
12 **in the course of a voluntary interstate exchange of information, or in the course of any**
13 **litigation concerning a licensee or license applicant, or pursuant to a lawful request, or to**
14 **other state or federal administrative or law enforcement agencies.**

15 **5. Except as disclosure is specifically provided in this section and in section 610.021,**
16 **RSMo, deliberations, votes, or minutes of closed proceedings of agencies shall not be**
17 **subject to disclosure or discovery.**

324.021. When making appointments to the boards governed by sections 209.270
2 **to 209.339, RSMo, sections 256.010 to 256.453, RSMo, and chapters 324, 326, 327, 328, 329,**
3 **330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345, and 346, RSMo, the governor shall**
4 **take affirmative action to appoint women and members of minority groups. In addition,**
5 **the governor shall not discriminate against or in favor of any person on the basis of race,**
6 **sex, religion, national origin, ethnic background, or language.**

324.022. Any rule or portion of a rule, as that term is defined in section 536.010,
2 **RSMo, that is created under the authority delegated in sections 209.270 to 209.339, RSMo,**
3 **sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453, RSMo, and chapters 317,**
4 **324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345, and 346,**
5 **RSMo, shall become effective only if it complies with and is subject to all of the provisions**
6 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 209.270 to**
7 **209.339, RSMo, sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453, RSMo, and**
8 **chapters 317, 324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340,**
9 **345, and 346, RSMo, and chapter 536, RSMo, are nonseverable and if any of the powers**
10 **vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the**
11 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
12 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
13 **2008, shall be invalid and void.**

324.024. Notwithstanding any provision of law to the contrary, every application
2 **for a license, certificate, registration, or permit, or renewal of a license, certificate,**
3 **registration, or permit issued in this state shall contain the Social Security number of the**
4 **applicant. This provision shall not apply to an original application for a license, certificate,**
5 **registration, or permit submitted by a citizen of a foreign country who has never been**
6 **issued a Social Security number and who previously has not been licensed by any other**
7 **state, United States territory, or federal agency. A citizen of a foreign country applying for**

8 licensure with the division of professional registration shall be required to submit his or
9 her visa or passport identification number in lieu of the Social Security number.

2 **324.026.** An orientation program for appointees to all boards or commissions in the
3 division of professional registration shall be prepared under the direction of the director
4 of the division, which shall acquaint new appointees with their duties and provide available
5 information on subject matters of concern to the board or commission to which each public
6 member has been appointed.

2 **324.028.** Any member authorized under the provisions of section 256.459, RSMo,
3 sections 324.063, 324.177, 324.203, 324.243, 324.406, and 324.478, and sections 326.259,
4 327.031, 328.030, 329.190, 330.110, 331.090, 332.021, 333.151, 334.120, 334.430, 334.625,
5 334.717, 334.736, 334.830, 335.021, 336.130, 337.050, 338.110, 339.120, 340.120, 345.080,
6 and 346.120, RSMo, who misses three consecutive regularly scheduled meetings of the
7 board or council on which the member serves shall forfeit his or her membership on that
8 board or council. A new member shall be appointed to the respective board or council by
9 the governor with the advice and consent of the senate.

2 **324.029.** Except as otherwise specifically provided by law, no license for any
3 occupation or profession shall be denied solely on the grounds that an applicant has been
4 previously convicted of a felony.

2 **324.031. 1.** All fees charged by each board assigned to the division of professional
3 registration shall be collected by that division and promptly transmitted to the department
4 of revenue for deposit in the state treasury, credited to the proper account as provided by
5 law.

6 **2.** The division and its component agencies shall permit any licensee to submit
7 payment for fees established by rule in the form of personal check, money order, or
8 cashier's check. All checks or money orders shall be made payable to the appropriate
9 board. Any check or financial instrument which is returned to the division or one of its
10 agencies due to insufficient funds, a closed account, or for other circumstances in which
11 the check or financial instrument is not honored may subject an individual to additional
12 costs, substantial penalties, or other actions by the division or one of its agencies. In such
13 cases involving renewal of licenses, the renewal license may be withheld, and if issued, is
14 not valid until the appropriate fee and any additional costs are collected. The division may
15 require the payment of collection costs or other expenses. The affected board may
16 establish penalty fees by rule and may suspend or revoke a license if such behavior is
17 repetitive or the licensee fails to pay required penalty fees.

17 **3. License renewal fees are generally nonrefundable. Overpayments or other**
18 **incorrect fees may be refundable. The division shall establish a refund reserve through the**
19 **appropriation to the professional registration fees fund.**

20 **4. Notwithstanding any other provision of law to the contrary, no board,**
21 **commission, or any other registration, licensing, or certifying agency of the division of**
22 **professional registration shall be required to collect or distribute any fee which is required**
23 **for administering any test to qualify for a license, registration, or certificate if any portion**
24 **of the fee is to be remitted to a private testing service.**

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

324.034. 1. Notwithstanding other provisions of law, the director of the division of
2 **professional registration may destroy records and documents of the division or the boards**
3 **in the division at any time if such records and documents have been photographed,**
4 **microphotographed, imaged, electronically generated, electronically recorded,**
5 **photostatted, reproduced on film, or other process capable of producing a clear, accurate,**
6 **and permanent copy of the original. Such film or reproducing material shall be of durable**
7 **material and the device used to reproduce the records, reports, returns, and other related**
8 **documents on film or material shall be such as to accurately reproduce and perpetuate the**
9 **original records and documents in all details.**

10 **2. The reproductions so made may be used as permanent records of the original.**
11 **When microfilm, electronic image, or a similar reproduction is used as a permanent record**
12 **by the director of revenue, one copy shall be stored in a fireproof vault and other copies**

13 may be made for use by any person entitled thereto. All reproductions shall retain the
14 same confidentiality as is provided in the law regarding the original record.

15 3. Such photostatic copy, photograph, microphotograph, image, electronically
16 generated, electronically recorded, or other process copy shall be deemed to be an original
17 record for all purposes, and shall be admissible in evidence in all courts or administrative
18 agencies. A transcript, exemplification, or certified copy of any records or documents
19 made from such photostatic copy, photograph, microphotograph, electronically generated,
20 electronically recorded, or other process copy shall for all purposes be deemed to be a
21 transcript, exemplification, or certified copy of the original and shall be admissible in
22 evidence in all courts or administrative agencies. No document shall be admissible under
23 this section unless the offeror shall comply with section 490.692, RSMo, when applicable.

24 4. "Records and documents" include, but are not limited to, papers, documents,
25 facsimile information, microphotographic process, electronically generated or
26 electronically recorded image or information, deposited or filed with the division of
27 professional registration or any of the boards in the division.

324.036. Notwithstanding any other law to the contrary, the director of the division
2 of professional registration is authorized to contract with third parties to collect, account
3 for, and deposit fees on behalf of the division and licensing agencies within the division.

324.038. 1. Whenever a board within or assigned to the division of professional
2 registration, including the division itself when so empowered, may refuse to issue a license
3 for reasons which also serve as a basis for filing a complaint with the administrative
4 hearing commission seeking disciplinary action against a holder of a license, the board, as
5 an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a
6 license subject to probation.

7 2. The board shall notify the applicant in writing of the terms of the probation
8 imposed, the basis therefor, and the date such action shall become effective. The notice
9 shall also advise the applicant of the right to a hearing before the administrative hearing
10 commission, if the applicant files a complaint with the administrative hearing commission
11 within thirty days of the date of delivery or mailing by certified mail of written notice of
12 the probation. If the board issues a probated license, the applicant may file, within thirty
13 days of the date of delivery or mailing by certified mail of written notice of the probation,
14 a written complaint with the administrative hearing commission seeking review of the
15 board's determination. Such complaint shall set forth that the applicant or licensee is
16 qualified for nonprobated licensure under the laws and administrative regulations relating
17 to his or her profession. Upon receipt of such complaint the administrative hearing
18 commission shall cause a copy of such complaint to be served upon the board by certified

19 mail or by delivery of such copy to the office of the board, together with a notice of the
20 place of and the date upon which the hearing on such complaint will be held. Hearings
21 shall be held in accordance with chapter 621, RSMo. The burden shall be on the board to
22 demonstrate the existence of the basis for imposing probation on the licensee. If no written
23 request for a hearing is received by the administrative hearing commission within the
24 thirty-day period, the right to seek review of the board's decision shall be considered
25 waived.

26 **3. If the probation imposed includes restrictions or limitations on the scope of**
27 **practice, the license issued shall plainly state such restriction or limitation. When such**
28 **restriction or limitation is removed, a new license shall be issued.**

324.039. There shall be established in each board within the division of professional
2 **registration, including the division itself when empowered with licensing authority, which**
3 **was on August 28, 1998, required or authorized to revoke a license for failure to submit an**
4 **application for renewal, failure to provide information required for renewal, or**
5 **nonpayment of the required renewal fee, a classification for a licensee who desires to**
6 **remove himself or herself from participating in the licensing system of the board or**
7 **division. Such classification shall be distinguished from revocation of a license and from**
8 **surrender of a license pursuant to an agreement between the board or division and the**
9 **licensee filed with and approved by the administrative hearing commission. Such**
10 **classification shall not be available to a licensee during the time there is an investigation**
11 **of the licensee or the licensee's practices or during the pendency of a disciplinary complaint**
12 **filed with the administrative hearing commission. Each board within the division or the**
13 **division when empowered with licensing authority shall establish by rule qualifications for**
14 **such classification and procedures for a licensee to request an inactive license as provided**
15 **in this section. Notwithstanding any other law to the contrary, no board within the**
16 **division or the division shall be required to revoke a license when the licensee qualifies for**
17 **the classification authorized by this section, as provided by rule. An inactive license**
18 **authorized by this section shall be subject to the same requirements for reinstatement or**
19 **restoration as a lapsed, expired, or revoked license due to failure to renew the license. This**
20 **section shall not affect those boards which are otherwise authorized to classify a license as**
21 **inactive.**

324.041. For the purpose of determining whether cause for discipline or denial
2 **exists under the statutes of any board, commission, or committee within the division of**
3 **professional registration, any licensee, registrant, permittee, or applicant that test positive**
4 **for a controlled substance, as defined in chapter 195, RSMo, is presumed to have**
5 **unlawfully possessed the controlled substance in violation of the drug laws or rules and**

6 regulations of this state, any other state, or the federal government unless he or she has a
7 valid prescription for the controlled substance. The burden of proof that the controlled
8 substance was not unlawfully possessed in violation of the drug laws or rules and
9 regulations of this state, any other state, or the federal government is upon the licensee,
10 registrant, permittee, or applicant.

324.042. Any board, commission, or committee within the division of professional
2 registration may impose additional discipline when it finds after hearing that a licensee,
3 registrant, or permittee has violated any disciplinary terms previously imposed or agreed
4 to pursuant to settlement. The board, commission, or committee may impose as additional
5 discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

324.043. 1. Except as provided in this section, no disciplinary proceeding against
2 any person or entity licensed, registered, or certified to practice a profession within the
3 division of professional registration shall be initiated unless such action is commenced
4 within three years of the date upon which the licensing, registering, or certifying agency
5 received notice of an alleged violation of an applicable statute or regulation.

6 2. For the purpose of this section, notice shall be limited to:

7 (1) A written complaint;

8 (2) Notice of final disposition of a malpractice claim, including exhaustion of all
9 extraordinary remedies and appeals;

10 (3) Notice of exhaustion of all extraordinary remedies and appeals of a conviction
11 based upon a criminal statute of this state, any other state, or the federal government;

12 (4) Notice of exhaustion of all extraordinary remedies and appeals in a disciplinary
13 action by a hospital, state licensing, registering, or certifying agency, or an agency of the
14 federal government.

15 3. For the purposes of this section, an action is commenced when a complaint is
16 filed by the agency with the administrative hearing commission, any other appropriate
17 agency, or in a court; or when a complaint is filed by the agency's legal counsel with the
18 agency in respect to an automatic revocation or a probation violation.

19 4. Disciplinary proceedings based upon repeated negligence shall be exempt from
20 all limitations set forth in this section.

21 5. Disciplinary proceedings based upon a complaint involving sexual misconduct
22 shall be exempt from all limitations set forth in this section.

23 6. Any time limitation provided in this section shall be tolled:

24 (1) During any time the accused licensee, registrant, or certificant is practicing
25 exclusively outside the state of Missouri or residing outside the state of Missouri and not
26 practicing in Missouri;

27 **(2) As to an individual complainant, during the time when such complainant is less**
28 **than eighteen years of age;**

29 **(3) During any time the accused licensee, registrant, or certificant maintains legal**
30 **action against the agency; or**

31 **(4) When a settlement agreement is offered to the accused licensee, registrant, or**
32 **certificant, in an attempt to settle such disciplinary matter without formal proceeding**
33 **under section 621.045, RSMo, until the accused licensee, registrant, or certificant rejects**
34 **or accepts the settlement agreement.**

35 **7. The licensing agency may, in its discretion, toll any time limitation when the**
36 **accused licensee, registrant, or certificant enters into and participates in a treatment**
37 **program for chemical dependency or mental impairment.**

324.050. 1. Sections 324.050 to 324.089 shall be known and may be cited as the
2 "Occupational Therapy Practice Act".

3 2. For the purposes of sections 324.050 to 324.089, the following terms mean:

4 (1) "Board", the Missouri board of occupational therapy;

5 (2) "Certifying entity", the nongovernmental agency or association which certifies or
6 registers individuals who have completed academic and training requirements;

7 (3) "Director", the director of the division of professional registration;

8 (4) "Division", the division of professional registration [of the department of economic
9 development];

10 (5) "Occupational therapist", a person licensed to practice occupational therapy as
11 defined in this section and whose license issued pursuant to sections 324.050 to 324.089;

12 (6) "Occupational therapy", the use of purposeful activity or interventions designed to
13 achieve functional outcomes which promote health, prevent injury or disability and which
14 develop, improve, sustain or restore the highest possible level of independence of any individual
15 who has an injury, illness, cognitive impairment, psychosocial dysfunction, mental illness,
16 developmental or learning disability, physical disability or other disorder or condition. It shall
17 include assessment by means of skill observation or evaluation through the administration and
18 interpretation of standardized or nonstandardized tests and measurements. Occupational therapy
19 services include, but are not limited to:

20 (a) The assessment and provision of treatment in consultation with the individual, family
21 or other appropriate persons;

22 (b) Interventions directed toward developing, improving, sustaining or restoring daily
23 living skills, including self-care skills and activities that involve interactions with others and the
24 environment, work readiness or work performance, play skills or leisure capacities or enhancing
25 educational performances skills;

26 (c) Developing, improving, sustaining or restoring sensorimotor, oral-motor, perceptual
27 or neuromuscular functioning; or emotional, motivational, cognitive or psychosocial components
28 of performance; and

29 (d) Education of the individual, family or other appropriate persons in carrying out
30 appropriate interventions.

31

32 Such services may encompass assessment of need and the design, development, adaptation,
33 application or training in the use of assistive technology devices; the design, fabrication or
34 application of rehabilitative technology such as selected orthotic devices, training in the use of
35 orthotic or prosthetic devices; the application of ergonomic principles; the adaptation of
36 environments and processes to enhance functional performance; or the promotion of health and
37 wellness;

38 (7) "Occupational therapy aide", a person who assists in the practice of occupational
39 therapy under the direct supervision of an occupational therapist or occupational therapy assistant
40 at all times and whose activities require an understanding of occupational therapy but do not
41 require training in the basic anatomical, biological, psychological and social sciences involved
42 in the practice of occupational therapy;

43 (8) "Occupational therapy assistant", a person who is licensed as an occupational therapy
44 assistant by the division, in collaboration with the board. The function of an occupational
45 therapy assistant is to assist an occupational therapist in the delivery of occupational therapy
46 services in compliance with federal regulations and rules promulgated by the division, in
47 collaboration with the Missouri board of occupational therapy.

324.128. As used in sections 324.125 to 324.183, the following terms mean:

2 (1) "Board", the state board of registration for the healing arts;

3 (2) "Division", the division of professional registration [of the department of economic
4 development];

5 (3) "Extracorporeal circulation", the diversion of a patient's blood through a heart-lung
6 machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver
7 or other organs;

8 (4) "Licensed clinical perfusionist", a person licensed pursuant to sections 324.125 to
9 324.183;

10 (5) "Perfusion", the functions necessary for the support, treatment, measurement or
11 supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a
12 combination of such activities, and to ensure the safe management of physiologic functions by
13 monitoring and analyzing the parameters of the systems under an order and under the supervision
14 of a licensed physician, including:

15 (a) The use of extracorporeal circulation, long-term cardiopulmonary support techniques
16 including extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation and
17 associated therapeutic and diagnostic technologies;

18 (b) Counterpulsation, ventricular assistance, autotransfusion, blood conservation
19 techniques, myocardial and organ preservation, extracorporeal life support and isolated limb
20 perfusion;

21 (c) The use of techniques involving blood management, advanced life support and other
22 related functions; and

23 (d) In the performance of the acts described in this subdivision:

24 a. The administration of:

25 i. Pharmacological and therapeutic agents;

26 ii. Blood products or anesthetic agents through the extracorporeal circuit or through an
27 intravenous line as ordered by a physician;

28 b. The performance and use of:

29 i. Anticoagulation monitoring and analysis;

30 ii. Physiologic monitoring and analysis;

31 iii. Blood gas and chemistry monitoring and analysis;

32 iv. Hematologic monitoring and analysis;

33 v. Hypothermia and hyperthermia;

34 vi. Hemoconcentration and hemodilution;

35 vii. Hemodialysis;

36 c. The observation of signs and symptoms related to perfusion services, the
37 determination of whether the signs and symptoms exhibit abnormal characteristics and the
38 implementation of appropriate reporting, clinical perfusion protocols or changes in, or the
39 initiation of, emergency procedures;

40 (6) "Perfusion protocols", perfusion-related policies and protocols developed or
41 approved by a licensed health care facility or a physician through collaboration with
42 administrators, licensed clinical perfusionists and other health care professionals;

43 (7) "Provisional clinical licensed perfusionist", a person provisionally licensed pursuant
44 to sections 324.125 to 324.183.

324.159. The board shall:

2 (1) Adopt and publish a code of ethics;

3 (2) Establish the qualifications and fitness of applicants of licenses, renewal of licenses
4 and reciprocal licenses;

5 (3) Revoke, suspend or deny a license, suspend a license or reprimand a license holder
6 for a violation of sections 324.125 to 324.183, the code of ethics or the rules adopted by the
7 board;

8 (4) Provide for the expenditure of funds necessary for the proper administration of its
9 assigned duties;

10 (5) Establish reasonable and necessary fees for the administration and implementation
11 of sections 324.125 to 324.183. Fees shall be established at a rate that does not significantly
12 exceed the cost of administering the provisions of sections 324.125 to 324.183;

13 (6) Establish continuing professional education requirements for licensed clinical
14 perfusionists and provisional licensed clinical perfusionists, the standards of which shall be at
15 least as stringent as those of the American Board of Cardiovascular Perfusion or its successor
16 agency;

17 (7) Within the limits of its appropriation, employ and remove board personnel, as
18 defined in subdivision (4) of subsection [15] **10** of section [620.010, RSMo] **324.001**, as may be
19 necessary for the efficient operation of the board;

20 (8) Adopt the training and clinical competency requirements established by the
21 department of health and senior services through hospital licensing regulations promulgated
22 pursuant to chapter 197, RSMo. The provisions of sections 324.125 to 324.183 to the contrary
23 notwithstanding, the board shall not regulate a perfusionist's training, education or fitness to
24 practice except as specifically provided by the hospital licensing regulations of the department
25 of health and senior services. In promulgating such regulations, the department of health and
26 senior services shall adopt the standards of the American Board of Cardiovascular Perfusion, or
27 its successor organization, or comparable standards for training and experience. The department
28 shall by rule and regulation provide that individuals providing perfusion services who do meet
29 such standards may continue their employment in accordance with section 324.130. The
30 department shall also establish standards for provisional licensed clinical perfusionists pursuant
31 to section 324.147.

324.200. 1. Sections 324.200 to 324.225 shall be known and may be cited as the
2 "Dietitian Practice Act".

3 2. As used in sections 324.200 to 324.225, the following terms shall mean:

4 (1) "Commission on Accreditation for Dietetics Education (CADE)", the American
5 Dietetic Association's accrediting agency for education programs preparing students for
6 professions as registered dietitians;

7 (2) "Committee", the state committee of dietitians established in section 324.203;

8 (3) "Dietetics practice", the application of principles derived from integrating knowledge
9 of food, nutrition, biochemistry, physiology, management, and behavioral and social science to

10 achieve and maintain the health of people by providing nutrition assessment and nutrition care
11 services. The primary function of dietetic practice is the provision of nutrition care services that
12 shall include, but not be limited to:

13 (a) Assessing the nutrition needs of individuals and groups and determining resources
14 and constraints in the practice setting;

15 (b) Establishing priorities, goals, and objectives that meet nutrition needs and are
16 consistent with available resources and constraints;

17 (c) Providing nutrition counseling or education in health and disease;

18 (d) Developing, implementing, and managing nutrition care systems;

19 (e) Evaluating, making changes in, and maintaining appropriate standards of quality and
20 safety in food and in nutrition services;

21 (f) Engaged in medical nutritional therapy as defined in subdivision (8) of this section;

22 (4) "Dietitian", one engaged in dietetic practice as defined in subdivision (3) of this
23 section;

24 (5) "Director", the director of the division of professional registration [in the department
25 of economic development];

26 (6) "Division", the division of professional registration [of economic development];

27 (7) "Licensed dietitian", a person who is licensed pursuant to the provisions of sections
28 324.200 to 324.225 to engage in the practice of dietetics or medical nutrition therapy;

29 (8) "Medical nutrition therapy", nutritional diagnostic, therapy, and counseling services
30 which are furnished by a registered dietitian;

31 (9) "Registered dietitian", a person who:

32 (a) Has completed a minimum of a baccalaureate degree granted by a United States
33 regionally accredited college or university or foreign equivalent;

34 (b) Completed the academic requirements of a didactic program in dietetics, as approved
35 by CADE;

36 (c) Successfully completed the registration examination for dietitians; and

37 (d) Accrued seventy-five hours of approved continuing professional units every five
38 years; as determined by the committee on dietetic registration.

324.203. 1. There is hereby created within the division of professional registration, a
2 committee to be known as the "State Committee of Dietitians". The committee shall assist the
3 division in administering and enforcing the provisions of sections 324.200 to 324.225, adopt,
4 publish, and enforce such rules and regulations within the scope and purview of the provisions
5 of sections 324.200 to 324.225 as may be considered to be necessary or proper for the effective
6 administration and interpretation of the provisions of sections 324.200 to 324.225, and for the
7 conduct of its business and management of its internal affairs.

8 2. The committee shall approve the examination required by section 324.210.

9 3. The committee shall consist of six members including one public member, appointed
10 by the governor with the advice and consent of the senate. Each member of the committee shall
11 be a citizen of the United States and a resident of this state, and, except as provided in this
12 section and except for the first members appointed, shall be licensed as a dietitian by this state.
13 Beginning with the first appointments made after August 28, 1998, two members shall be
14 appointed for four years, two members shall be appointed for three years and two members shall
15 be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms.
16 No person shall be eligible for reappointment who has served as a member of the committee for
17 a total of eight years. The membership of the committee shall reflect the differences in levels
18 of education and work experience with consideration being given to race, gender, and ethnic
19 origins. No more than three members shall be from the same political party. The membership
20 shall be representative of the various geographic regions of the state.

21 4. A vacancy in the office of a member shall be filled by appointment by the governor
22 for the remainder of the unexpired term.

23 5. Each member of the committee shall receive as compensation an amount set by the
24 division not to exceed fifty dollars, and shall be reimbursed for necessary and actual expenses
25 incurred in the performance of the member's official duties. The director[, in collaboration with
26 the department of economic development,] **of the division of professional registration** shall
27 establish by rule, guidelines for payment. All staff for the committee shall be provided by the
28 division.

29 6. The committee shall hold an annual meeting at which it shall elect from its
30 membership a chairperson and secretary. The committee may hold such additional meetings as
31 may be required in the performance of its duties, provided that notice of every meeting shall be
32 given to each member at least three days prior to the date of the meeting. A quorum of the
33 committee shall consist of a majority of its members.

34 7. The governor may remove a committee member for misconduct, incompetency,
35 neglect of the member's official duties, or for cause.

36 8. The public member shall be at the time of the person's appointment a citizen of the
37 United States; a resident of this state for a period of one year and a registered voter; a person who
38 is not and never was a member of any profession licensed or regulated by sections 324.200 to
39 324.225, or the spouse of such a person; and a person who does not have and never has had a
40 material financial interest in either the providing of the professional services regulated by
41 sections 324.200 to 324.225, or an activity or organization directly related to any profession
42 licensed or regulated by sections 324.200 to 324.225. The duties of the public member shall not
43 include the determination of the technical requirements to be met for licensure or whether any

44 person meets such technical requirements or of the technical competence or technical judgment
45 of a licensee or a candidate for licensure.

324.240. As used in sections 324.240 to 324.275, the following terms shall mean:

- 2 (1) "Board", the board of therapeutic massage;
- 3 (2) "Certified mentor", a practitioner who is qualified for license in this state pursuant
4 to sections 324.240 to 324.275 and who has practiced professionally for five years, with an
5 average of four hundred fifty hours per year of teaching and massage hours and who has been
6 approved by the board as a massage therapy instructor;
- 7 (3) "Director", the director of the division of professional registration [of the department
8 of economic development];
- 9 (4) "Division", the division of professional registration [of the department of economic
10 development];
- 11 (5) "Massage business", any place of business in which massage therapy is practiced;
- 12 (6) "Massage therapist", a health care practitioner who provides or offers to provide
13 massage therapy, as provided in sections 324.240 to 324.275, to any person at no cost or for a
14 fee, monetary or otherwise, implying that the massage therapist is trained, experienced and
15 licensed in massage therapy, and who holds a current, valid license to practice massage therapy;
- 16 (7) "Massage therapy", a health care profession which involves the treatment of the
17 body's tonus system through the scientific or skillful touching, rubbing, pressing or other
18 movements of the soft tissues of the body with the hands, forearms, elbows, or feet, or with the
19 aid of mechanical apparatus, for relaxation, therapeutic, remedial or health maintenance purposes
20 to enhance the mental and physical well-being of the client, but does not include the prescription
21 of medication, spinal or joint manipulation, the diagnosis of illness or disease, or any service or
22 procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry
23 is required by law, or to those occupations defined in chapter 329, RSMo;
- 24 (8) "Massage therapy instructor", an individual who possesses teaching credentials
25 satisfactory to the board for the purpose of teaching massage therapy;
- 26 (9) "Person", an individual, corporation, association or other legal entity.

324.243. 1. There is hereby established in the division of professional registration [in
2 the department of economic development] the "Board of Therapeutic Massage" which shall
3 guide, advise and make recommendations to the division and fulfill other responsibilities
4 designated by sections 324.240 to 324.275. The board shall approve the examination required
5 by section 324.265 and shall assist the division in carrying out the provisions of sections 324.240
6 to 324.275.

7 2. The board shall consist of seven voting members, including one public member, and
8 one nonvoting member, appointed by the governor with the advice and consent of the senate.

9 Each member of the board shall be a citizen of the United States and a resident of this state and,
10 except for the members first appointed, shall be licensed as a massage therapist by this state. The
11 nonvoting member shall be a member of the massage education community in the state and shall
12 serve a four-year term. Beginning with the appointments made after August 28, 1998, three
13 voting members shall be appointed for four years, two voting members shall be appointed for
14 three years and two voting members shall be appointed for two years. Thereafter, all voting
15 members shall be appointed to serve four-year terms. No person shall be eligible for
16 reappointment who has served as a member of the board for a total of eight years. The
17 membership of the board shall reflect the differences in work experience and the professional
18 affiliations of therapists with consideration being given to race, gender and ethnic origins.

19 3. A vacancy in the office of a member shall be filled by appointment by the governor
20 for the remainder of the unexpired term.

21 4. The board shall hold an annual meeting at which it shall elect from its membership
22 a chairperson, vice chairperson and secretary. The board may hold such additional meetings as
23 may be required in the performance of its duties, provided that notice of every meeting shall be
24 given to each member at least three days prior to the date of the meeting. A quorum of the board
25 shall consist of a majority of its voting members.

26 5. The governor may remove a board member for misconduct, incompetence or neglect
27 of official duties after giving the board member written notice of the charges and allowing the
28 board member an opportunity to be heard.

29 6. The public member shall be, at the time of appointment, a citizen of the United States;
30 a resident of this state for a period of one year and a registered voter; but may not have been a
31 member of any profession licensed or regulated pursuant to sections 324.240 to 324.275 or an
32 immediate family member of such a person; and may not have had a material, financial interest
33 in either the providing of massage therapy as defined in sections 324.240 to 324.275 or in an
34 activity or organization directly related to any profession licensed or regulated pursuant to
35 sections 324.240 to 324.275. The duties of the public member shall not include any
36 determination of the technical requirements to be met for licensure, whether a candidate for
37 licensure meets such technical requirements, or of the technical competence or technical
38 judgment of a licensee or a candidate for licensure.

39 7. The professional members shall not be officers in a professional massage organization,
40 nor may they be the owners or managers of any massage educational entity.

41 8. Notwithstanding any other provision of law to the contrary, any appointed member
42 of the board shall receive as compensation an amount established by the director of the division
43 of professional registration not to exceed seventy dollars per day for commission business plus

44 actual and necessary expenses. The director of the division of professional registration shall
45 establish by rule guidelines for payment. All staff for the board shall be provided by the division.

324.400. As used in sections 324.400 to 324.439, the following terms mean:

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

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

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

6 [(4)] (3) "Registered interior designer", a design professional who provides services
7 including preparation of documents and specifications relative to nonload-bearing interior
8 construction, furniture, finishes, fixtures and equipment and who meets the criteria of education,
9 experience and examination as provided in sections 324.400 to 324.439.

324.406. 1. There is hereby created within the division of professional registration a
2 council to be known as the "Interior Design Council". The council shall consist of four interior
3 designers and one public member appointed by the governor with the advice and consent of the
4 senate. The governor shall give due consideration to the recommendations by state organizations
5 of the interior design profession for the appointment of the interior design members to the
6 council. Council members shall be appointed to serve a term of four years; except that of the
7 members first appointed, one interior design member and the public member shall be appointed
8 for terms of four years, one member shall be appointed for a term of three years, one member
9 shall be appointed for a term of two years and one member shall be appointed for a term of one
10 year. No member of the council shall serve more than two terms.

11 2. Each council member, other than the public member, shall be a citizen of the United
12 States, a resident of the state of Missouri for at least one year, meet the qualifications for
13 professional registration, practice interior design as the person's principal livelihood and, except
14 for the first members appointed, be registered pursuant to sections 324.400 to 324.439 as an
15 interior designer.

16 3. The public member shall be, at the time of such person's appointment, a citizen of the
17 United States, a registered voter, a person who is not and never was a member of the profession
18 regulated by sections 324.400 to 324.439 or the spouse of such a person and a person who does
19 not have and never has had a material financial interest in the providing of the professional
20 services regulated by sections 324.400 to 324.439. The duties of the public member shall not
21 include the determination of the technical requirements for the registration of persons as interior
22 designers. The provisions of section [620.132, RSMo,] **324.028** pertaining to public members
23 of certain state boards and commissions shall apply to the public member of the council.

24 4. Members of the council may be removed from office for cause. Upon the death,
25 resignation or removal from office of any member of the council, the appointment to fill the

26 vacancy shall be for the unexpired portion of the term so vacated and shall be filled in the same
27 manner as the first appointment and due notice be given to the state organizations of the interior
28 design profession prior to the appointment.

29 5. Each member of the council may receive as compensation an amount set by the
30 division not to exceed fifty dollars per day and shall be reimbursed for the member's reasonable
31 and necessary expenses incurred in the official performance of the member's duties as a member
32 of the council. The director[, in collaboration with the department of economic development,]
33 shall establish by rule, guidelines for payment.

34 6. The council shall meet at least twice each year and advise the division on matters
35 within the scope of sections 324.400 to 324.439. The organization of the council shall be
36 established by the members of the council.

37 7. The council may sue and be sued as the interior design council and the council
38 members need not be named as parties. Members of the council shall not be personally liable
39 either jointly or severally for any act committed in the performance of their official duties as
40 council members. No council member shall be personally liable for any costs which accrue in
41 any action by or against the council.

324.475. For the purposes of sections 324.475 to 324.499, the following terms mean:

2 (1) "Acupuncture", the use of needles inserted into the body by piercing of the skin and
3 related modalities, for the assessment, evaluation, prevention, treatment or correction of any
4 abnormal physiology or pain by means of controlling and regulating the flow and balance of
5 energy in the body so as to restore the body to its proper functioning and state of health;

6 (2) "Acupuncturist", any person licensed as provided in sections 324.475 to 324.499, to
7 practice acupuncture as defined in subdivision (1) of this section;

8 (3) "Auricular detox technician", a person trained solely in, and who performs only,
9 auricular detox treatment. An auricular detox technician shall practice under the supervision of
10 a licensed acupuncturist. Such treatment shall take place in a hospital, clinic or treatment facility
11 which provides comprehensive substance abuse services, including counseling, and maintains
12 all licenses and certifications necessary and applicable;

13 (4) "Auricular detox treatment", a very limited procedure consisting of acupuncture
14 needles inserted into specified points in the outer ear of a person undergoing treatment for drug
15 or alcohol abuse or both drug and alcohol abuse;

16 (5) "Board", the state board of chiropractic examiners established in chapter 331, RSMo;

17 (6) "Committee", the Missouri acupuncture advisory committee;

18 (7) "Department", the [Missouri] department of [economic development] **insurance,**
19 **financial institutions and professional registration;**

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

21 (9) "Division", the division of professional registration [of the department of economic
22 development];

23 (10) "License", the document of authorization issued by the board for a person to engage
24 in the practice of acupuncture.

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

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

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

9 (3) The applicant is otherwise qualified for licensure under sections 324.520 to 324.526
10 and the rule promulgated under the authority of this statute.

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

13 3. Notwithstanding the requirements of sections [620.127 and 620.145, RSMo] **324.024**
14 **and 324.032**, an applicant for temporary licensure under this section shall not be required to
15 provide a Social Security number if the application is submitted by a citizen of a foreign country
16 who has not yet been issued a Social Security number and who previously has not been licensed
17 by any other state, United States territory, or federal agency. A citizen of a foreign country who
18 applies for a temporary permit under this section shall provide the division of professional
19 registration with his or her visa or passport identification number in lieu of the Social Security
20 number.

325.010. As used in sections 325.010 to 325.055, unless the context clearly requires
2 another meaning, the following words and phrases mean:

3 (1) "Director", the director of the [division of insurance of the state of Missouri]
4 **department of insurance, financial institutions and professional registration;**

5 (2) "Public adjuster", any person, partnership, association or corporation engaging in the
6 adjustment or settlement of claims for losses or damages arising out of policies of fire or allied
7 lines of insurances; but does not include persons, partnerships, associations or corporations
8 engaged in the adjustment or settlement of claims for losses or damages arising out of other types
9 of policies for casualty insurance; and does not include attorneys at law; and does not include an
10 agent or employee of an issuer of policies of insurance against loss or damage by fire or allied
11 casualty; nor to an insurance broker acting as an adjuster without compensation for a client for
12 whom he is acting as broker;

13 (3) "Public adjuster solicitor", any person, other than clerical employees, employed by
14 a public adjuster who solicits or aids in securing any contract for adjustment for a public adjuster,
15 or who acts for or with a public adjuster in making settlements or adjustments of claims.

326.265. 1. The board shall elect annually one of its members as president, one as vice
2 president, one as secretary and one as treasurer, and shall make an annual report to the governor
3 and the general assembly. The board shall file and preserve all written applications, petitions,
4 complaints, charges or requests made or presented to the board and all affidavits and other
5 verified documents, and shall keep accurate records and minutes of its proceedings. A copy of
6 any entry in the register, or of any records or minutes of the board, certified by the president or
7 secretary of the board under its seal shall constitute and have the full force and effect of the
8 original.

9 2. The board may employ legal counsel and board personnel as defined in subdivision
10 (4) of subsection [15] **10** of section [620.010] **324.001**, RSMo, and incur such travel and other
11 expense as in its judgment shall be necessary for the effective administration of this chapter.

12 3. The board may also appoint a continuing education committee of not less than five
13 members consisting of certified public accountants of this state. Such committee shall:

14 (1) Evaluate continuing education programs to determine if they meet continuing
15 education regulations adopted by the board;

16 (2) Consider applications for exceptions to continuing education regulations adopted
17 pursuant to the provisions of section 326.271; and

18 (3) Consider other matters regarding continuing education as may be assigned by the
19 board.

327.051. 1. The board shall meet at least twice a year at such times and places as are
2 fixed by the board.

3 2. The board may appoint and employ legal counsel and such board personnel, as defined
4 in subdivision (4) of subsection [15] **10** of section [620.010] **342.001**, RSMo, as it deems
5 necessary within the appropriation therefor.

6 3. The board shall keep records of its official acts and decisions and certified copies of
7 any such records attested by the executive director with the board's seal affixed shall be received
8 as evidence in all courts to the same extent as the board's original records would be received.

9 4. Each member of the board shall receive as compensation an amount set by the board
10 not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled
11 to reimbursement of such member's expenses necessarily incurred in the discharge of such
12 member's official duties.

328.050. 1. Each member of the board shall receive as compensation an amount set by
2 the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be

3 entitled to reimbursement of his expenses necessarily incurred in the discharge of his official
4 duties. All money payable under this chapter shall be collected by the division of professional
5 registration in the department of [economic development] **insurance, financial institutions and**
6 **professional registration** which shall transmit them to the department of revenue for deposit
7 in the state treasury to the credit of a "Board of Barbers Fund". Warrants shall be drawn upon
8 the treasurer out of this fund only for the payment of the salaries, office and other necessary
9 expenses of the board. A detailed statement of the expenses incurred by the board, approved by
10 the secretary-treasurer of the board, shall be filed with the commissioner of administration before
11 warrants are drawn for their payment.

12 2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
13 this fund shall not be transferred and placed to the credit of general revenue until the amount in
14 the fund at the end of the biennium exceeds two times the amount of the appropriation from the
15 board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less
16 frequently than yearly, then three times the appropriation from the board's funds for the preceding
17 fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which
18 exceeds the appropriate multiple of the appropriations from the board's funds for the preceding
19 fiscal year.

329.025. 1. The board shall have power to:

- 2 (1) Prescribe by rule for the examination of applicants for licensure to practice the
3 classified occupations of barbering and cosmetology and issue licenses;
- 4 (2) Prescribe by rule for the inspection of barber and cosmetology establishments and
5 schools and appoint the necessary inspectors and examining assistants;
- 6 (3) Prescribe by rule for the inspection of establishments and schools of barbering and
7 cosmetology as to their sanitary conditions and to appoint the necessary inspectors and, if
8 necessary, examining assistants;
- 9 (4) Set the amount of the fees that this chapter and chapter 328, RSMo, authorize and
10 require, by rules promulgated under section 536.021, RSMo. The fees shall be set at a level
11 sufficient to produce revenue that shall not substantially exceed the cost and expense of
12 administering this chapter and chapter 328, RSMo;
- 13 (5) Employ and remove board personnel, as set forth in subdivision (4) of subsection
14 [15] **10** of section [620.010] **324.001**, RSMo, including an executive secretary or comparable
15 position, inspectors, investigators, legal counsel and secretarial support staff, as may be necessary
16 for the efficient operation of the board, within the limitations of its appropriation;
- 17 (6) Elect one of its members president, one vice president, and one secretary with the
18 limitation that no single profession can hold the positions of president and vice president at the
19 same time;

20 (7) Promulgate rules necessary to carry out the duties and responsibilities designated by
21 this chapter and chapter 328, RSMo;

22 (8) Determine the sufficiency of the qualifications of applicants; and

23 (9) Prescribe by rule the minimum standards and methods of accountability for the
24 schools of barbering and cosmetology licensed under this chapter and chapter 328, RSMo.

25 2. The board shall create no expense exceeding the sum received from time to time from
26 fees imposed under this chapter and chapter 328, RSMo.

27 3. A majority of the board, with at least one representative of each profession being
28 present, shall constitute a quorum for the transaction of business.

29 4. The board shall meet not less than six times annually.

30 5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
31 is created under the authority delegated in this chapter and chapter 328, RSMo, shall become
32 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
33 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
34 nonseverable and if any of the powers vested with the general assembly under chapter 536,
35 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
36 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
37 after August 28, 2001, shall be invalid and void.

329.028. 1. There is hereby created in the state treasury a fund to be known as the
2 "Board of Cosmetology and Barber Examiners Fund", which shall consist of all moneys collected
3 by the board. All fees provided for in this chapter and chapter 328, RSMo, shall be payable to
4 the director of the division of professional registration [in the department of economic
5 development], who shall keep a record of the account showing the total payments received and
6 shall immediately thereafter transmit them to the department of revenue for deposit in the state
7 treasury to the credit of the board of cosmetology and barber examiners fund. All the salaries
8 and expenses for the operation of the board shall be appropriated and paid from such fund.

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

17 3. Upon appointment by the governor and confirmation by the senate of the board, all
18 moneys deposited in the board of barbers fund created in section 328.050, RSMo, and the state

19 board of cosmetology fund created in section 329.240, shall be transferred to the board of
20 cosmetology and barber examiners fund created in subsection 1 of this section. The board of
21 barbers fund and the state board of cosmetology fund shall be abolished when all moneys are
22 transferred to the board of cosmetology and barber examiners fund.

329.210. 1. The board shall have power to:

- 2 (1) Prescribe by rule for the examinations of applicants for licensure to practice the
3 classified occupation of cosmetology and issue licenses;
- 4 (2) Prescribe by rule for the inspection of cosmetology establishments and schools and
5 appoint the necessary inspectors and examining assistants;
- 6 (3) Prescribe by rule for the inspection of establishments and schools of cosmetology as
7 to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining
8 assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and
9 regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level
10 sufficient to produce revenue which shall not substantially exceed the cost and expense of
11 administering this chapter;
- 12 (4) Employ and remove board personnel, as defined in subdivision (4) of subsection [15]
13 **10** of section [620.010] **324.001**, RSMo, as may be necessary for the efficient operation of the
14 board, within the limitations of its appropriation;
- 15 (5) Elect one of its members president, one vice president and one secretary;
- 16 (6) Determine the sufficiency of the qualifications of applicants; and
- 17 (7) Prescribe by rule the minimum standards and methods of accountability for the
18 schools of cosmetology licensed pursuant to this chapter.

19 2. The board shall create no expense exceeding the sum received from time to time from
20 fees imposed pursuant to this chapter.

21 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
22 is created under the authority delegated in this chapter shall become effective only if it complies
23 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
24 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
25 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
26 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
27 grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be
28 invalid and void.

330.190. The board shall investigate all complaints of violations of the provisions of this
2 chapter as provided in [subdivision (6) of subsection 16 of section 620.010] **section 324.002**,
3 RSMo, and shall report any such violations to the proper prosecuting officers or other public
4 officials charged with the enforcement of the provisions of this chapter. The board may employ

5 such board personnel, as defined in subdivision (4) of subsection [16] **10** of section [620.010]
6 **324.001**, RSMo, as it deems necessary within appropriations therefor.

331.100. 1. The board shall elect a president and secretary at the first regular meeting
2 held after January first of each year. Each member of the board shall receive as compensation
3 for his services the sum of fifty dollars per day while discharging the actual duties of the board,
4 and each member shall receive necessary traveling expenses while actually engaged in the
5 performance of his duties as a member of the board.

6 2. The board shall have a common seal, and shall adopt rules and regulations for the
7 application and enforcement of this chapter. The president and secretary shall have power to
8 administer oaths. Four members shall constitute a quorum. They shall publish the dates and
9 places for examinations at least thirty days prior to the meeting. The board shall create no
10 expenses exceeding the sums received from time to time as herein provided.

11 3. The board shall employ such board personnel as may be necessary to carry out the
12 provisions of this chapter. Board personnel shall include an executive secretary or comparable
13 position, inspectors, investigators, attorneys, and secretarial support staff for these positions.

14 4. Board personnel shall have their duties and compensation prescribed by the board
15 within appropriations for that purpose, except that compensation for board personnel shall not
16 exceed that established for comparable positions, as determined by the board, under the job and
17 pay plan of the department of [economic development] **insurance, financial institutions and**
18 **professional registration.**

19 5. Members of the board shall not be personally liable either jointly or separately for any
20 act or acts committed in the performance of their official duties as board members except gross
21 negligence.

332.041. 1. The board shall meet at least twice a year at such times and places in the
2 state of Missouri as may be fixed by the board. The board shall elect from its membership a
3 president, a vice president, and a secretary-treasurer, each of whom shall be elected at the times
4 and serve for the terms as are determined by the board, and each of whose duties shall be
5 prescribed by the board.

6 2. The board shall keep records of its official acts, and certified copies of any such
7 records attested by a designee of the board with the board's seal affixed shall be received as
8 evidence in all courts to the same extent as the board's original records would be received.

9 3. Each member of the board shall receive as compensation an amount set by the board
10 not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled
11 to reimbursement of his expenses necessarily incurred in the discharge of his official duties. The
12 board may employ and pay legal counsel and such board personnel, as defined in subdivision (4)

13 of subsection [16] **10** of section [620.010] **324.001**, RSMo, as it deems necessary within
14 appropriations therefor.

332.327. 1. The board may establish an impaired dentist or dental hygienist committee,
2 to be designated as the well-being committee, to promote the early identification, intervention,
3 treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of
4 illness, substance abuse, or as a result of any physical or mental condition. The board may enter
5 into a contractual agreement with a nonprofit corporation or a dental association for the purpose
6 of creating, supporting and maintaining a committee to be designated as the well-being
7 committee. The board may promulgate administrative rules subject to the provisions of this
8 section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to
9 this section. The board may expend appropriated funds necessary to provide for operational
10 expenses of the committee formed pursuant to this section. Any member of the well-being
11 committee, as well as any administrator, staff member, consultant, agent or employee of the
12 committee, acting within the scope of his or her duties and without actual malice and, all other
13 persons who furnish information to the committee in good faith and without actual malice, shall
14 not be liable for any claim of damages as a result of any statement, decision, opinion,
15 investigation or action taken by the committee, or by any individual member of the committee.

16 2. All information, interviews, reports, statements, memoranda or other documents
17 furnished to or produced by the well-being committee, as well as communications to or from the
18 committee, any findings, conclusions, interventions, treatment, rehabilitation or other
19 proceedings of the committee which in any way pertain to a licensee who may be, or who
20 actually is, impaired shall be privileged and confidential.

21 3. All records and proceedings of the well-being committee which pertain or refer to a
22 licensee who may be, or who actually is, impaired shall be privileged and confidential and shall
23 be used by the committee and its members only in the exercise of the proper function of the
24 committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall
25 not be subject to court subpoena or subject to discovery or introduction as evidence in any civil,
26 criminal or administrative proceedings except as provided in subsection 4 of this section.

27 4. The well-being committee may disclose information relative to an impaired licensee
28 only when:

29 (1) It is essential to disclose the information to further the intervention, treatment or
30 rehabilitation needs of the impaired licensee and only to those persons or organization with a
31 need to know;

32 (2) Its release is authorized in writing by the impaired licensee;

33 (3) The committee is required to make a report to the board; or

34 (4) The information is subject to a court order.

35 5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or
36 more causes stated in subsection 2 of section 332.321, the board may enter into a diversion
37 agreement with a dentist or dental hygienist to refer the licensee to the dental well-being
38 committee under such terms and conditions as are agreed to by the board and licensee for a
39 period not to exceed five years. The board shall enter into no more than two diversion
40 agreements with any individual licensee. If the licensee violates a term or condition of a
41 diversion agreement entered into pursuant to this section, the board may elect to pursue
42 discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that
43 resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section
44 332.321. While the licensee participates in the well-being committee, the time limitations of
45 section [620.154] **324.043**, RSMo, shall toll pursuant to subsection 7 of section [620.154]
46 **324.043**, RSMo. All records pertaining to diversion agreements are confidential and may only
47 be released [pursuant to subdivision (7) of subsection 14 of section 620.010] **under subsection**
48 **8 of section 324.001**, RSMo.

49 6. The board may disclose information and records to the well-being committee to assist
50 the committee in the identification, intervention, treatment, and rehabilitation of dentists or
51 dental hygienists who may be impaired by reason of illness, substance abuse, or as the result of
52 any physical or mental condition. The well-being committee shall keep all information and
53 records provided by the board confidential to the extent the board is required to treat the
54 information and records as closed to the public pursuant to chapter 620, RSMo.

333.221. 1. Each member of the board shall receive as compensation an amount set by
2 the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be
3 entitled to reimbursement of his expenses necessarily incurred in the discharge of his official
4 duties.

5 2. The board may employ such board personnel, as defined in subdivision (4) of
6 subsection [16] **10** of section [620.010] **324.001**, RSMo, as is necessary for the administration
7 of this chapter.

334.123. The board shall elect its own president and secretary, each to serve for a term
2 of one year, and shall maintain an office and employ an executive director and such other board
3 personnel, as defined in section [620.010] **324.001**, RSMo, as the board in its discretion deems
4 necessary. Without limiting the foregoing, the board is specifically authorized to obtain the
5 services of specially trained and qualified persons or organizations to assist in conducting
6 examinations of applicants for licenses and may employ legal counsel. The executive director
7 shall have the degree of bachelor of arts or the equivalent combination of education and
8 experience from which comparable knowledge and abilities can be acquired. The board shall
9 meet annually in Jefferson City and at such other times and places as the members of the board

10 may designate, and shall keep a record of its proceedings and shall cause a register to be kept of
11 all applicants for certificates of licensure. The records and register shall be prima facie evidence
12 of all matters recorded therein. Four members of the board shall constitute a quorum, at least
13 one of whom shall be a graduate of a professional school approved and accredited as reputable
14 by the American Medical Association or the Liaison Committee on Medical Education, and at
15 least one of whom shall be a graduate of a professional school approved and accredited as
16 reputable by the American Osteopathic Association.

334.240. Upon receiving information that any provision of sections 334.010, 334.190
2 and 334.250 has been or is being violated, the secretary of the board or other person designated
3 by the board shall investigate, and upon probable cause appearing, the secretary shall, under the
4 direction of the board, file a complaint with the administrative hearing commission or
5 appropriate official or court. All such complaints shall be handled as provided by rule
6 promulgated [pursuant to subdivision (6) of subsection 16 of section 620.010] **under section**
7 **324.002**, RSMo.

334.400. As used in sections 334.400 to 334.430, the following terms shall mean:

- 2 (1) "Anesthesiologist", a physician who has completed a residency in anesthesiology
3 approved by the American Board of Anesthesiology or the American Osteopathic Board of
4 Anesthesiology;
- 5 (2) "Anesthesiologist assistant", a person who meets each of the following conditions:
 - 6 (a) Has graduated from an anesthesiologist assistant program accredited by the American
7 Medical Association's Committee on Allied Health Education and Accreditation or by its
8 successor agency;
 - 9 (b) Has passed the certifying examination administered by the National Commission on
10 Certification of Anesthesiologist Assistants;
 - 11 (c) Has active certification by the National Commission on Certification of
12 Anesthesiologist Assistants; and
 - 13 (d) Provides health care services delegated by a licensed anesthesiologist;
- 14 (3) "Anesthesiologist assistant supervision agreement", a written agreement, jointly
15 agreed upon protocols or standing order between a supervising anesthesiologist and an
16 anesthesiologist assistant, which provides for the delegation of health care services from a
17 supervising anesthesiologist to an anesthesiologist assistant and the review of such services;
- 18 (4) "Applicant", any individual who seeks to become licensed as an anesthesiologist
19 assistant;
- 20 (5) "Continuing education", the offering of instruction or information to license holders
21 for the purpose of maintaining or increasing skills necessary for the safe and competent practice
22 of anesthetic care;

23 (6) "Department", the department of [economic development] **insurance, financial**
24 **institutions and professional registration** or a designated agency thereof;

25 (7) "Immediately available", in the same physical location or facility in which the
26 services are provided;

27 (8) "Physician", an individual licensed pursuant to this chapter to practice medicine and
28 surgery or osteopathic medicine and surgery;

29 (9) "Supervision", medical direction by an anesthesiologist of an anesthesiologist
30 assistant as defined in conditions of 42 CFR 415.110 which limits supervision to no more than
31 four anesthesiologist assistants concurrently.

334.702. As used in sections 334.700 to 334.725, unless the context clearly requires
2 otherwise, the following terms mean:

3 (1) "Athlete", a person who participates in a sanctioned amateur or professional sport or
4 recreational sport activity;

5 (2) "Athletic trainer", a person who meets the qualifications of section 334.708 and who,
6 upon the direction of the team physician and/or consulting physician, practices prevention,
7 emergency care, first aid, treatment, or physical rehabilitation of injuries incurred by athletes in
8 the manner, means, and methods deemed necessary to effect care or rehabilitation, or both;

9 (3) "Board", the Missouri board for the healing arts;

10 (4) "Committee", the athletic trainers advisory committee;

11 (5) "Division", the division of professional registration [of the department of economic
12 development];

13 (6) "Student athletic trainer", a person who assists in the duties usually performed by a
14 licensed athletic trainer and who works under the direct supervision of a licensed athletic trainer.

334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;

3 (2) "Certification" or "registration", a process by a certifying entity that grants
4 recognition to applicants meeting predetermined qualifications specified by such certifying
5 entity;

6 (3) "Certifying entity", the nongovernmental agency or association which certifies or
7 registers individuals who have completed academic and training requirements;

8 (4) "Department", the department of [economic development] **insurance, financial**
9 **institutions and professional registration** or a designated agency thereof;

10 (5) "License", a document issued to an applicant by the [department] **board**
11 acknowledging that the applicant is entitled to practice as a physician assistant;

12 (6) "Physician assistant", a person who has graduated from a physician assistant program
13 accredited by the American Medical Association's Committee on Allied Health Education and

14 Accreditation or by its successor agency, who has passed the certifying examination administered
15 by the National Commission on Certification of Physician Assistants and has active certification
16 by the National Commission on Certification of Physician Assistants who provides health care
17 services delegated by a licensed physician. A person who has been employed as a physician
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on
19 Certification of Physician Assistants examination, and has active certification of the National
20 Commission on Certification of Physician Assistants;

21 (7) "Recognition", the formal process of becoming a certifying entity as required by the
22 provisions of sections 334.735 to 334.749;

23 (8) "Supervision", control exercised over a physician assistant working within the same
24 facility as the supervising physician sixty-six percent of the time a physician assistant provides
25 patient care, except a physician assistant may make follow-up patient examinations in hospitals,
26 nursing homes, patient homes, and correctional facilities, each such examination being reviewed,
27 approved and signed by the supervising physician, except as provided by subsection 2 of this
28 section. The supervising physician must be readily available in person or via telecommunication
29 during the time the physician assistant is providing patient care. The board shall promulgate
30 rules pursuant to chapter 536, RSMo, for documentation of joint review of the physician assistant
31 activity by the supervising physician and the physician assistant. The physician assistant shall
32 be limited to practice at locations where the supervising physician is no further than thirty miles
33 by road using the most direct route available, or in any other fashion so distanced as to create an
34 impediment to effective intervention and supervision of patient care or adequate review of
35 services. Any other provisions of this chapter notwithstanding, for up to ninety days following
36 the effective date of rules promulgated by the board to establish the waiver process under
37 subsection 2 of this section, any physician assistant practicing in a health professional shortage
38 area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated
39 by the supervising physician on the supervising physician form that was in effect on April 1,
40 2007.

41 2. The board shall promulgate rules under chapter 536, RSMo, to direct the advisory
42 commission on physician assistants to establish a formal waiver mechanism by which an
43 individual physician-physician assistant team may apply for alternate minimum amounts of
44 on-site supervision and maximum distance from the supervising physician. After review of an
45 application for a waiver, the advisory commission on physician assistants shall present its
46 recommendation to the board for its advice and consent on the approval or denial of the
47 application. The rule shall establish a process by which the public is invited to comment on the
48 application for a waiver, and shall specify that a waiver may only be granted if a supervising

49 physician and physician assistant demonstrate to the board's satisfaction in accordance with its
50 uniformly applied criteria that:

51 (1) Adequate supervision will be provided by the physician for the physician assistant,
52 given the physician assistant's training and experience and the acuity of patient conditions
53 normally treated in the clinical setting;

54 (2) The physician assistant shall be limited to practice at locations where the supervising
55 physician is no further than fifty miles by road using the most direct route available, or in any
56 other fashion so distanced as to create an impediment to effective intervention and supervision
57 of patient care or adequate review of services;

58 (3) The community or communities served by the supervising physician and physician
59 assistant would experience reduced access to health care services in the absence of a waiver; and

60 (4) The applicant will practice in an area designated at the time of application as a health
61 professional shortage area.

62 3. The scope of practice of a physician assistant shall consist only of the following
63 services and procedures:

64 (1) Taking patient histories;

65 (2) Performing physical examinations of a patient;

66 (3) Performing or assisting in the performance of routine office laboratory and patient
67 screening procedures;

68 (4) Performing routine therapeutic procedures;

69 (5) Recording diagnostic impressions and evaluating situations calling for attention of
70 a physician to institute treatment procedures;

71 (6) Instructing and counseling patients regarding mental and physical health using
72 procedures reviewed and approved by a licensed physician;

73 (7) Assisting the supervising physician in institutional settings, including reviewing of
74 treatment plans, ordering of tests and diagnostic laboratory and radiological services, and
75 ordering of therapies, using procedures reviewed and approved by a licensed physician;

76 (8) Assisting in surgery;

77 (9) Performing such other tasks not prohibited by law under the supervision of a licensed
78 physician as the physician's assistant has been trained and is proficient to perform;

79 (10) Physician assistants shall not perform abortions.

80 4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
81 therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms
82 or contact lenses for the aid, relief or correction of vision or the measurement of visual power
83 or visual efficiency of the human eye, nor administer or monitor general or regional block
84 anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing

85 of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a
86 physician assistant supervision agreement which is specific to the clinical conditions treated by
87 the supervising physician and the physician assistant shall be subject to the following:

88 (1) A physician assistant shall not prescribe controlled substances;

89 (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a
90 physician assistant shall be consistent with the scopes of practice of the physician assistant and
91 the supervising physician;

92 (3) All prescriptions shall conform with state and federal laws and regulations and shall
93 include the name, address and telephone number of the physician assistant and the supervising
94 physician;

95 (4) A physician assistant or advanced practice nurse as defined in section 335.016,
96 RSMo, may request, receive and sign for noncontrolled professional samples and may distribute
97 professional samples to patients;

98 (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies
99 the supervising physician is not qualified or authorized to prescribe; and

100 (6) A physician assistant may only dispense starter doses of medication to cover a period
101 of time for seventy-two hours or less.

102 5. A physician assistant shall clearly identify himself or herself as a physician assistant
103 and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr."
104 or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician
105 assistant shall practice or attempt to practice without physician supervision or in any location
106 where the supervising physician is not immediately available for consultation, assistance and
107 intervention, except as otherwise provided in this section, and in an emergency situation, nor
108 shall any physician assistant bill a patient independently or directly for any services or procedure
109 by the physician assistant.

110 6. For purposes of this section, the licensing of physician assistants shall take place
111 within processes established by the state board of registration for the healing arts through rule
112 and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536,
113 RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees,
114 and addressing such other matters as are necessary to protect the public and discipline the
115 profession. An application for licensing may be denied or the license of a physician assistant
116 may be suspended or revoked by the board in the same manner and for violation of the standards
117 as set forth by section 334.100, or such other standards of conduct set by the board by rule or
118 regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be
119 required to be licensed as physician assistants. All applicants for physician assistant licensure

120 who complete a physician assistant training program after January 1, 2008, shall have a master's
121 degree from a physician assistant program.

122 7. "Physician assistant supervision agreement" means a written agreement, jointly
123 agreed-upon protocols or standing order between a supervising physician and a physician
124 assistant, which provides for the delegation of health care services from a supervising physician
125 to a physician assistant and the review of such services.

126 8. When a physician assistant supervision agreement is utilized to provide health care
127 services for conditions other than acute self-limited or well-defined problems, the supervising
128 physician or other physician designated in the supervision agreement shall see the patient for
129 evaluation and approve or formulate the plan of treatment for new or significantly changed
130 conditions as soon as practical, but in no case more than two weeks after the patient has been
131 seen by the physician assistant.

132 9. At all times the physician is responsible for the oversight of the activities of, and
133 accepts responsibility for, health care services rendered by the physician assistant.

134 10. It is the responsibility of the supervising physician to determine and document the
135 completion of at least a one-month period of time during which the licensed physician assistant
136 shall practice with a supervising physician continuously present before practicing in a setting
137 where a supervising physician is not continuously present.

138 11. No contract or other agreement shall require a physician to act as a supervising
139 physician for a physician assistant against the physician's will. A physician shall have the right
140 to refuse to act as a supervising physician, without penalty, for a particular physician assistant.
141 No contract or other agreement shall limit the supervising physician's ultimate authority over any
142 protocols or standing orders or in the delegation of the physician's authority to any physician
143 assistant, but this requirement shall not authorize a physician in implementing such protocols,
144 standing orders, or delegation to violate applicable standards for safe medical practice
145 established by hospital's medical staff.

146 12. Physician assistants shall file with the board a copy of their supervising physician
147 form.

148 13. No physician shall be designated to serve as supervising physician for more than
149 three full-time equivalent licensed physician assistants. This limitation shall not apply to
150 physician assistant agreements of hospital employees providing inpatient care service in hospitals
151 as defined in chapter 197, RSMo.

334.746. All staff for the health care providers certification and registration program
2 shall be provided by the director of the department of [economic development] **insurance,**
3 **financial institutions and professional registration** through the director of the division of
4 professional registration.

- 334.800. 1. Sections 334.800 to 334.930 shall be known and may be cited as the
2 "Respiratory Care Practice Act".
- 3 2. For the purposes of sections 334.800 to 334.930, the following terms mean:
- 4 (1) "Board", the Missouri board for respiratory care, established in section 334.830;
- 5 (2) "Certified respiratory therapist" or "CRT", a person meeting entry-level qualifying
6 educational requirements, having passed the certification examination and having been certified
7 by the certifying entity;
- 8 (3) "Certifying entity", the cognitive competency testing organization as authorized by
9 the board;
- 10 (4) "Continuing education", the offering of instruction or information to license holders
11 for the purpose of maintaining or increasing skills necessary for the safe and competent practice
12 of respiratory care;
- 13 (5) "CRT" and "RRT", abbreviations for certified respiratory therapist and registered
14 respiratory therapist and are registered trademarks of a certifying entity of the National Board
15 for Respiratory Care but does not include certified clinical perfusionists;
- 16 (6) "Direct clinical supervision", availability of a licensed respiratory care practitioner
17 for purposes of immediate communication and consultation with, and the assistance of, the
18 permit holder;
- 19 (7) "Division", the division of professional registration [of the department of economic
20 development];
- 21 (8) "Practice of respiratory care", as provided in section 334.810;
- 22 (9) "Protocol", a written agreement of medical care plan delegating professional
23 responsibilities to a person who is qualified by training, competency, experience or licensure to
24 perform such responsibilities. A protocol is a defined response to a specific clinical situation and
25 shall be written, signed and dated by a physician prior to its implementation;
- 26 (10) "Registered respiratory therapist" or "RRT", a person meeting advanced-level
27 qualifying professional educational requirements, having passed the registry examination and
28 having been registered by the certifying entity;
- 29 (11) "Respiratory care", the allied health profession whose practitioners function under
30 the supervision of a physician or in accordance with clinical protocols accepted by the physician
31 in the administration of pharmacologic, diagnostic and therapeutic agents related to respiratory
32 care necessary to implement or modify diagnostic regimes, treatment, disease prevention or
33 pulmonary rehabilitation of patients with deficiencies and abnormalities associated with the
34 cardiopulmonary system;
- 35 (12) "Respiratory care practitioner", a person:
- 36 (a) Duly licensed by the board;

37 (b) Employed in the practice of respiratory care who has the knowledge and skill
38 necessary to administer respiratory care as defined in this section;

39 (c) Who is able to function in situations of unsupervised patient contact requiring
40 individual judgment; and

41 (d) Who is capable of serving as a resource to the physician in relation to the technical
42 aspects of respiratory care as to safe and effective methods for administering respiratory care
43 modalities;

44 (13) "Special training":

45 (a) Is a deliberate systematic educational activity in the affective, psychomotor and
46 cognitive domains;

47 (b) Is intended to develop new proficiencies with an application in mind;

48 (c) Is presented with an attention to needs, objectives, activities and a defined means of
49 evaluation.

335.036. 1. The board shall:

2 (1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and
3 the board may appoint, employ and fix the compensation of a legal counsel and such board
4 personnel as defined in subdivision (4) of subsection [16] **10** of section [620.010] **324.001**,
5 RSMo, as are necessary to administer the provisions of sections 335.011 to 335.096;

6 (2) Adopt and revise such rules and regulations as may be necessary to enable it to carry
7 into effect the provisions of sections 335.011 to 335.096;

8 (3) Prescribe minimum standards for educational programs preparing persons for
9 licensure pursuant to the provisions of sections 335.011 to 335.096;

10 (4) Provide for surveys of such programs every five years and in addition at such times
11 as it may deem necessary;

12 (5) Designate as "approved" such programs as meet the requirements of sections 335.011
13 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall
14 annually publish a list of such programs;

15 (6) Deny or withdraw approval from educational programs for failure to meet prescribed
16 minimum standards;

17 (7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

18 (8) Cause the prosecution of all persons violating provisions of sections 335.011 to
19 335.096, and may incur such necessary expenses therefor;

20 (9) Keep a record of all the proceedings; and make an annual report to the governor and
21 to the director of the department of [economic development] **insurance, financial institutions**
22 **and professional registration**;

23 (10) Establish an impaired nurse program.

24 2. The board shall set the amount of the fees which this chapter authorizes and requires
25 by rules and regulations. The fees shall be set at a level to produce revenue which shall not
26 substantially exceed the cost and expense of administering this chapter.

27 3. All fees received by the board pursuant to the provisions of sections 335.011 to
28 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of
29 nursing fund. All administrative costs and expenses of the board shall be paid from
30 appropriations made for those purposes.

31 4. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
32 this fund shall not be transferred and placed to the credit of general revenue until the amount in
33 the fund at the end of the biennium exceeds two times the amount of the appropriation from the
34 board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less
35 frequently than yearly, then three times the appropriation from the board's funds for the preceding
36 fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which
37 exceeds the appropriate multiple of the appropriations from the board's funds for the preceding
38 fiscal year.

39 5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
40 is created under the authority delegated in this chapter shall become effective only if it complies
41 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
42 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and
43 effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity
44 of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable
45 provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the
46 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
47 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
48 grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be
49 invalid and void.

 336.160. 1. The board may adopt reasonable rules and regulations within the scope and
2 terms of this chapter for the proper administration and enforcement thereof. It may employ such
3 board personnel, as defined in subdivision (4) of subsection [16] **10** of section [620.010]
4 **324.001**, RSMo, as it deems necessary within appropriations therefor.

5 2. The board shall set the amount of the fees which this chapter authorizes and requires
6 by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set
7 at a level to produce revenue which shall not substantially exceed the cost and expense of
8 administering this chapter.

 337.010. As used in sections 337.010 to 337.090 the following terms mean:

2 (1) "Committee", the state committee of psychologists;

3 (2) "Department", the department of [economic development] **insurance, financial**
4 **institutions and professional registration;**

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

7 (4) "Licensed psychologist", any person who offers to render psychological services to
8 individuals, groups, organizations, institutions, corporations, schools, government agencies or
9 the general public for a fee, monetary or otherwise, implying that such person is trained,
10 experienced and licensed to practice psychology and who holds a current and valid, whether
11 temporary, provisional or permanent, license in this state to practice psychology;

12 (5) "Provisional licensed psychologist", any person who is a graduate of a recognized
13 educational institution with a doctoral degree in psychology as defined in section 337.025, and
14 who otherwise meets all requirements to become a licensed psychologist except for passage of
15 the licensing exams, oral examination and completion of the required period of postdegree
16 supervised experience as specified in subsection 2 of section 337.025;

17 (6) "Recognized educational institution":

18 (a) A school, college, university or other institution of higher learning in the United
19 States, which, at the time the applicant was enrolled and graduated, had a graduate program in
20 psychology and was accredited by one of the regional accrediting associations approved by the
21 Council on Postsecondary Accreditation; or

22 (b) A school, college, university or other institution of higher learning outside the United
23 States, which, at the time the applicant was enrolled and graduated, had a graduate program in
24 psychology and maintained a standard of training substantially equivalent to the standards of
25 training of those programs accredited by one of the regional accrediting associations approved
26 by the Council of Postsecondary Accreditation;

27 (7) "Temporary license", a license which is issued to a person licensed as a psychologist
28 in another jurisdiction, who has applied for licensure in this state either by reciprocity or
29 endorsement of the score from the Examination for Professional Practice in Psychology, and who
30 is awaiting either a final determination by the committee relative to such person's eligibility for
31 licensure or who is awaiting the results of the jurisprudence examination or oral examination.

337.090. The committee and division in issuing licenses and in publishing the directory
2 as provided in section [620.145] **324.032**, RSMo, shall not include or list the degree upon which
3 the license or certificate was issued. Any person licensed on the basis of a master's degree who
4 has then earned a doctoral degree may use the title "doctor" or hold himself out in his practice
5 as a psychologist as having a doctoral degree so long as it is from an accredited institution of
6 higher education and so long as the degree is relevant to the practice of psychology.

337.500. As used in sections 337.500 to 337.540, unless the context clearly requires
2 otherwise, the following words and phrases mean:

3 (1) "Committee or board", the committee for professional counselors;

4 (2) "Department", the [Missouri department of economic development] **department of**
5 **insurance, financial institutions and professional registration;**

6 (3) "Director", the director of the division of professional registration [in the department
7 of economic development];

8 (4) "Division", the division of professional registration;

9 (5) "Licensed professional counselor", any person who offers to render professional
10 counseling services to individuals, groups, organizations, institutions, corporations, government
11 agencies or the general public for a fee, monetary or otherwise, implying that the person is
12 trained, experienced, and licensed in counseling, and who holds a current, valid license to
13 practice counseling;

14 (6) "Practice of professional counseling", rendering, offering to render, or supervising
15 those who render to individuals, couples, groups, organizations, institutions, corporations,
16 schools, government agencies, or the general public any counseling service involving the
17 application of counseling procedures, and the principles and methods thereof, to assist in
18 achieving more effective intrapersonal or interpersonal, marital, decisional, social, educational,
19 vocational, developmental, or rehabilitative adjustments;

20 (7) "Professional counseling", includes, but is not limited to:

21 (a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures
22 based on principles for assessing, understanding, or influencing behavior (such as principles of
23 learning, conditioning, perception, motivation, thinking, emotions, or social systems);

24 (b) Appraisal or assessment, which means selecting, administering, scoring, or
25 interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes,
26 abilities, achievement, interests, and personal characteristics;

27 (c) The use of referral or placement techniques or both which serve to further the goals
28 of counseling;

29 (d) Therapeutic vocational or personal or both rehabilitation in relation to coping with
30 or adapting to physical disability, emotional disability, or intellectual disability or any
31 combination of the three;

32 (e) Designing, conducting, and interpreting research;

33 (f) The use of group methods or techniques to promote the goals of counseling;

34 (g) The use of informational and community resources for career, personal, or social
35 development;

36 (h) Consultation on any item in paragraphs (a) through (g) above; and

37 (i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, RSMo, shall
38 be construed to mandate benefits or third-party reimbursement for services of professional
39 counselors in the policies or contracts of any insurance company, health services corporation or
40 other third-party payer;

41 (8) "Provisional licensed professional counselor", any person who is a graduate of an
42 acceptable educational institution, as defined by division rules, with at least a master's degree
43 with a major in counseling, or its equivalent, and meets all requirements of a licensed
44 professional counselor, other than the supervised counseling experience prescribed by
45 subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the
46 practice of professional counseling.

337.600. As used in sections 337.600 to 337.689, the following terms mean:

2 (1) "Advanced macro social worker", the applications of social work theory, knowledge,
3 methods, principles, values, and ethics; and the professional use of self to community and
4 organizational systems, systemic and macrocosm issues, and other indirect nonclinical services;
5 specialized knowledge and advanced practice skills in case management, information and
6 referral, nonclinical assessments, counseling, outcome evaluation, mediation, nonclinical
7 supervision, nonclinical consultation, expert testimony, education, outcome evaluation, research,
8 advocacy, social planning and policy development, community organization, and the
9 development, implementation and administration of policies, programs, and activities. A
10 licensed advanced macro social worker may not treat mental or emotional disorders or provide
11 psychotherapy without the direct supervision of a licensed clinical social worker, or diagnose a
12 mental disorder;

13 (2) "Clinical social work", the application of social work theory, knowledge, values,
14 methods, principles, and techniques of case work, group work, client-centered advocacy,
15 administration, consultation, research, psychotherapy and counseling methods and techniques
16 to persons, families and groups in assessment, diagnosis, treatment, prevention and amelioration
17 of mental and emotional conditions;

18 (3) "Committee", the state committee for social workers established in section 337.622;

19 (4) "Department", the [Missouri department of economic development] **department of**
20 **insurance, financial institutions and professional registration;**

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

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

23 (7) "Independent practice", any practice of social workers outside of an organized setting
24 such as a social, medical, or governmental agency in which a social worker assumes
25 responsibility and accountability for services required;

26 (8) "Licensed advanced macro social worker", any person who offers to render services
27 to individuals, groups, families, couples, organizations, institutions, communities, government
28 agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the
29 person is trained, experienced, and licensed as an advanced macro social worker, and who holds
30 a current valid license to practice as an advanced macro social worker;

31 (9) "Licensed baccalaureate social worker", any person who offers to render services to
32 individuals, groups, organizations, institutions, corporations, government agencies, or the general
33 public for a fee, monetary or otherwise, implying that the person is trained, experienced, and
34 licensed as a baccalaureate social worker, and who holds a current valid license to practice as a
35 baccalaureate social worker;

36 (10) "Licensed clinical social worker", any person who offers to render services to
37 individuals, groups, organizations, institutions, corporations, government agencies, or the general
38 public for a fee, monetary or otherwise, implying that the person is trained, experienced, and
39 licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical
40 social worker;

41 (11) "Licensed master social worker", any person who offers to render services to
42 individuals, groups, families, couples, organizations, institutions, communities, government
43 agencies, corporations, or the general public for a fee, monetary or otherwise, implying that the
44 person is trained, experienced, and licensed as a master social worker, and who holds a current
45 valid license to practice as a master social worker. A licensed master social worker may not treat
46 mental or emotional disorders, provide psychotherapy without the direct supervision of a
47 licensed clinical social worker, or diagnose a mental disorder;

48 (12) "Master social work", the application of social work theory, knowledge, methods,
49 and ethics and the professional use of self to restore or enhance social, psychosocial, or
50 biopsychosocial functioning of individuals, couples, families, groups, organizations,
51 communities, institutions, government agencies, or corporations. The practice includes the
52 applications of specialized knowledge and advanced practice skills in the areas of assessment,
53 treatment planning, implementation and evaluation, case management, mediation, information
54 and referral, counseling, client education, supervision, consultation, education, research,
55 advocacy, community organization and development, planning, evaluation, implementation and
56 administration of policies, programs, and activities. Under supervision as provided in this
57 section, the practice of master social work may include the practices reserved to clinical social
58 workers or advanced macro social workers;

59 (13) "Practice of advanced macro social work", rendering, offering to render, or
60 supervising those who render to individuals, couples, families, groups, organizations,
61 institutions, corporations, government agencies, communities, or the general public any service

62 involving the application of methods, principles, and techniques of advanced practice macro
63 social work;

64 (14) "Practice of baccalaureate social work", rendering, offering to render, or supervising
65 those who render to individuals, families, groups, organizations, institutions, corporations, or the
66 general public any service involving the application of methods, principles, and techniques of
67 baccalaureate social work;

68 (15) "Practice of clinical social work", rendering, offering to render, or supervising those
69 who render to individuals, couples, groups, organizations, institutions, corporations, or the
70 general public any service involving the application of methods, principles, and techniques of
71 clinical social work;

72 (16) "Practice of master social work", rendering, offering to render, or supervising those
73 who render to individuals, couples, families, groups, organizations, institutions, corporations,
74 government agencies, communities, or the general public any service involving the application
75 of methods, principles, and techniques of master social work;

76 (17) "Provisional licensed clinical social worker", any person who is a graduate of an
77 accredited school of social work and meets all requirements of a licensed clinical social worker,
78 other than the supervised clinical social work experience prescribed by subdivision (2) of
79 subsection 1 of section 337.615, and who is supervised by a person who is qualified to practice
80 clinical social work, as defined by rule;

81 (18) "Qualified advanced macro supervisor", any licensed social worker who meets the
82 qualifications of a qualified clinical supervisor or a licensed advanced macro social worker who
83 has:

84 (a) Practiced in the field for which he or she is supervising the applicant for a minimum
85 uninterrupted period of five years;

86 (b) Successfully completed a minimum of sixteen hours of supervisory training from
87 the Association of Social Work boards, the National Association of Social Workers, an
88 accredited university, or a program approved by the state committee for social workers. All
89 organizations providing the supervisory training shall adhere to the basic content and quality
90 standards outlined by the state committee on social work; and

91 (c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by
92 the state committee for social workers;

93 (19) "Qualified baccalaureate supervisor", any licensed social worker who meets the
94 qualifications of a qualified clinical supervisor, qualified master supervisor, qualified advanced
95 macro supervisor, or a licensed baccalaureate social worker who has:

96 (a) Practiced in the field for which he or she is supervising the applicant for a minimum
97 uninterrupted period of five years;

98 (b) Successfully completed a minimum of sixteen hours of supervisory training from
99 the Association of Social Work boards, the National Association of Social Workers, an
100 accredited university, or a program approved by the state committee for social workers. All
101 organizations providing the supervisory training shall adhere to the basic content and quality
102 standards outlined by the state committee on social workers; and

103 (c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by
104 the state committee for social workers;

105 (20) "Qualified clinical supervisor", any licensed clinical social worker who has:

106 (a) Practiced in the field for which he or she is supervising the applicant uninterrupted
107 since August 28, 2004, or a minimum of five years;

108 (b) Successfully completed a minimum of sixteen hours of supervisory training from
109 the Association of Social Work boards, the National Association of Social Workers, an
110 accredited university, or a program approved by the state committee for social workers. All
111 organizations providing the supervisory training shall adhere to the basic content and quality
112 standards outlined by the state committee on social work; and

113 (c) Met all the requirements of sections 337.600 to 337.689, and as defined by rule by
114 the state committee for social workers;

115 (21) "Social worker", any individual that has:

116 (a) Received a baccalaureate or master's degree in social work from an accredited social
117 work program approved by the council on social work education;

118 (b) Received a doctorate or Ph.D. in social work; or

119 (c) A current social worker license as set forth in sections 337.600 to 337.689.
337.700. As used in sections 337.700 to 337.739, the following terms mean:

2 (1) "Committee", the state committee for family and marital therapists;

3 (2) "Department", the [Missouri department of economic development] **department of**
4 **insurance, financial institutions and professional registration;**

5 (3) "Director", the director of the division of professional registration [in the department
6 of economic development];

7 (4) "Division", the division of professional registration;

8 (5) "Fund", the marital and family therapists' fund created in section 337.712;

9 (6) "Licensed marital and family therapist", a person to whom a license has been issued
10 pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not
11 suspended or revoked;

12 (7) "Marital and family therapy", the use of scientific and applied marriage and family
13 theories, methods and procedures for the purpose of describing, diagnosing, evaluating and
14 modifying marital, family and individual behavior within the context of marital and family

15 systems, including the context of marital formation and dissolution. Marriage and family therapy
16 is based on systems theories, marriage and family development, normal and dysfunctional
17 behavior, human sexuality and psychotherapeutic, marital and family therapy theories and
18 techniques and includes the use of marriage and family therapy theories and techniques in the
19 diagnosis, evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions
20 within the context of marriage and family systems. Marriage and family therapy may also
21 include clinical research into more effective methods for the treatment and prevention of the
22 above-named conditions;

23 (8) "Practice of marital and family therapy", the rendering of professional marital and
24 family therapy services to individuals, family groups and marital pairs, singly or in groups,
25 whether such services are offered directly to the general public or through organizations, either
26 public or private, for a fee, monetary or otherwise.

338.130. 1. Each member of the board shall receive as compensation an amount set by
2 the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be
3 entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the
4 member's official duties.

5 2. The board may employ such board personnel, as defined in subdivision (4) of
6 subsection [15] **10** of section [620.010] **324.001**, RSMo, as it deems necessary to carry out the
7 provisions of this chapter. The compensation and expenses of such personnel and all expenses
8 incurred by the board in carrying into execution the provisions of this chapter, shall be paid out
9 of the board of pharmacy fund upon a warrant on the state treasurer.

339.120. 1. There is hereby created the "Missouri Real Estate Commission", to consist
2 of seven persons, citizens of the United States and residents of this state for at least one year
3 prior to their appointment, for the purpose of carrying out and enforcing the provisions of
4 sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall be
5 appointed by the governor with the advice and consent of the senate. All members, except one
6 voting public member, of the commission must have had at least ten years' experience as a real
7 estate broker prior to their appointment. The terms of the members of the commission shall be
8 for five years, and until their successors are appointed and qualified. Members to fill vacancies
9 shall be appointed by the governor for the unexpired term. The president of the Missouri
10 Association of Realtors in office at the time shall, at least ninety days prior to the expiration of
11 the term of the board member, other than the public member, or as soon as feasible after the
12 vacancy on the board otherwise occurs, submit to the director of the division of professional
13 registration a list of five realtors qualified and willing to fill the vacancy in question, with the
14 request and recommendation that the governor appoint one of the five persons so listed, and with
15 the list so submitted, the president of the Missouri Association of Realtors shall include in his

16 or her letter of transmittal a description of the method by which the names were chosen by that
17 association. The commission shall organize annually by selecting from its members a chairman.
18 The commission may do all things necessary and convenient for carrying into effect the
19 provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860, and may promulgate
20 necessary rules compatible with the provisions of sections 339.010 to 339.180 and sections
21 339.710 to 339.860. Each member of the commission shall receive as compensation an amount
22 set by the commission not to exceed seventy-five dollars for each day devoted to the affairs of
23 the commission, and shall be entitled to reimbursement of his or her expenses necessarily
24 incurred in the discharge of his or her official duties. The governor may remove any
25 commissioner for cause.

26 2. The public member shall be at the time of his or her appointment a citizen of the
27 United States; a resident of this state for a period of one year and a registered voter; a person who
28 is not and never was a member of any profession licensed or regulated pursuant to sections
29 339.010 to 339.180 and sections 339.710 to 339.860 or the spouse of such person; and a person
30 who does not have and never has had a material, financial interest in either the providing of the
31 professional services regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860,
32 or an activity or organization directly related to any profession licensed or regulated pursuant to
33 sections 339.010 to 339.180 and sections 339.710 to 339.860. All members, including public
34 members, shall be chosen from lists submitted by the director of the division of professional
35 registration. The duties of the public member shall not include the determination of the technical
36 requirements to be met for licensure or whether any person meets such technical requirements
37 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

38 3. The commission shall employ such board personnel, as defined in subdivision (4) of
39 subsection [15] **10** of section [620.010] **324.001**, RSMo, as it shall deem necessary to discharge
40 the duties imposed by the provisions of sections 339.010 to 339.180 and sections 339.710 to
41 339.860.

42 4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
43 is created under the authority delegated in sections 339.010 to 339.180 and sections 339.710 to
44 339.860 shall become effective only if it complies with and is subject to all of the provisions of
45 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority
46 delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this
47 section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to
48 August 28, 1999, if it fully complied with all applicable provisions of law. This section and
49 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
50 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul

51 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
52 proposed or adopted after August 28, 1999, shall be invalid and void.

339.507. 1. There is hereby created within the division of professional registration [of
2 the department of economic development] the "Missouri Real Estate Appraisers Commission",
3 which shall consist of seven members appointed by the governor with the advice and consent of
4 the senate, six of whom shall be appraiser members, and one shall be a public member. Each
5 member shall be a resident of this state and a registered voter for a period of one year prior to the
6 person's appointment. The president of the Missouri Appraiser Advisory Council in office at the
7 time shall, at least ninety days prior to the expiration of the term of the commission member,
8 other than the public member, or as soon as feasible after the vacancy on the commission
9 otherwise occurs, submit to the director of the division of professional registration a list of five
10 appraisers qualified and willing to fill the vacancy in question, with the request and
11 recommendation that the governor appoint one of the five persons so listed, and with the list so
12 submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her
13 letter of transmittal a description of the method by which the names were chosen by that
14 association. The public member shall have never been engaged in the businesses of real estate
15 appraisal, real estate sales or making loans secured by real estate.

16 2. The real estate appraiser members appointed by the governor shall be Missouri
17 residents who have real estate appraisal experience in the state of Missouri for not less than five
18 years immediately preceding their appointment. Appraiser members of the commission shall be
19 appointed from the registry of state-certified real estate appraisers and state-licensed real estate
20 appraisers.

21 3. All members shall be appointed for three-year terms. All members shall serve until
22 their successors have been appointed and qualified. Vacancies occurring in the membership of
23 the commission for any reason shall be filled by appointment by the governor for the unexpired
24 term. Upon expiration of their terms, members of the commission shall continue to hold office
25 until the appointment and qualification of their successors. No more than four members of the
26 commission shall be members of the same political party. No person shall be appointed for more
27 than two consecutive terms. The governor may remove a member for cause.

28 4. The commission shall meet at least once each calendar quarter to conduct its business.
29 A quorum of the commission shall consist of four members.

30 5. Each member of the commission shall be entitled to a per diem allowance of fifty
31 dollars for each meeting of the commission at which the member is present and shall be entitled
32 to reimbursement of the member's expenses necessarily incurred in the discharge of the member's
33 official duties. Each member of the commission shall be entitled to reimbursement of travel
34 expenses necessarily incurred in attending meetings of the commission.

340.212. 1. The board shall cause the executive director to prepare and maintain a written record of all board proceedings whether or not such proceedings are formal, informal, open or closed to the public. All records so prepared and maintained and other documents or reports incorporated therein shall be open to the public except where specifically required or allowed to be closed to the public pursuant to chapter 610, RSMo.

2. Other provisions of section [620.010] **324.001**, RSMo, to the contrary notwithstanding, the board shall publish a list of the names and addresses of all persons who hold licenses under the provisions of sections 340.200 to 340.330, and shall publish a list of all persons whose licenses have been suspended, revoked, surrendered, restricted, denied, withheld, or otherwise disciplined, whether voluntarily or not. The board shall mail a copy of such list to any person, agency or professional association upon request and payment of a fee necessary for photocopying and postage as established by board rule. The board may forward such lists at no charge and upon its own motion for the purpose of voluntary interstate exchange of information or to other administrative or law enforcement agencies acting within the scope of their statutory authority, whether the same be interstate or intrastate.

3. Other provisions of section [620.010] **324.001**, RSMo, to the contrary notwithstanding, the board shall prepare and make available to the public a report upon the final disciplinary actions taken by the board or denial of licensure. Such report shall set forth findings of fact, grounds for such denial or discipline, names of board members who were present, and any resulting order or directive of the board; the same to apply whether or not discipline or denial is voluntarily agreed to by the licensee or applicant. Whenever a person possessing a license voluntarily enters chemical or alcohol treatment and monitoring programs for purposes of rehabilitation by informal agreement with the board, the action shall not be reported with any other actions taken or agreed to between the board and the licensee or applicant.

4. Where the board does not recommend disciplinary action, a report stating that no action is recommended shall be prepared and forwarded to the complaining party and the licensee or applicant.

5. Members of the board or employees of the board shall be immune from any suit predicated on the publication of information, reports or lists required by this section.

345.035. 1. The board may, within the limits of appropriations, employ such board personnel as defined in subdivision (4) of subsection [15] **10** of section [620.010] **324.001**, RSMo, as may be necessary to carry out its duties.

2. All expenses of the board shall be paid only from appropriations made for that purpose from the board of registration for the healing arts fund.

346.010. As used in sections 346.010 to 346.250, except as the context may require otherwise, the following terms mean:

- 3 (1) "Audiologist", a clinical audiologist licensed pursuant to chapter 345, RSMo;
- 4 (2) "Board", the Missouri board of examiners for hearing instrument specialists, which
5 is established in section 346.120;
- 6 (3) "Department", the department of [economic development] **insurance, financial**
7 **institutions and professional registration**;
- 8 (4) "Division", the division of professional registration [in the department of economic
9 development];
- 10 (5) "Hearing instrument" or "hearing aid", any wearable instrument or device designed
11 for or offered for the purpose of aiding or compensating for impaired human hearing and any
12 parts, attachments, or accessories, including earmold, but excluding batteries, cords, receivers
13 and repairs;
- 14 (6) "Hearing instrument specialist" or "specialist", a person licensed by the state pursuant
15 to sections 346.010 to 346.250 who is authorized to engage in the practice of fitting hearing
16 instruments;
- 17 (7) "Hearing instrument specialist in-training", a person who holds a temporary permit
18 issued by the division to fit hearing instruments under the supervision of a hearing instrument
19 specialist;
- 20 (8) "License", a license issued by the state under sections 346.010 to 346.250 to hearing
21 instrument specialists;
- 22 (9) "Otolaryngologist", a person licensed to practice medicine and surgery in the state
23 of Missouri pursuant to chapter 334, RSMo, and who spends the majority of the person's practice
24 seeing patients with ear, nose, and throat diseases;
- 25 (10) "Person", an individual, corporation, partnership, joint venture, association, trust
26 or any other legal entity;
- 27 (11) "Practice of fitting hearing instruments", the selection, adaptation, and sale of
28 hearing instruments, including the testing and evaluation of hearing by means of an audiometer
29 and the making of impressions for earmolds;
- 30 (12) "Sell or sale", any transfer of title or of the right to use by lease, bailment, or any
31 other contract, excluding wholesale transactions with distributors or dealers;
- 32 (13) "Registration of supervision", the process of obtaining a certificate of authority
33 issued by the division to a hearing instrument specialist that enables the specialist to supervise
34 one or more hearing instrument specialists in-training, as defined by division rules;
- 35 (14) "Supervised training", the program of education and experience, as defined by
36 division rule, required to be followed by each hearing instrument specialist in-training;
- 37 (15) "Supervisor", a hearing instrument specialist who has filed a registration of
38 supervision with the board and has received from the division a certificate of authority;

39 (16) "Temporary permit", a permit issued by the division while the applicant is in
40 training to become a licensed hearing instrument specialist.

354.305. 1. Whenever any corporation subject to the provisions of sections 354.010 to
2 354.380 doing business in this state advertises its assets, either in any newspaper or periodical,
3 or by any sign, circular, card, policy of insurance or certificate of renewal thereof, it shall, in the
4 same connection, equally conspicuously advertise its liabilities, the same to be determined in the
5 manner required in making statement to the [insurance division] **department**, and all
6 advertisements purporting to show the amount of capital of the company shall show only the
7 amount of capital actually paid up in cash.

8 2. Any corporation subject to the provisions of sections 354.010 to 354.380 or
9 enrollment representative violating the provisions of this section shall, upon conviction thereof,
10 be guilty of a class B misdemeanor, punishable as provided by law.

361.010. 1. There is hereby created a "State Division of Finance", which shall be under
2 the management and control of a chief officer who shall be called the "Director of Finance".

3 2. The director of finance shall maintain his office at the City of Jefferson, reside in the
4 state of Missouri, and shall devote all of his time to the duties of his office. The division of
5 design and construction is hereby required to provide the director of finance and the state
6 division of finance with suitable rooms.

7 **3. The division of finance with all of its powers, duties, and functions is assigned**
8 **by type III transfer under the authority of the Omnibus State Reorganization Act of 1974**
9 **and executive order 06-04 to the department of insurance, financial institutions and**
10 **professional registration. All of the general provisions, definitions, and powers**
11 **enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and executive**
12 **order 06-04 shall apply to this department and its divisions, agencies, and personnel.**

13 **4. Wherever the laws or regulations of this state make reference to the "division of**
14 **finance of the department of economic development" or the "division of finance", such**
15 **references shall be deemed to refer to the division of finance within the department of**
16 **insurance, financial institutions and professional registration.**

361.092. There is hereby created [in the department of economic development,] a "State
2 Banking Board" which shall have such powers and duties as are conferred upon it by law. **The**
3 **state banking board with all of its powers, duties, and functions is assigned by type III**
4 **transfer under the authority of the Omnibus State Reorganization Act of 1974 and**
5 **executive order 06-04 to the department of insurance, financial institutions and**
6 **professional registration.**

361.140. 1. The director of finance shall prepare the following information to be included in the report of the director of the department of [economic development] **insurance, financial institutions and professional registration:**

(1) A summary of the state and condition of every corporation required to report to him or her and from which reports have been received or obtained pursuant to subsection 3 of section 361.130 during the preceding two years, at the several dates to which such reports refer, with an abstract of the whole amount of capital reported by them, the whole amount of their debts and liabilities and the total amount of their resources, specifying in the case of banks and trust companies the amount of lawful money held by them at the time of their several reports, and such other information in relation to such corporations as, in his or her judgment, may be useful;

(2) A statement of all corporations authorized by him or her to do business during the previous biennium with their names and locations and the dates on which their respective certificates of incorporation were issued, particularly designating such as have commenced business during the biennium;

(3) A statement of the corporations whose business has been closed either voluntarily or involuntarily, during the biennium, with the amount of their resources and of their deposits and other liabilities as last reported by them and the amount of unclaimed and unpaid deposits, dividends and interest held by him or her on account of each;

(4) A statement of the amount of interest earned upon all unclaimed deposits, dividends and interest held by him or her pursuant to the requirements of this chapter;

(5) Any amendments to this chapter, which, in his or her judgment, may be desirable;

(6) The names and compensation of the deputies, clerks, examiners, special agents and other employees employed by him or her, and the whole amount of the receipts and expenditures of the division during each of the last two preceding fiscal years.

2. All such reports shall be printed at the expense of the state and paid for as other public printing.

361.160. 1. The director of finance at least once each year, either personally or by a deputy or examiner appointed by the director, shall visit and examine every bank and trust company organized and doing business under the laws of this state, and every other corporation which is by law required to report to the director; except, for banks or trust companies receiving a Camel 1 or Camel 2 rating from the division of finance, the director of finance at least once each eighteen calendar months either personally or by a deputy or examiner appointed by the director, shall visit and examine such bank or trust company, and the director of finance, at the director's discretion, may conduct the director's examination, or any part thereof, on the basis of information contained in examination reports of other states, the Federal Deposit Insurance Corporation or the Federal Reserve Board or in audits performed by certified public accountants.

11 The director shall be afforded prompt and free access to any workpapers upon which a certified
12 public accountant bases an audit. A certified public accountant shall retain workpapers for a
13 minimum of three years after the date of issuance of the certified public accountant's report to
14 the bank or trust company. The director or the director's agent may concentrate the examinations
15 on institutions which the director believes have safety or soundness concerns.

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

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

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

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

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

39 7. The result of each examination shall be certified by the director or the examiner upon
40 the records of the corporation examined and the result of all examinations during the biennial
41 period shall be embodied in the report to be made by the director of the department of [economic
42 development] **insurance, financial institutions and professional registration** to the legislature.

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

362.109. Notwithstanding any law to the contrary, any order or ordinance by any political subdivision shall be consistent with and not more restrictive than state law and regulations governing lending or deposit taking entities regulated by the division of finance or the division of credit unions [within the department of economic development].

362.332. 1. As used in this section, the following words and phrases shall mean:

(1) "Bank", any bank subject to the provisions of chapter 362, which is duly authorized to exercise trust powers, and any national bank which is authorized to exercise trust powers under the laws of the United States and which has its principal place of business in Missouri, including a national bank whose operations include providing trust and other fiduciary services and related activities;

(2) "Beneficiary", any person or entity which benefits from, or has a present or future interest in, any money or property administered by a person with a fiduciary obligation;

(3) "Director", the director of the division of finance [of the department of economic development];

(4) "Fiduciary obligation", any obligation of any bank or trust company to a person or entity resulting from an appointment, designation or undertaking to act alone or jointly with others primarily for the benefit of others in matters connected with such appointment, designation or undertaking, and including, but is not limited to, acting as a trustee of a trust, including a testamentary or nontestamentary trust, or a trustee of a common trust fund; executor; administrator; personal representative; guardian; conservator; custodian; assignee; depository; receiver; attorney-in-fact; registrar or transfer agent with respect to stocks, bonds or other evidences of indebtedness of any corporation, association, state, municipality, or public authority; agent, including escrow agent or agent for the investment of money; or in any other similar capacity. The term "fiduciary obligation" includes any obligation occurring as a result of an appointment or designation to any foregoing capacity upon the death of a person serving in such capacity or upon the happening of any other future event;

(5) "Transferee", a bank or trust company assuming fiduciary obligations pursuant to this section from a transferor;

(6) "Transferor", a bank or trust company transferring fiduciary obligations pursuant to this section to a transferee;

(7) "Trust company", any trust company or bank organized under the laws of this state which is duly authorized to exercise trust powers.

2. Notwithstanding any other provision of law to the contrary, a bank or trust company may transfer by assignment to another bank or trust company any or all of the fiduciary obligations of such bank or trust company, without any order of or other action by any court or any consent or other approval of any interested person, except as provided in subsection 5 of this

33 section, upon the prior approval of the director and provided that the transferor and transferee
34 comply with the provisions of this section. The assignment may encompass all fiduciary
35 obligations, a general class or classes of fiduciary obligations, or specified individual accounts
36 or other particularly identified fiduciary obligations.

37 3. The transferor, transferee or any beneficiary on behalf of all beneficiaries jointly, shall
38 file an application for approval of the transfer of a fiduciary obligation with the director, and
39 shall provide all relevant information as the director may deem necessary. The transferee shall
40 also file proof with the director that the transferee has given written notice by certified mail of
41 the proposed transfer, including a summary of the provisions of subsection 5 of this section
42 relating to objections to the transfer of the fiduciary obligation, at least thirty days and not more
43 than sixty days prior to the filing of the application, to the transferor, all persons, firms,
44 organizations or corporations who are known to the applicant to be living or existing grantors
45 under each affected trust or other fiduciary obligation, or if there is no such known living or
46 existing grantor, to each living or existing beneficiary thereof known to the transferee. If any
47 living or existing grantor or any such beneficiary delivers to the applicant any communication
48 regarding the proposed transfer, the applicant shall furnish the director with a copy of such
49 communication together with any accompanying documents. If the director determines that the
50 transferee has the authority and is qualified to complete the fiduciary obligation, and that the
51 transfer of the fiduciary obligation will not materially adversely affect the fiduciary obligation,
52 he shall issue an order approving the transfer of the fiduciary obligation. If the director fails to
53 approve or deny the transfer of the fiduciary obligation within thirty days of the date of the filing
54 of the application with the director, the application shall be deemed approved by the director.

55 4. If the director approves the transfer of a fiduciary obligation, within twenty days of
56 the approval, the transferee shall publish a notice of the transfer of the fiduciary obligation
57 pursuant to this section in a newspaper of general circulation in the county or city where the
58 transferor's main banking house or principal place of business, respectively, is located. The
59 transfer of the fiduciary obligation shall be effective upon the thirtieth day after the date of such
60 publication except with respect to any fiduciary obligation which upon that date is the subject
61 of notice of objection made pursuant to subsection 5 of this section.

62 5. Within thirty days after the publication of notice of approval by the director of the
63 transfer of a fiduciary obligation pursuant to subsection 4 of this section, any grantor or
64 beneficiary who was entitled to receive a written notice pursuant to subsection 3 of this section
65 may give written notice to the transferee objecting to the transfer of the fiduciary obligation in
66 which such person has an interest. In order to complete the transfer, the transferee may petition
67 the probate division of the circuit court of the county or city not within a county in which the
68 notice was published to determine whether the transfer of the fiduciary capacity will materially

69 adversely affect the administration of the fiduciary account. After notice to all interested parties
70 and a hearing on the issues, the circuit court may deny the relief sought by the petitioning
71 transferee and not transfer the fiduciary obligation to the petitioning transferee, may appoint a
72 new fiduciary to succeed the transferor if the court finds that the appointment of a new fiduciary
73 is in the best interests of the beneficiaries of the fiduciary obligation but that the transfer of the
74 fiduciary obligation to the petitioning transferee will materially adversely affect the
75 administration of the fiduciary account, or shall order the transferor to transfer by assignment the
76 fiduciary obligation to the petitioning transferee.

77 6. On the effective date of the transfer of a fiduciary obligation pursuant to this section,
78 the transferor shall be released from all transferred fiduciary obligations and all liability relating
79 to such transferred fiduciary obligations, and shall cease to act regarding all such transferred
80 fiduciary obligations, except that such transferor shall not be relieved of any liabilities arising
81 out of a breach of a fiduciary obligation occurring prior to such effective date. The transferor
82 shall file an itemized accounting of all assets and liabilities in each transferred fiduciary account
83 with the transferee upon the effective date of the transfer. Notwithstanding the provision of any
84 law or the provision of any agreement to the contrary, the transferor shall not impose fees
85 relating to the transfer of the fiduciary obligation in excess of the actual cost to the transferor of
86 the transfer of the fiduciary obligation. The failure by a bank or trust company to give any notice
87 required by subsection 3 of this section with respect to any fiduciary account shall not affect the
88 validity of the transfer of a fiduciary obligation pursuant to this section with respect to any other
89 fiduciary obligation or account.

90 7. Any appointment or other designation of a bank or trust company to a fiduciary
91 obligation in a trust, will or other instrument shall be deemed to be made based only on facts and
92 circumstances in existence on the date and at the time that the appointment or designation is
93 made, and the director or a court, when considering the transfer of a fiduciary obligation, shall
94 consider whether the transferee has the authority to complete the fiduciary obligation and is
95 qualified to do so, the effect of the transfer of the fiduciary obligation including whether the
96 transfer of the fiduciary obligation will materially adversely affect the fiduciary obligation, and
97 whether the transfer of the fiduciary obligation is in the best interests of the beneficiaries of the
98 fiduciary obligation.

362.910. As used in sections 362.910 to 362.940, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Bank", any bank, trust company or national banking association which accepts
4 demand deposits and makes loans, and which has its principal banking house in Missouri and
5 a branch of any bank, trust company or national banking association which accepts demand

6 deposits and which has a physical presence in Missouri, other than a branch located outside of
7 Missouri;

8 (2) "Bank holding company", any company which has control over any bank or over any
9 company that is a bank holding company;

10 (3) "Company", any corporation, partnership, business trust, association, or similar
11 organization, or any other trust unless by its terms it must terminate within twenty-five years or
12 not later than twenty-one years and ten months after the death of individuals living on the
13 effective date of the trust, but shall not include any corporation the majority of the shares of
14 which are owned by the United States or by any state;

15 (4) "Control", a company has control over a bank, trust company, or company if:

16 (a) The company directly or indirectly or acting through one or more other persons owns,
17 controls, or has power to vote twenty-five percent or more of any class of voting securities of the
18 bank or company;

19 (b) The company controls in any manner the election of a majority of the directors or
20 trustees of the bank or company; or

21 (c) The company directly or indirectly exercises a controlling influence over the
22 management or policies of the bank or company;

23 (d) Provided, however, no company shall be deemed to have control over a bank or a
24 company by virtue of its ownership or control of shares acquired by it in connection with its
25 underwriting of securities and which are held only for such period of time as will permit the sale
26 thereof upon a reasonable basis, or which is formed for the sole purpose of participating in a
27 proxy solicitation, or which acquires ownership or control of shares in securing or collecting a
28 debt previously contracted in good faith, until two years after the date of acquisition, or which
29 acquires ownership or control of shares in a fiduciary capacity. For the purpose of sections
30 362.910 to 362.940, bank shares shall not be deemed to have been acquired in a fiduciary
31 capacity if the acquiring bank or company in its capacity as trustee of a trust has sole
32 discretionary authority to exercise voting rights with reference thereto; except that this limitation
33 is applicable in the case of a bank or company which acquired such shares prior to December 31,
34 1970, only if the bank or company had the right consistent with its obligations under the
35 instrument, agreement, or other arrangement establishing the trust relationship to divest itself of
36 such voting rights and failed to exercise that right to divest prior to December 31, 1971;

37 (5) "Director" or "director of finance", the director of the division of finance [of the
38 department of economic development];

39 (6) "Trust holding company", any company which has control over any trust company
40 or over any company that is a trust holding company.

367.500. As used in sections 367.500 to 367.533, unless the context otherwise requires,
2 the following terms mean:

3 (1) "Borrower", a person who borrows money pursuant to a title loan agreement;

4 (2) "Capital", the assets of a person less the liabilities of that person. Assets and
5 liabilities shall be measured according to generally accepted accounting principles;

6 (3) "Certificate of title", a state-issued certificate of title or certificate of ownership for
7 personal property;

8 (4) "Director", the director of the division of finance [of the department of economic
9 development] or its successor agency;

10 (5) "Person", any resident of the state of Missouri or any business entity formed under
11 Missouri law or duly qualified to do business in Missouri;

12 (6) "Pledged property", personal property, ownership of which is evidenced and
13 delineated by a title;

14 (7) "Title lending office" or "title loan office", a location at which, or premises in which,
15 a title lender regularly conducts business;

16 (8) "Title lender", a person qualified to make title loans pursuant to sections 367.500 to
17 367.533 who maintains at least one title lending office within the state of Missouri, which office
18 is open for the conduct of business not less than thirty hours per week, excluding legal holidays;

19 (9) "Title loan agreement", a written agreement between a borrower and a title lender in
20 a form which complies with the requirements of sections 367.500 to 367.533. The title lender
21 shall perfect its lien pursuant to sections 301.600 to 301.660, RSMo, but need not retain physical
22 possession of the titled personal property at any time; and

23 (10) "Titled personal property", any personal property excluding property qualified to
24 be a personal dwelling the ownership of which is evidenced by a certificate of title.

**370.006. There is hereby created a "Division of Credit Unions", to be headed by
2 a director appointed by the governor with the advice and consent of the senate. The
3 division of credit unions with all of its powers, duties and functions, is assigned by type III
4 transfer under the authority of the Omnibus State Reorganization Act of 1974 and
5 executive order 06-04, to the department of insurance, financial institutions and
6 professional registration. All of the general provisions, definitions, and powers
7 enumerated in section 1 of the Omnibus State Reorganization Act of 1974 and executive
8 order 06-04 shall apply to this department and its divisions, agencies, and personnel. The
9 salary of the director of the division of credit unions shall be set by the director of the
10 department within the limits of the appropriations therefor. Wherever the laws or
11 regulations of this state make reference to the "division of credit unions of the department
12 of economic development" or to the "division of credit unions", such references shall be**

13 **deemed to refer to the division of credit unions of the department of insurance, financial**
14 **institutions and professional registration.**

370.366. 1. Upon compliance with any applicable laws of the United States and upon
2 obtaining the approval of the directors of the division of finance and the division of credit unions
3 [within the department of economic development], any central credit union organized pursuant
4 to section 370.365 may be converted under the laws of this state into a bank or trust company
5 located in this state, or may be consolidated or merged with one or more banks or trust
6 companies or central credit unions incorporated under the laws of the United States or any state
7 under the charter of a bank or trust company incorporated under the laws of this state; provided,
8 however, that the central credit union and its members must comply with the procedure, notice
9 and voting requirements of sections 370.351 to 370.357, and that the approval of the director of
10 finance shall not be required for transactions not involving a bank or trust company. The name
11 of the resulting or surviving bank or trust company in the case of conversion, consolidation or
12 merger may be the name of a party to the conversion, consolidation or merger, provided that in
13 no case shall the name contain the word "national" or "federal" or be the same as or deceptively
14 similar to the name of any bank or trust company incorporated under the laws of this state which
15 is engaged in business at the time of the particular conversion, consolidation or merger and is not
16 a party thereto.

2. (1) In the case of conversion the majority of the board of directors of the central credit
17 union shall proceed as is provided by law for other individuals incorporating a bank or trust
18 company under the laws of this state except that the articles of agreement:

(a) May provide that instead of the capital stock having actually been paid up in money
21 it is to be paid up in assets of the converting central credit union, the net value of which is equal
22 to at least the full amount of the capital stock of the proposed resulting bank or trust company
23 which capital stock shall be no less than that required by law for a bank or trust company, as the
24 case may be, to be located in the state of Missouri;

(b) Shall provide that the proposed resulting bank or trust company is and shall be
26 considered the same business and corporate entity as, and a continuation of the corporate entity
27 and identity of, the converting central credit union although as to rights, powers and duties the
28 proposed resulting institution is a bank or trust company incorporated under the laws of the state
29 of Missouri;

(c) Shall set out the names and addresses of all persons who are to be officers of the
31 proposed bank or trust company; and

(d) Shall set out the manner as provided in subdivision (1) of section 370.356 in which
33 the ownership interest of the members shall be converted into stock of the resulting bank or trust
34 company which stock ownership by the member or shareholder shall be lawful for this sole

35 purpose; provided, however, that the director of finance may reject any such application upon
36 a determination that the statutory treatment accorded the members of the converting central credit
37 union is not fair and reasonable.

38 (2) If the director of finance, as the result of an examination and investigation made by
39 the division of finance, is satisfied that such assets are of such value and that the character,
40 responsibility and general fitness of the persons named in the articles of agreement are such as
41 to command confidence and warrant belief that the business of the proposed corporation will be
42 honestly and efficiently conducted in accordance with the purpose and intent of the laws of this
43 state relative to banks or trust companies, the director of finance shall grant the charter. If the
44 director of finance is not satisfied, the director of finance shall forthwith give notice thereof to
45 the majority of the board of directors of the converting central credit union who shall have the
46 same right of appeal as is provided by the laws of this state in the case of the proposed
47 incorporators of a new bank or trust company.

48 (3) Upon the approval of the particular conversion being granted, the director of finance
49 shall execute and deliver to the majority of the board of directors of the converting central credit
50 union a certificate declaring that the bank or trust company therein named has been duly
51 organized and is the institution resulting from the conversion of the central credit union into the
52 resulting bank or trust company, and that the resulting bank or trust company is and shall be
53 considered the same business and corporate entity as, and a continuation of the corporate entity
54 and identity of, the converting central credit union. The certificate shall be recorded in the office
55 of the recorder of deeds of the county or city in which the resulting bank or trust company is
56 located and the certificate so recorded, or certified copies thereof, shall be taken in all the courts
57 of this state as evidence of the conversion of the central credit union into the resulting bank or
58 trust company and that the resulting bank or trust company is the same business and corporate
59 entity as, and a continuation of the corporate entity and identity of, the converting central credit
60 union.

61 (4) When the director of finance has given a certificate as aforesaid:

62 (a) The resulting bank or trust company and all its stockholders, directors, officers, and
63 employees shall have the same powers and privileges and be subject to the same duties and
64 liabilities in all respects as if such an institution had originally been organized as a bank or trust
65 company under the laws of this state;

66 (b) All the rights, franchises, and interests of the converting central credit union in and
67 to every type of property, real, personal and mixed, and choses in action thereto belonging shall
68 be deemed to be transferred to and vest in the resulting bank or trust company without any deed
69 or other transfer; and

70 (c) The resulting bank or trust company by virtue of the conversion and without any
71 order of any court or otherwise shall hold and enjoy the same and all rights of property and
72 interests including, but not limited to, appointments, designations and nominations and all other
73 rights and interests, as trustee, personal representative, conservator, receiver, registrar, assignee
74 and every other fiduciary capacity in the same manner and to the same extent as these rights and
75 interests were held or enjoyed by the converting central credit union at the time of its conversion
76 into the resulting bank or trust company; provided, however, that its corporate powers shall be
77 limited to those granted to a bank or trust company under the laws of this state.

78 3. In the case of consolidation or merger, the same shall be consummated by each
79 federally chartered central credit union complying with the laws of the United States relating to
80 the consent of its members, by each state chartered central credit union complying with sections
81 370.351 to 370.357 relating to the consent of its members, and also by each bank or trust
82 company complying with the provisions of the laws of this state relating to consolidation or
83 merger of banks or trust companies, except that where the resulting institution is a bank rather
84 than a trust company the number and qualifications of directors and any requirement that
85 directors shall or may be divided into classes shall be determined as provided by law for banks.
86 The rights of dissenting shareholders of the bank or trust company shall be determined as
87 provided by the laws of this state in the case of consolidation or merger of banks or trust
88 companies. The rights of dissenting shareholders of the central credit union shall be determined
89 as provided by section 370.356. In the case of consolidation or merger the resulting bank or trust
90 company shall be considered the same business and corporate entity as, and a continuation of the
91 corporate entity and identity of, each central credit union and each bank or trust company which
92 is a party to the consolidation or merger.

**374.005. 1. The department of insurance created by Section 36(b) of Article IV of
2 the Missouri Constitution shall operate under the name "Department of Insurance,
3 Financial Institutions and Professional Registration". Under the authority of the Omnibus
4 State Reorganization Act of 1974 and executive order 06-04, the department shall
5 administer and enforce the laws assigned to the department.**

6 **2. Unless otherwise clearly indicated by the context, the following terms as used in
7 this chapter mean:**

8 **(1) "Department", the department of insurance, financial institutions and
9 professional registration;**

10 **(2) "Director", the director of the department of insurance, financial institutions
11 and professional registration.**

12 **3. Wherever the laws or regulations of this state make reference to the "department
13 of insurance" or the "department of insurance, financial institutions and professional**

14 registration", such references shall be deemed to refer to the department created by
15 Section 36(b) of Article IV of the Missouri Constitution and this chapter.

374.007. 1. The revisor of statutes shall change all references in the revised statutes
2 of Missouri from "department of insurance", "insurance department" or "department of
3 insurance, financial and professional regulation" to the "department of insurance,
4 financial institutions and professional registration".

5 2. The revisor of statutes shall change all references in the revised statutes of
6 Missouri from "director of insurance" or "commissioner of insurance" to the "director
7 of the department of insurance, financial institutions and professional registration".

374.045. 1. The director shall have the full power and authority to make all reasonable
2 rules and regulations to accomplish the following purposes:

3 (1) To regulate the internal affairs of the department of insurance, **financial institutions**
4 **and professional registration**;

5 (2) To prescribe forms and procedures to be followed in proceedings before the
6 department of insurance, **financial institutions and professional registration**; and

7 (3) To effectuate or aid in the interpretation of any law of this state [pertaining to the
8 business of insurance] **in this chapter, chapter 354, RSMo, chapters 375 to 385, RSMo, or**
9 **as otherwise authorized by law.**

10 2. The director may from time to time withdraw or amend any rule or regulation **in this**
11 **chapter, chapter 354, RSMo, chapters 375 to 385, RSMo, or as otherwise authorized by**
12 **law.**

13 3. No rule or regulation shall conflict with any law of this state. No rule or portion of a
14 rule promulgated under the authority of this chapter shall become effective unless it has been
15 promulgated pursuant to the provisions of section 536.024, RSMo.

16 4. At least fifteen days prior to the adoption of any rule or regulation, or any amendment
17 thereof, to be issued under the provisions of subdivision (3) of subsection 1, the director shall
18 give notice of a hearing on the proposed action. The notice shall be mailed to all persons who
19 have made timely requests of the department of insurance, **financial institutions and**
20 **professional registration** for advance notice of its rulemaking proceedings. The notice shall
21 contain a statement of the terms or the substance of the proposed rule or regulation. In addition,
22 the notice shall give the time and place where a hearing on the proposed rule or regulation will
23 be held and the manner in which interested parties may present their views thereon. On the date
24 of the hearing, all interested parties shall be given reasonable opportunity to present their views
25 or arguments in writing or orally. The failure of any person to receive any notice of a hearing
26 on any proposed rule or regulation shall not invalidate any rule or regulation subsequently
27 adopted.

28 5. The willful violation of any rule or regulation shall subject the person violating it to
29 such penalty as may be applicable and which the director has within his power to impose under
30 the laws of this state relating to the business of insurance for violation of the law to which the
31 rule or regulation relates.

32 6. Upon request and payment of the reasonable cost thereof, if required and fixed by the
33 director, the director shall furnish a copy of any rule, regulation, or order to any person so
34 requesting.

 374.070. 1. The office shall be a public office and the records shall be public records
2 and shall at all times be open to the inspection of the public subject to such rules as the director
3 shall make for their safekeeping; provided, however, that the work product of the director, the
4 director's employees and agents, including but not limited to work papers of examinations of
5 **insurance** companies, work papers of investigations of **insurance** companies, [agents, brokers
6 and insurance agencies] **and producers and other persons licensed or with a certificate of**
7 **authority under this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or of**
8 **other entities as provided by law** and confidential communications to the [department of
9 insurance] **director**, shall not be considered public records except as [the director may decide
10 otherwise] **provided by law**.

11 2. When requested, the director shall furnish certified copies of any paper, report, or
12 documents on file in the director's office to any person requesting them, upon payment of the fees
13 allowed by law.

14 3. Five years after the conclusion of the transactions to which they relate, the director is
15 authorized to destroy or otherwise dispose of all correspondence, complaints, claim files,
16 working papers of examinations of companies, examination reports of companies made by the
17 insurance supervisory officials of states other than Missouri, rating files, void or obsolete or
18 superseded rate filings and schedules, individual company rating experience data, applications,
19 requisitions, and requests for licenses, all license cards and records, all expired bonds, all records
20 of hearings, and all similar records, papers, documents, and memoranda now or hereafter in the
21 possession of the director.

22 4. Ten years after the conclusion of the transactions to which they relate, the director is
23 authorized to destroy or otherwise dispose of all foreign companies' and alien companies' annual
24 statements, valuation reports, tax reports, and all similar records, papers, documents and
25 memoranda now or hereafter in the possession of the director.

26 5. Disposal and destruction of records shall be in accordance with sections 109.200 to
27 109.310, RSMo.

 374.075. 1. The director [of the department of insurance] may establish [two] **three** or
2 more divisions within the department **to administer and enforce the laws of this state relating**

3 **to insurance.** The director shall establish at least one division, to be known as the "Division of
4 Consumer Affairs", which shall perform the functions of the consumer services section in
5 addition to such other functions as may be assigned to it by the director. **The director shall**
6 **establish a division to be known as the "Division of Insurance Company Regulation",**
7 **which shall perform the functions of insurance company admissions and financial**
8 **supervision, in addition to such other functions as may be assigned to the division by the**
9 **director, and a division to be known as the "Division of Insurance Market Regulation",**
10 **which shall perform the functions of rate and for regulation in addition to such other**
11 **functions as may be assigned to the division by the director.**

12 2. [Any division established by the director shall be considered as though it were
13 transferred to the insurance department under a type I transfer under section 1 of the
14 Reorganization Act of 1974, except that the advisory commission on insurance regulation,
15 established in section 374.281, shall review the need for the division of consumer affairs to be
16 transferred under a type III transfer and report its findings to the general assembly within one
17 year after June 26, 1991.

18 3. All property, functions, duties and funds of the division of insurance as it existed
19 under the department of economic development shall be transferred to the department of
20 insurance. In addition, the property, functions, duties and funds formerly possessed, performed,
21 assigned or appropriated to the department of economic development on behalf or for the benefit
22 of the division of insurance shall be transferred to the department of insurance.

23 4.] Wherever the laws, rules or regulations of this state make reference to the "division
24 of insurance" or to the "insurance division", such references shall be deemed to refer to the
25 department of insurance, **financial institutions and professional registration.**

374.085. 1. The division of consumer affairs of the department of insurance, **financial**
2 **institutions and professional registration** shall perform the following functions:

3 (1) The division shall receive complaints and inquiries from the general public
4 concerning insurance companies, health services corporations and health maintenance
5 organizations, their agents and employees, **insurance producers, and any other persons**
6 **licensed by or registered with the department, except those licensed by the divisions of**
7 **finance, credit unions, or professional registration, or any boards assigned to those**
8 **divisions;**

9 (2) The division shall maintain records of each complaint received and the disposition
10 of that complaint, indexed by type of complaint, company, and such other factors as the section
11 deems appropriate;

12 (3) The division shall operate a statewide toll-free telephone service to receive
13 complaints and inquiries, and shall publicize the existence of this service to the general public;

14 (4) The division shall investigate complaints received of unfair or unlawful acts under
15 the insurance laws of this state and shall close the file on each investigation only when the
16 director of the consumer services division is satisfied that the person or persons complained
17 against have taken a fair and reasonable position or one which is legally correct;

18 (5) The division shall prepare such brochures and other documents as it deems
19 appropriate to help inform the general public on such topics as the state's insurance laws,
20 insurance practices, policy coverages and policy costs; and

21 (6) The division shall recommend changes to state statutes when it considers such
22 statutes to adversely or unfairly affect the interests of the general public.

23 2. In performing the functions of this section, the consumer services division may be
24 assisted by a legal adviser. The legal adviser shall be an attorney licensed to practice law in the
25 state of Missouri and shall possess a knowledge of the state's insurance laws and regulations.

374.115. **Insurance** examiners appointed or employed by the director of the department
2 of insurance, **financial institutions and professional registration** shall be compensated
3 according to the applicable levels established and published by the National Association of
4 Insurance Commissioners.

374.180. 1. The director of the department of insurance, **financial institutions and**
2 **professional registration** shall prepare the following information to be included in the biennial
3 report [of the director of the department of economic development] **to the general assembly:**

4 (1) A brief review of the department during the period covered by the report, including
5 a verified statement of the various sums received and disbursed by him, and from and to whom,
6 and for what purposes;

7 (2) Name, address, capital stock, in case of companies having a capital stock, resources,
8 insurance in force, and the amount and nature of collateral deposited by each insurance company
9 or association authorized or licensed to do business in this state;

10 (3) A tabular statement, and synopsis of the annual statements, as accepted by the
11 director, of all insurance companies doing business in this state;

12 (4) Such other matters as in his opinion may be for the benefit of the public and such
13 recommendations as he shall deem proper in regard to the insurance laws of this state.

14 2. No more than two thousand copies of such report shall be published by order of the
15 director, at the expense of the department.

16 3. The director shall make such additional reports as shall be required by the governor.

374.202. 1. The purpose of sections 374.202 to 374.207 is to provide an effective and
2 efficient system for examining the activities, operations, financial or market conduct, condition
3 and affairs of all persons transacting the business of insurance in this state and all persons
4 otherwise subject to the jurisdiction of the director. The provisions of sections 374.202 to

5 374.207 are intended to enable the director to adopt a flexible system of examinations which
6 directs resources as the director may deem appropriate and necessary for the administration of
7 the insurance related laws of this state.

8 2. As used in sections 374.202 to 374.207, the following terms mean:

9 (1) "Company", any person engaging in or proposing or attempting to engage in any
10 transaction or kind of insurance or surety business and any person or group of persons who may
11 otherwise be subject to the administrative, regulatory or taxing authority of the director, **not**
12 **assigned to the functional regulation of the divisions of finance, credit unions, or**
13 **professional registration, or boards assigned to or within those divisions;**

14 (2) "Department", the department of insurance, **financial institutions and professional**
15 **registration** of this state;

16 (3) "Director", the director of the department of insurance, **financial institutions and**
17 **professional registration** of this state;

18 (4) "Examiner", any individual or firm having been authorized by the director to conduct
19 an examination under sections 374.202 to 374.207;

20 (5) "Insurer" has the same meaning as insurer under sections 375.1150 to 375.1246,
21 RSMo;

22 (6) "Person", any individual, aggregation of individuals, trust, association, partnership
23 or corporation, or any affiliate thereof.

374.217. 1. The director or any other employee of the department of insurance,
2 **financial institutions and professional registration** shall not enter into any covenant not to sue
3 or any agreement to defer, refrain or desist from instituting or asserting against any officer or
4 director of any insurer or any other person or entity **in the business of insurance and** regulated
5 by the department [of insurance], any claim, demand, action or suit, either administrative or
6 judicial, for injuries, damages or penalties to the state or any person or property.

7 2. Any covenant or agreement entered into in derogation of subsection 1 of this section[,
8 either before or after August 28, 1991,] shall be deemed to be in violation of the public policy
9 of this state that the general assembly shall by law provide adequate regulation of insurers in
10 order to protect citizens of this state; and that the department [of insurance] shall carry out and
11 enforce such regulation. The courts of this state shall not enforce or give effect to any such
12 covenant or agreement.

374.220. 1. The expenses of proceedings against insurance companies, and
2 examinations of the assets or liabilities and valuations of policies of insurance companies doing
3 business in this state, shall be assessed by the director upon the company proceeded against or
4 examined, or whose policies have been valued.

5 2. If the company has been or shall be adjudged insolvent, or shall neglect, fail or refuse
6 to pay the expenses, the director may approve the payment of the expenses, in whole or in part,
7 which shall be paid in like manner as other expenses of the [insurance] department; and the
8 amount so paid, together with cost, charges and fees for collecting the same, shall be a first lien
9 upon all the assets and property of such company, and may be recovered by the director of
10 revenue in any court of competent jurisdiction; or if said company be in liquidation, or process
11 of being wound up, the cost and expenses of settling its affairs shall be allowed and taxed as cost
12 against said company, and shall be a first lien upon and payable out of its assets. The director
13 of revenue shall deposit such sums in the state treasury to reimburse the insurance **dedicated**
14 fund.

15 3. Before any costs of any examination or valuation shall be paid, vouchers for the same
16 shall be submitted to and approved by the commissioner of administration.

17 4. When any examination or valuation is made by the director in person or by any
18 salaried employee of the department [of insurance], the cost of making the same shall be certified
19 to the director of revenue for collection.

374.250. 1. The director shall take proper vouchers for all payments made by [him] **the**
2 **department** and shall take receipts from the director of revenue for all moneys [he] **the**
3 **department** pays to the director of revenue.

4 2. At the close of each state fiscal year, the state auditor shall audit, adjust and settle [the
5 accounts for] all receipts and disbursements [by the director] **in the insurance dedicated fund**
6 **and the insurance examiner's fund, and taxes certified or collected under sections 148.310**
7 **to 148.461, RSMo, or sections 384.011 to 384.071, RSMo.**

374.456. 1. The director of the department of insurance, **financial institutions and**
2 **professional registration** shall personally report to the appropriate committees of the general
3 assembly by March first of each year on the status of all actions initiated, maintained by the
4 director, or which have been concluded, during the preceding year to enforce the provisions of
5 this act. The director shall answer all questions regarding such actions, or regarding other
6 matters that are related to the provisions of this act.

7 **2. The report to the appropriate committees of the general assembly shall cover**
8 **enforcement actions related to sections 354.400 to 354.636, RSMo, relating to health**
9 **maintenance organizations, sections 374.500 to 374.515 relating to utilization review agents,**
10 **and sections 376.1350 to 376.1399, RSMo, relating to all managed care health benefit plans.**

375.001. 1. As used in this chapter, unless otherwise clearly indicated by the
2 context, the following terms mean:

3 (1) "Department", the department of insurance, financial institutions and
4 **professional registration;**

5 (2) "**Director**", the director of the department of insurance, financial institutions
6 **and professional registration.**

7 2. As used in sections 375.001 to 375.008 the following words and terms mean:

8 (1) "Insurer", all insurance companies, reciprocals, or interinsurance exchanges
9 transacting the business of insurance in this state;

10 (2) "Nonpayment of premium", failure of the named insured to discharge when due any
11 of his obligations in connection with the payment of premiums on the policy, or any installment
12 of the premium, whether the premium is payable directly to the insurer or its agent or indirectly
13 under any premium finance plan or extension of credit;

14 (3) "Nonrenewal", the determination of an insurer not to issue or deliver a policy
15 replacing at the end of the policy period a policy previously issued and delivered by the same
16 insurer or a certificate or notice extending the term of a policy beyond its policy period or term;

17 (4) "Policy", a contract of insurance providing fire and extended coverage insurance,
18 whether separately or in combination with other coverages, on owner-occupied habitational
19 property not exceeding two families. "Policy" does not include any insurance contracts issued
20 under a property insurance inspection and placement program ("FAIR" plan) or an assigned risk
21 plan, or any insurance contracts insuring property not used predominantly for habitational
22 purposes, or an insurance contract insuring a mobile home;

23 (5) "Renewal" or "to renew", the issuance and delivery by an insurer of a policy replacing
24 at the end of the policy period a policy previously issued and delivered by the same insurer, or
25 the issuance and delivery of a certificate or notice extending the term of the policy beyond its
26 policy period or term. Any policy with a policy period or term of less than six months shall for
27 the purposes of sections 375.001 to 375.008 be considered as if written for a policy period or
28 term of six months. Any policy written for a term longer than one year or any policy with no
29 fixed expiration date, shall for the purpose of sections 375.001 to 375.008, be considered as if
30 written for successive policy periods or terms of one year, and the policy may be terminated at
31 the expiration of any annual period upon giving thirty days' notice of cancellation prior to the
32 anniversary date, and the cancellation shall not be subject to any other provisions of sections
33 375.001 to 375.008.

375.261. 1. Service of process as provided herein shall be made by delivery of two
2 copies of the summons, with copies of the petition thereto attached, to the director [of the
3 insurance department of this state], or in [his] **the director's** absence to the deputy director of
4 the [insurance] department, or in the absence of both the director and deputy director, to the chief
5 clerk of the department [of insurance], at the office of the director of the [insurance division of
6 this state] **department of insurance, financial institutions and professional registration** at
7 Jefferson City, Missouri. The director [of the insurance department] shall forthwith mail by

8 certified mail, with return receipt requested, one of the copies of the summons, with petition
9 thereto attached, to the defendant at its last known principal place of business, and shall keep a
10 record of all process so served upon the director, deputy director or chief clerk, and the date of
11 service, and the return receipt showing delivery thereof to the defendant shall be filed therewith.

12 2. The director [of the insurance department], upon receiving the return receipt, shall so
13 certify the fact to the clerk of the court in which the action is pending. The service of process
14 shall be deemed sufficient provided notice of service, and a copy of the summons, with a copy
15 of plaintiff's petition thereto attached, are sent certified mail, with return receipt requested, within
16 ten days after service of process upon the director [of the insurance department, or his] **or, the**
17 **director's** deputy or chief clerk, as aforesaid, by plaintiff or plaintiff's attorney to the defendant
18 at its last known principal place of business, and the return receipt therefor issued by the post
19 office and the affidavit of plaintiff or plaintiff's attorney showing compliance with the aforesaid
20 provisions are filed in the office of the clerk of the court in which the action is pending on or
21 before the date the defendant is required to appear and defend the cause of action.

375.923. All forms on file with the director [of the division of insurance] on or before
2 January 1, 1980, shall be exempt from the provisions of sections 375.920 to 375.923.

**376.005. As used in this chapter, unless otherwise clearly indicated by the context,
2 the following words mean:**

3 (1) "Department", the department of insurance, financial institutions and
4 professional registration;

5 (2) "Director", the director of the department of insurance, financial institutions
6 and professional registration.

**377.005. As used in this chapter, unless otherwise clearly indicated by the context,
2 the following words mean:**

3 (1) "Department", the department of insurance, financial institutions and
4 professional registration;

5 (2) "Director", the director of the department of insurance, financial institutions
6 and professional registration.

**379.005. As used in this chapter, unless otherwise clearly indicated by the context,
2 the following words mean:**

3 (1) "Department", the department of insurance, financial institutions and
4 professional registration;

5 (2) "Director", the director of the department of insurance, financial institutions
6 and professional registration.

**380.005. As used in this chapter, unless otherwise clearly indicated by the context,
2 the following words mean:**

3 (1) **"Department", the department of insurance, financial institutions and**
4 **professional registration;**

5 (2) **"Director", the director of the department of insurance, financial institutions**
6 **and professional registration.**

381.410. As used in this section and section 381.412, the following terms mean:

2 (1) "Cashier's check", a check, however labeled, drawn on the financial institution, which
3 is signed only by an officer or employee of such institution, is a direct obligation of such
4 institution, and is provided to a customer of such institution or acquired from such institution for
5 remittance purposes;

6 (2) "Certified funds", United States currency, funds conveyed by a cashier's check,
7 certified check, teller's check, as defined in Federal Reserve Regulations CC, or wire transfers,
8 including written advice from a financial institution that collected funds have been credited to
9 the settlement agent's account;

10 (3) "Director", the director of the department of insurance, financial [and professional
11 regulation] **institutions and professional registration**, unless the settlement agent's primary
12 regulator is [the division of finance] **another department**. When the settlement agent is
13 regulated by such [division] **department**, that [division] **department** shall have jurisdiction over
14 this section and section 381.412;

15 (4) "Financial institution":

16 (a) A person or entity doing business under the laws of this state or the United States
17 relating to banks, trust companies, savings and loan associations, credit unions, commercial and
18 consumer finance companies, industrial loan companies, insurance companies, small business
19 investment corporations licensed under the Small Business Investment Act of 1958, 15 U.S.C.
20 Section 661, et seq., as amended, or real estate investment trusts as defined in 26 U.S.C. Section
21 856, as amended, or institutions constituting the Farm Credit System under the Farm Credit Act
22 of 1971, 12 U.S.C. Section 2000, et seq., as amended; or

23 (b) A mortgage loan company or mortgage banker doing business under the laws of this
24 state or the United States which is subject to licensing, supervision, or auditing by the Federal
25 National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or the United
26 States Veterans' Administration, or the Government National Mortgage Association, or the
27 United States Department of Housing and Urban Development, or a successor of any of the
28 foregoing agencies or entities, as an approved seller or servicer, if their principal place of
29 business is in Missouri or a state which is contiguous to Missouri;

30 (5) "Settlement agent", a person, corporation, partnership, or other business organization
31 which accepts funds and documents as fiduciary for the buyer, seller or lender for the purposes
32 of closing a sale of an interest in real estate located within the state of Missouri, and is not a

33 financial institution, or a member in good standing of the Missouri Bar, or a person licensed
34 under chapter 339, RSMo.

**383.005. As used in this chapter, unless otherwise clearly indicated by the context,
2 the following words mean:**

3 **(1) "Department", the department of insurance, financial institutions and**
4 **professional registration;**

5 **(2) "Director", the director of the department of insurance, financial institutions**
6 **and professional registration.**

383.030. 1. The director [of the department of insurance] shall be authorized in
2 accordance with sections [374.190 and 374.200] **374.202 to 374.207**, RSMo, or in the event that
3 either or both of such sections are repealed, then any successor sections relating to financial
4 examination, to examine the financial condition, affairs and management of any association
5 organized under the provisions of sections 383.010 to 383.040, and the association shall pay the
6 expenses of any such examination in accordance with sections 374.160 and 374.220, RSMo.
7 Annually thereafter, within thirty days before the expiration of its license, each association shall
8 pay a renewal license fee of one hundred dollars.

9 2. Any existing association shall also, at the time it files for renewal of its license, file
10 any amendments to its articles of association or bylaws which have been adopted in the
11 preceding year.

407.020. 1. The act, use or employment by any person of any deception, fraud, false
2 pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or
3 omission of any material fact in connection with the sale or advertisement of any merchandise
4 in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in
5 section 407.453, in or from the state of Missouri, is declared to be an unlawful practice. The use
6 by any person, in connection with the sale or advertisement of any merchandise in trade or
7 commerce or the solicitation of any funds for any charitable purpose, as defined in section
8 407.453, in or from the state of Missouri of the fact that the attorney general has approved any
9 filing required by this chapter as the approval, sanction or endorsement of any activity, project
10 or action of such person, is declared to be an unlawful practice. Any act, use or employment
11 declared unlawful by this subsection violates this subsection whether committed before, during
12 or after the sale, advertisement or solicitation.

13 2. Nothing contained in this section shall apply to:

14 (1) The owner or publisher of any newspaper, magazine, publication or printed matter
15 wherein such advertisement appears, or the owner or operator of a radio or television station
16 which disseminates such advertisement when the owner, publisher or operator has no knowledge
17 of the intent, design or purpose of the advertiser; or

18 (2) Any institution [or company that is under the direction and supervision of] ,
19 **company, or entity that is subject to chartering, licensing, or regulation by** the director of
20 the department of insurance, **financial institutions and professional registration under**
21 **chapter 354, RSMo, or chapters 374 to 385, RSMo, the** director of the division of credit
22 unions **under chapter 370, RSMo,** or director of the division of finance **under chapters 361**
23 **to 369, RSMo, or chapter 371, RSMo,** unless [the directors of such divisions] **such directors**
24 specifically authorize the attorney general to implement the powers of this chapter or such
25 powers are provided to either the attorney general or a private citizen by statute.

26 3. Any person who willfully and knowingly engages in any act, use, employment or
27 practice declared to be unlawful by this section with the intent to defraud shall be guilty of a
28 class D felony.

29 4. It shall be the duty of each prosecuting attorney and circuit attorney in their respective
30 jurisdictions to commence any criminal actions under this section, and the attorney general shall
31 have concurrent original jurisdiction to commence such criminal actions throughout the state
32 where such violations have occurred.

33 5. It shall be an unlawful practice for any long-term care facility, as defined in section
34 660.600, RSMo, except a facility which is a residential care facility or an assisted living facility,
35 as defined in section 198.006, RSMo, which makes, either orally or in writing, representation to
36 residents, prospective residents, their families or representatives regarding the quality of care
37 provided, or systems or methods utilized for assurance or maintenance of standards of care to
38 refuse to provide copies of documents which reflect the facility's evaluation of the quality of
39 care, except that the facility may remove information that would allow identification of any
40 resident. If the facility is requested to provide any copies, a reasonable amount, as established
41 by departmental rule, may be charged.

42 6. Any long-term care facility, as defined in section 660.600, RSMo, which commits an
43 unlawful practice under this section shall be liable for damages in a civil action of up to one
44 thousand dollars for each violation, and attorney's fees and costs incurred by a prevailing
45 plaintiff, as allowed by the circuit court.

407.1085. 1. The following acts or practices are exempt from the provisions of sections
2 407.1070 to 407.1082:

3 (1) Telephone calls in which the sale of merchandise is not completed, and payment or
4 authorization of payment is not required, until after a face-to-face sales presentation by the
5 telemarketer or seller; or

6 (2) Telephone calls in which the sale of merchandise is completed and a written contract
7 is forwarded to the consumer so long as the consumer may return the merchandise within
8 fourteen days of receipt of the merchandise and receive a refund of any moneys paid except for

9 any coverage, fees or services earned; provided that the telemarketer shall inform the consumer
10 at the time of the call that:

11 (a) A written contract regarding the sale of the merchandise will be forwarded to the
12 consumer;

13 (b) The approximate date of the delivery of the merchandise; and

14 (c) The consumer will have a right to terminate the contract within fourteen days of
15 receipt of the merchandise, and upon returning the merchandise, shall have a right to a refund
16 as provided in this subdivision.

17

18 The term "merchandise" as used in this subdivision shall mean merchandise sold by a person,
19 institution or company that is under the direction and supervision of the director of the
20 department of insurance, [director of the division of credit unions or director of the division of
21 finance] **financial institutions and professional registration** or federally chartered banks,
22 savings and loans and credit unions, **but shall not mean a person or company that is under**
23 **the direction and supervision of the director of the division of professional registration or**
24 **any board assigned thereto;**

25 (3) Telephone calls initiated by a consumer that:

26 (a) Are not the result of any advertisement by a seller or telemarketer;

27 (b) Are in response to an advertisement through any media, other than direct mail or
28 telemarketing, which discloses the name of the seller and the identity of the merchandise;
29 provided that, this exemption shall not apply to calls initiated by the consumer in response to an
30 advertisement that offers a prize or investment opportunity, or is used to engage in telemarketing
31 activities prohibited by subdivision (6) or (7) of section 407.1076; or

32 (c) Are in response to direct mail solicitations that clearly and conspicuously disclose
33 and do not misrepresent the material information required by subsection 2 of section 407.1073;
34 provided that, this exemption does not apply to calls initiated by the consumer in response to an
35 advertisement that offers a prize or investment opportunity, or is to engage in telemarketing
36 activities prohibited by subdivision (6) or (7) of section 407.1076; or

37 (d) Are in response to the mailing of a catalog which contains a written description or
38 illustration of the goods or services offered for sale; includes the business address of the seller,
39 includes multiple pages of written materials or illustrations; and has been issued not less
40 frequently than once a year, when the seller or telemarketer does not contact consumers by
41 telephone but only receives calls initiated by consumers in response to the catalog, and stops
42 further solicitation of items not in a catalog when the consumer states that he or she is not
43 interested in any further solicitations; or

44 (4) Telephone calls or messages:

45 (a) To any consumer with such consumer's prior express invitation or permission;

46 (b) To any consumer with whom the seller has an established business relationship; or

47 (c) By or on behalf of any entity over which either a state or federal agency has
48 regulatory authority to the extent that:

49 a. Subject to such authority, the entity is required to maintain a license, registration,
50 certificate or permit to sell or provide the merchandise being offered through telemarketing; and

51 b. As of August 28, 2000, the state or federal agency has, directly or through a delegation
52 of authority which is enforceable pursuant to state or federal law, promulgated rules that regulate
53 the telemarketing sales practices of the entity for the merchandise that entity offers through
54 telemarketing and are reasonably consistent with the requirements of section 407.1070 through
55 section 407.1079 and which allow consumer redress pursuant to that agency's rules or applicable
56 federal law;

57 (d) Between a telemarketer and any business except calls involving the retail sale of
58 nondurable office and cleaning supplies.

59 2. The office of the attorney general shall receive telemarketing complaints by means of
60 a toll-free telephone number, by a notice in writing or by electronic means. Complaints against
61 entities who are licensed, certificated or permitted and whose telemarketing practices are
62 regulated by the same state or federal agency and which agency has rules regulating
63 telemarketing practices shall be forwarded for investigation by the office of the attorney general
64 to such agency. All other complaints shall be handled by the office of the attorney general.

408.233. 1. No charge other than that permitted by section 408.232 shall be directly or
2 indirectly charged, contracted for or received in connection with any second mortgage loan,
3 except as provided in this section:

4 (1) Fees and charges prescribed by law actually and necessarily paid to public officials
5 for perfecting, releasing, or satisfying a security interest related to the second mortgage loan;

6 (2) Taxes;

7 (3) Bona fide closing costs paid to third parties, which shall include:

8 (a) Fees or premiums for title examination, title insurance, or similar purposes including
9 survey;

10 (b) Fees for preparation of a deed, settlement statement, or other documents;

11 (c) Fees for notarizing deeds and other documents;

12 (d) Appraisal fees; and

13 (e) Fees for credit reports;

14 (4) Charges for insurance as described in subsection 2 of this section;

15 (5) A nonrefundable origination fee not to exceed five percent of the principal which
16 may be used by the lender to reduce the rate on a second mortgage loan;

17 (6) Any amounts paid to the lender by any person, corporation or entity, other than the
18 borrower, to reduce the rate on a second mortgage loan or to assist the borrower in qualifying for
19 the loan;

20 (7) For revolving loans, an annual fee not to exceed fifty dollars may be assessed.

21 2. An additional charge may be made for insurance written in connection with the loan,
22 including insurance protecting the lender against the borrower's default or other credit loss, and:

23 (1) For insurance against loss of or damage to property where no such coverage already
24 exists; and

25 (2) For insurance providing life, accident, health or involuntary unemployment coverage.

26 3. The cost of any insurance shall not exceed the rates filed with the [division]
27 **department** of insurance, **financial institutions and professional registration**, and the
28 insurance shall be obtained from an insurance company duly authorized to conduct business in
29 this state. Any person or entity making second mortgage loans, or any of its employees, may be
30 licensed to sell insurance permitted in this section.

31 4. On any second mortgage loan, a default charge may be contracted for and received for
32 any installment or minimum payment not paid in full within fifteen days of its scheduled due
33 date equal to five percent of the amount or fifteen dollars, whichever is greater, not to exceed
34 fifty dollars. A default charge may be collected only once on an installment or a payment due
35 however long it remains in default. A default charge may be collected at the time it accrues or
36 at any time thereafter and for purposes of subsection 3 of section 408.234 a default charge shall
37 be treated as a payment. No default charge may be collected on an installment or a payment due
38 which is paid in full within fifteen days of its scheduled due date even though an earlier
39 installment or payment or a default charge on earlier installment or payments may not have been
40 paid in full.

41 5. The lender shall, in addition to the charge authorized by subsection 4 of this section,
42 be allowed to assess the borrower or other maker of refused instrument the actual charge made
43 by any institution for processing the negotiable instrument, plus a handling fee of not more than
44 twenty-five dollars; and, if the contract or promissory note, signed by the borrower, provides for
45 attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen
46 percent of the amount due and payable under such contract or promissory note, together with any
47 court costs assessed. The attorney fees shall only be applicable where the contract or promissory
48 note is referred for collection to an attorney, and are not handled by a salaried employee of the
49 holder of the contract or note.

2 408.570. Unless otherwise clearly indicated by the context, the following words and
terms as used in sections 408.570 to 408.600 shall mean:

3 (1) "Department", the [Missouri department of economic development] **department of**
4 **insurance, financial institutions and professional registration;**

5 (2) "Director", the director of the department of [economic development] **insurance,**
6 **financial institutions and professional registration;**

7 (3) "Division director", the appropriate director of the division of finance or the division
8 of credit unions of the department of [economic development] **insurance, financial institutions**
9 **and professional registration;**

10 (4) "Financial institution", a bank, savings and loan association, credit union, consumer
11 credit lender, mortgage banker, or any other association or institution which:

12 (a) Operates a place of business in Missouri; and

13 (b) As part of its business, makes residential real estate loans;

14 (5) "Residential real estate", any real estate used or intended to be used as a residence
15 by not more than four families;

16 (6) "Residential real estate loan", a loan made for the acquisition, construction, repair,
17 rehabilitation or remodeling of residential real estate or any loan secured by residential real
18 estate. The term shall include any loan made to refinance or prepay in full or in part any such
19 loan;

20 (7) "State financial institution", any financial institution other than a national banking
21 association, a federal savings and loan association, and a federal credit union;

22 (8) "Type" of residential real estate loan, conventional loans, construction loans, loans
23 insured by the Federal Housing Administration, loans guaranteed by the Veterans
24 Administration, home improvement loans.

436.005. As used in sections 436.005 to 436.071, unless the context otherwise requires,
2 the following terms shall mean:

3 (1) "Beneficiary", the individual who is to be the subject of the disposition and who will
4 receive funeral services, facilities or merchandise described in a preneed contract;

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

7 (3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal
8 property incidental to a funeral or burial service, and such term shall also include grave lots,
9 grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only
10 if, such items are sold:

11 (a) By a companion agreement which is sold in contemplation of trade or barter for grave
12 vaults or funeral or burial services and funeral merchandise; or

13 (b) At prices, in excess of prevailing market prices, intended to be offset by reductions
14 in the costs of funeral or burial services or facilities which are not immediately required;

15 (4) "Person", any individual, partnership, corporation, cooperative, association, or other
16 entity;

17 (5) "Preneed contract", any contract or other arrangement which requires the current
18 payment of money or other property in consideration for the final disposition of a dead human
19 body, or for funeral or burial services or facilities, or for funeral merchandise, where such
20 disposition, services, facilities or merchandise are not immediately required, including, but not
21 limited to, an agreement providing for a membership fee or any other fee having as its purpose
22 the furnishing of burial or funeral services or merchandise at a discount, except for contracts of
23 insurance, including payment of proceeds from contracts of insurance, unless the preneed seller
24 or provider is named as the owner or beneficiary in the contract of insurance;

25 (6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of,
26 administer, and disburse payments received under preneed contracts by such seller, together with
27 income thereon;

28 (7) "Provider", the person obligated to provide the disposition and funeral services,
29 facilities, or merchandise described in a preneed contract;

30 (8) "Purchaser", the person who is obligated to make payments under a preneed contract;

31 (9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated
32 to collect and administer all payments made under such preneed contract;

33 (10) "State board", the Missouri state board of embalmers and funeral directors;

34 (11) "Trustee", the trustee of a preneed trust, including successor trustees.

443.803. 1. For the purposes of sections 443.800 to 443.893, the following terms mean:

2 (1) "Advertisement", the attempt by publication, dissemination or circulation to induce,
3 directly or indirectly, any person to apply for a loan to be secured by residential real estate;

4 (2) "Affiliate":

5 (a) Any entity that directly controls, or is controlled by, the licensee and any other
6 company that is directly affecting activities regulated by sections 443.800 to 443.893 that is
7 controlled by the company that controls the licensee;

8 (b) Any entity:

9 a. That is controlled, directly or indirectly, by a trust or otherwise by, or for the benefit
10 of, shareholders who beneficially, or otherwise, control, directly or indirectly, by trust or
11 otherwise, the licensee or any company that controls the licensee; or

12 b. A majority of the directors or trustees of which constitute a majority of the persons
13 holding any such office with the licensee or any company that controls the licensee;

14 (c) Any company, including a real estate investment trust, that is sponsored and advised
15 on a contractual basis by the licensee or any subsidiary or affiliate of the licensee;

- 16 (3) "Annual audit", a certified audit of the licensee's books and records and systems of
17 internal control performed by a certified public accountant in accordance with generally accepted
18 accounting principles and generally accepted auditing standards;
- 19 (4) "Board", the residential mortgage board, created in section 443.816;
- 20 (5) "Borrower", the person or persons who use the services of a loan broker, originator
21 or lender;
- 22 (6) "Director", the director of the division of finance [within the department of economic
23 development];
- 24 (7) "Escrow agent", a third party, individual or entity, charged with the fiduciary
25 obligation for holding escrow funds on a residential mortgage loan pending final payout of those
26 funds in accordance with the terms of the residential mortgage loan;
- 27 (8) "Exempt entity", the following entities:
- 28 (a) Any bank or trust company organized under the laws of this or any other state or any
29 national bank or any foreign banking corporation licensed by the division of finance or the
30 United States Comptroller of the Currency to transact business in this state;
- 31 (b) Any state or federal savings and loan association, savings bank or credit union or any
32 consumer finance company licensed under sections 367.100 to 367.215, RSMo, which is actively
33 engaged in consumer credit lending;
- 34 (c) Any insurance company authorized to transact business in this state;
- 35 (d) Any person engaged solely in commercial mortgage lending or any person making
36 or acquiring residential or commercial construction loans with the person's own funds for the
37 person's own investment;
- 38 (e) Any service corporation of a federally chartered or state-chartered savings and loan
39 association, savings bank or credit union;
- 40 (f) Any first-tier subsidiary of a national or state bank that has its principal place of
41 business in this state, provided that such first-tier subsidiary is regularly examined by the
42 division of finance or the Comptroller of the Currency or a consumer compliance examination
43 of it is regularly conducted by the Federal Reserve;
- 44 (g) Any person engaged solely in the business of securing loans on the secondary market
45 provided such person does not make decisions about the extension of credit to the borrower;
- 46 (h) Any mortgage banker as defined in subdivision (19) of this subsection; or
- 47 (i) Any wholesale mortgage lender who purchases mortgage loans originated by a
48 licensee provided such wholesale lender does not make decisions about the extension of credit
49 to the borrower;
- 50 (j) Any person making or acquiring residential mortgage loans with the person's own
51 funds for the person's own investment;

52 (k) Any person employed or contracted by a licensee to assist in the performance of the
53 activities regulated by sections 443.800 to 443.893 who is compensated in any manner by only
54 one licensee;

55 (l) Any person licensed pursuant to the real estate agents and brokers licensing law,
56 chapter 339, RSMo, who engages in servicing or the taking of applications and credit and
57 appraisal information to forward to a licensee or an exempt entity for transactions in which the
58 licensee is acting as a real estate broker and who is compensated by either a licensee or an
59 exempt entity;

60 (m) Any person who originates, services or brokers residential mortgagee loans and who
61 receives no compensation for those activities, subject to the director's regulations regarding the
62 nature and amount of compensation;

63 (9) "Financial institution", a savings and loan association, savings bank, credit union,
64 mortgage banker or bank organized under the laws of Missouri or the laws of the United States
65 with its principal place of business in Missouri;

66 (10) "First-tier subsidiary", as defined by administrative rule promulgated by the director;

67 (11) "Full-service office", office and staff in Missouri reasonably adequate to handle
68 efficiently communications, questions and other matters relating to any application for a new,
69 or existing, home mortgage loan which the licensee is brokering, funding, originating, purchasing
70 or servicing. The management and operation of each full-service office must include observance
71 of good business practices such as adequate, organized and accurate books and records, ample
72 phone lines, hours of business, staff training and supervision and provision for a mechanism to
73 resolve consumer inquiries, complaints and problems. The director shall promulgate regulations
74 with regard to the requirements of this subdivision and shall include an evaluation of compliance
75 with this subdivision in the periodic examination of the licensee;

76 (12) "Government-insured mortgage loan", any mortgage loan made on the security of
77 residential real estate insured by the Department of Housing and Urban Development or Farmers
78 Home Loan Administration, or guaranteed by the Veterans Administration;

79 (13) "Lender", any person who either lends money for or invests money in residential
80 mortgage loans;

81 (14) "Licensee" or "residential mortgage licensee", a person who is licensed to engage
82 in the activities regulated by sections 443.800 to 443.893;

83 (15) "Loan broker" or "broker", a person exempted from licensing pursuant to
84 subdivision (8) of this subsection, who performs the activities described in subdivisions (17) and
85 (32) of this subsection;

86 (16) "Loan brokerage agreement", a written agreement in which a broker agrees to do
87 either of the following:

88 (a) Obtain a residential mortgage loan for the borrower or assist the borrower in
89 obtaining a residential mortgage loan; or

90 (b) Consider making a residential mortgage loan to the borrower;

91 (17) "Loan brokering", "mortgage brokering", or "mortgage brokerage service", the act
92 of helping to obtain for an investor or from an investor for a borrower, a loan secured by
93 residential real estate situated in Missouri or assisting an investor or a borrower in obtaining a
94 loan secured by residential real estate in return for consideration;

95 (18) "Making a residential mortgage loan" or "funding a residential mortgage loan", for
96 compensation or gain, either, directly or indirectly, advancing funds or making a commitment
97 to an applicant for a residential mortgage loan;

98 (19) "Mortgage banker", a mortgage loan company which is subject to licensing,
99 supervision, or annual audit requirements by the Federal National Mortgage Association
100 (FNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or the United States
101 Veterans Administration (VA), or the United States Department of Housing and Urban
102 Development (HUD), or a successor of any of the foregoing agencies or entities, as an approved
103 lender, loan correspondent, seller, or servicer;

104 (20) "Mortgage loan" or "residential mortgage loan", a loan to, or for the benefit of, any
105 natural person made primarily for personal, family or household use, including a reverse
106 mortgage loan, primarily secured by either a mortgage or reverse mortgage on residential real
107 property or certificates of stock or other evidence of ownership interests in, and proprietary
108 leases from, corporations or partnerships formed for the purpose of cooperative ownership of
109 residential real property;

110 (21) "Net worth", as provided in section 443.859;

111 (22) "Originating", the advertising, soliciting, taking applications, processing, closing,
112 or issuing of commitments for, and funding of, residential mortgage loans;

113 (23) "Party to a residential mortgage financing transaction", a borrower, lender or loan
114 broker in a residential mortgage financing transaction;

115 (24) "Payments", payment of all, or any part of, the following: principal, interest and
116 escrow reserves for taxes, insurance and other related reserves and reimbursement for lender
117 advances;

118 (25) "Person", any individual, firm, partnership, corporation, company or association and
119 the legal successors thereof;

120 (26) "Personal residence address", a street address, but shall not include a post office box
121 number;

122 (27) "Purchasing", the purchase of conventional or government-insured mortgage loans
123 secured by residential real estate from either the lender or from the secondary market;

124 (28) "Residential mortgage board", the residential mortgage board created in section
125 443.816;

126 (29) "Residential mortgage financing transaction", the negotiation, acquisition, sale or
127 arrangement for, or the offer to negotiate, acquire, sell or arrange for, a residential mortgage loan
128 or residential mortgage loan commitment;

129 (30) "Residential mortgage loan commitment", a written conditional agreement to
130 finance a residential mortgage loan;

131 (31) "Residential real property" or "residential real estate", real property located in this
132 state improved by a one-family to four-family dwelling;

133 (32) "Servicing", the collection or remittance for, or the right or obligation to collect or
134 remit for, any lender, noteowner, noteholder or for a licensee's own account, of payments,
135 interests, principal and trust items such as hazard insurance and taxes on a residential mortgage
136 loan and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any
137 notifications to the borrower that are necessary to enable the borrower to keep the loan current
138 and in good standing;

139 (33) "Soliciting, processing, placing or negotiating a residential mortgage loan", for
140 compensation or gain, either, directly or indirectly, accepting or offering to accept an application
141 for a residential mortgage loan, assisting or offering to assist in the processing of an application
142 for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate
143 the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower
144 including, but not limited to, the submission of credit packages for the approval of lenders, the
145 preparation of residential mortgage loan closing documents, and including a closing in the name
146 of a broker;

147 (34) "Ultimate equitable owner", a person who, directly or indirectly, owns or controls
148 an ownership interest in a corporation, foreign corporation, alien business organization, trust or
149 any other form of business organization regardless of whether the person owns or controls the
150 ownership interest through one or more persons or one or more proxies, powers of attorney,
151 nominees, corporations, associations, partnerships, trusts, joint stock companies or other entities
152 or devices, or any combination thereof.

153 2. The director may define by rule any terms used in sections 443.800 to 443.893 for
154 efficient and clear administration.

620.010. 1. There is hereby created a "Department of Economic Development" to be
2 headed by a director appointed by the governor, by and with the advice and consent of the senate.
3 All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus
4 State Reorganization Act of 1974 shall continue to apply to this department and its divisions,
5 agencies and personnel.

6 2. The office of director of the department of business and administration, chapter 35,
7 RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not
8 previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the
9 governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the
10 department of economic development. The department of business and administration is hereby
11 abolished.

12 3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are
13 transferred by type I transfer to the personnel division, office of administration.

14 4. The powers, duties and functions vested in the public service commission, chapters
15 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing
16 commission, sections 621.015 to 621.198, RSMo, [and others, are transferred by type III
17 transfers, and the state banking board, chapter 361, RSMo, and others, and the savings and loan
18 commission, chapter 369, RSMo,] and others, are transferred by type II transfers to the
19 department of economic development. The director of the department is directed to provide and
20 coordinate staff and equipment services to these agencies in the interest of facilitating the work
21 of the bodies and achieving optimum efficiency in staff services common to all the bodies.
22 Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service
23 commission from presenting additional budget requests or from explaining or clarifying its
24 budget requests to the governor or general assembly.

25 5. The powers, duties and functions vested in the office of the public counsel are
26 transferred by type III transfer to the department of economic development. Funding for the
27 general counsel's office shall be by general revenue.

28 6. The public service commission is authorized to employ such staff as it deems
29 necessary for the functions performed by the general counsel other than those powers, duties and
30 functions relating to representation of the public before the public service commission.

31 7. [There is hereby created a "Division of Credit Unions" in the department of economic
32 development, to be headed by a director, nominated by the department director and appointed
33 by the governor with the advice and consent of the senate. All the powers, duties and functions
34 vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties
35 relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are
36 transferred to the division of credit unions of the department of economic development, by a type
37 II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the
38 director of the division of credit unions shall be set by the director of the department within the
39 limits of the appropriations therefor. The director of the division shall assume all the duties and
40 functions of the state supervisor of credit unions and the commissioner of finance only where the
41 director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

42 8. The powers, duties and functions vested in the division of finance, chapters 361, 362,
43 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department
44 of economic development. There shall be a director of the division who shall be nominated by
45 the department director and appointed by the governor with the advice and consent of the senate.

46 9. All the powers, duties and functions vested in the director of the division of savings
47 and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other
48 provision of law are transferred to the division of finance of the department of economic
49 development by a type I transfer. The position of the director of the division of savings and loan
50 supervision is hereby abolished. The director of the division of finance shall assume all the
51 duties and functions of the director of the division of savings and loan supervision as provided
52 in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law.
53 The division of savings and loan is hereby abolished. The powers of the savings and loan
54 commission are hereby limited to hearing appeals from decisions of the director of the division
55 of finance approving or denying applications to incorporate savings and loan associations or to
56 establish branches of savings and loan associations and approving regulations pertaining to
57 savings and loan associations. Any appeals shall be held in accordance with section 369.319,
58 RSMo.

59 10. On and after August 28, 1990, the status of the division is modified under a specific
60 type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of
61 the division is modified from that of a division transferred to the department of economic
62 development pursuant to a type II transfer, as provided for in this section, to that of an agency
63 possessing the characteristics of a division transferred pursuant to a type III transfer; provided,
64 however, that the division will remain within the department of economic development. The
65 division of insurance shall be assigned to the department of economic development as a type III
66 division, and the director of the department of economic development shall have no supervision,
67 authority or control over the actions or decisions of the director of the division. All authority,
68 records, property, personnel, powers, duties, functions, matter pending and all other pertinent
69 vestiges pertaining thereto shall be retained by the division except as modified by this section.
70 If the division of insurance becomes a department by operation of a constitutional amendment,
71 the department of economic development shall continue until December 31, 1991, to provide at
72 least the same assistance as was provided in previous fiscal years for personnel, data processing
73 support and other benefits from appropriations.

74 11.] All the powers, duties and functions of the commerce and industrial development
75 division and the industrial development commission, chapters 184 and 255, RSMo, and others,
76 not otherwise transferred, are transferred by type I transfer to the department of economic
77 development, and the industrial development commission is abolished. All powers, duties and

78 functions of the division of commerce and industrial development and the division of community
79 development are transferred by a type I transfer to the department of economic development, and
80 the division of commerce and industrial development and the division of community
81 development are abolished.

82 [12.] 8. All the powers, duties and functions vested in the tourism commission, chapter
83 258, RSMo, and others, are transferred to the "Division of Tourism", which is hereby created,
84 by type III transfer.

85 [13.] 9. All the powers, duties and functions of the department of community affairs,
86 chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the
87 department of economic development, and the department of community affairs is abolished.
88 The director of the department of economic development may assume all the duties of the
89 director of community affairs or may establish within the department such subunits and advisory
90 committees as may be required to administer the programs so transferred. The director of the
91 department shall appoint all members of such committees and heads of subunits.

92 [14. (1) There is hereby established a "Division of Professional Registration" assigned
93 to the department of economic development as a type III division, headed by a director appointed
94 by the governor with the advice and consent of the senate.

95 (2) The director of the division of professional registration shall promulgate rules and
96 regulations which designate for each board or commission assigned to the division the renewal
97 date for licenses or certificates. After the initial establishment of renewal dates, no director of
98 the division shall promulgate a rule or regulation which would change the renewal date for
99 licenses or certificates if such change in renewal date would occur prior to the date on which the
100 renewal date in effect at the time such new renewal date is specified next occurs. Each board or
101 commission shall by rule or regulation establish licensing periods of one, two, or three years.
102 Registration fees set by a board or commission shall be effective for the entire licensing period
103 involved, and shall not be increased during any current licensing period. Persons who are
104 required to pay their first registration fees shall be allowed to pay the pro rata share of such fees
105 for the remainder of the period remaining at the time the fees are paid. Each board or
106 commission shall provide the necessary forms for initial registration, and thereafter the director
107 may prescribe standard forms for renewal of licenses and certificates. Each board or commission
108 shall by rule and regulation require each applicant to provide the information which is required
109 to keep the board's records current. Each board or commission shall issue the original license
110 or certificate.

111 (3) The division shall provide clerical and other staff services relating to the issuance and
112 renewal of licenses for all the professional licensing and regulating boards and commissions
113 assigned to the division. The division shall perform the financial management and clerical

114 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and
115 renewal of licenses and certificates" means the ministerial function of preparing and delivering
116 licenses or certificates, and obtaining material and information for the board or commission in
117 connection with the renewal thereof. It does not include any discretionary authority with regard
118 to the original review of an applicant's qualifications for licensure or certification, or the
119 subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action
120 contemplated against the licensee or certificate holder. The division may develop and implement
121 microfilming systems and automated or manual management information systems.

122 (4) The director of the division shall establish a system of accounting and budgeting, in
123 cooperation with the director of the department, the office of administration, and the state
124 auditor's office, to ensure proper charges are made to the various boards for services rendered
125 to them. The general assembly shall appropriate to the division and other state agencies from
126 each board's funds, moneys sufficient to reimburse the division and other state agencies for all
127 services rendered and all facilities and supplies furnished to that board.

128 (5) For accounting purposes, the appropriation to the division and to the office of
129 administration for the payment of rent for quarters provided for the division shall be made from
130 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for
131 the purpose defined in subdivision (4) of this subsection. The fund shall consist of moneys
132 deposited into it from each board's fund. Each board shall contribute a prorated amount
133 necessary to fund the division for services rendered and rent based upon the system of accounting
134 and budgeting established by the director of the division as provided in subdivision (4) of this
135 subsection. Transfers of funds to the professional registration fees fund shall be made by each
136 board on July first of each year; provided, however, that the director of the division may establish
137 an alternative date or dates of transfers at the request of any board. Such transfers shall be made
138 until they equal the prorated amount for services rendered and rent by the division. The
139 provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall
140 not be transferred and placed to the credit of general revenue until the amount in the fund at the
141 end of the biennium exceeds three times the appropriation from the professional registration fees
142 fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that
143 amount in the fund which exceeds the appropriate multiple of the appropriations from the
144 professional registration fees fund for the preceding fiscal year.

145 (6) The director of the division shall be responsible for collecting and accounting for all
146 moneys received by the division or its component agencies. Any money received by a board or
147 commission shall be promptly given, identified by type and source, to the director. The director
148 shall keep a record by board and state accounting system classification of the amount of revenue
149 the director receives. The director shall promptly transmit all receipts to the department of

150 revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall
151 provide each board with all relevant financial information in a timely fashion. Each board shall
152 cooperate with the director by providing necessary information.

153 (7) All educational transcripts, test scores, complaints, investigatory reports, and
154 information pertaining to any person who is an applicant or licensee of any agency assigned to
155 the division of professional registration by statute or by the department of economic development
156 are confidential and may not be disclosed to the public or any member of the public, except with
157 the written consent of the person whose records are involved. The agency which possesses the
158 records or information shall disclose the records or information if the person whose records or
159 information is involved has consented to the disclosure. Each agency is entitled to the
160 attorney-client privilege and work-product privilege to the same extent as any other person.
161 Provided, however, that any board may disclose confidential information without the consent of
162 the person involved in the course of voluntary interstate exchange of information, or in the
163 course of any litigation concerning that person, or pursuant to a lawful request, or to other
164 administrative or law enforcement agencies acting within the scope of their statutory authority.
165 Information regarding identity, including names and addresses, registration, and currency of the
166 license of the persons possessing licenses to engage in a professional occupation and the names
167 and addresses of applicants for such licenses is not confidential information.

168 (8) Any deliberations conducted and votes taken in rendering a final decision after a
169 hearing before an agency assigned to the division shall be closed to the parties and the public.
170 Once a final decision is rendered, that decision shall be made available to the parties and the
171 public.

172 15. (1) The division of registration and examination, department of education, within
173 chapter 161, RSMo, and others, is abolished and the following boards and commissions are
174 transferred by specific type transfers to the division of professional registration, department of
175 economic development: state board of accountancy, chapter 326, RSMo; state board of barber
176 examiners, chapter 328, RSMo; state board of registration for architects, professional engineers
177 and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331,
178 RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334,
179 RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral
180 directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of
181 nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry,
182 chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri
183 veterinary medical board chapter 340, RSMo. The governor shall appoint members of these
184 boards by and with the advice and consent of the senate from nominees submitted by the director
185 of the department.

186 (2) The boards and commissions assigned to the division shall exercise all their
187 respective statutory duties and powers, except those clerical and other staff services involving
188 collecting and accounting for moneys and financial management relating to the issuance and
189 renewal of licenses, which services shall be provided by the division, within the appropriation
190 therefor. All clerical and other staff services relating to the issuance and renewal of licenses of
191 the individual boards and commissions are abolished. All clerical and other staff services
192 pertaining to collecting and accounting for moneys and to financial management relative to the
193 issuance and renewal of licenses of the individual boards and commissions are abolished.
194 Nothing herein shall prohibit employment of professional examining or testing services from
195 professional associations or others as required by the boards or commissions on contract.
196 Nothing herein shall be construed to affect the power of a board or commission to expend its
197 funds as appropriated. However, the division shall review the expense vouchers of each board.
198 The results of such review shall be submitted to the board reviewed and to the house and senate
199 appropriations committees annually.

200 (3) Notwithstanding any other provisions of law, the director of the division shall
201 exercise only those management functions of the boards and commissions specifically provided
202 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,
203 personnel other than board personnel, and equipment.

204 (4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331,
205 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and
206 responsibilities are in areas not related to the clerical duties involving the issuance and renewal
207 of licenses, to the collecting and accounting for moneys, or to financial management relating to
208 issuance and renewal of licenses; specifically included are executive secretaries (or comparable
209 positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these
210 positions; and such other positions as are established and authorized by statute for a particular
211 board or commission. Boards and commissions may employ legal counsel, if authorized by law,
212 and temporary personnel if the board is unable to meet its responsibilities with the employees
213 authorized above. Any board or commission which hires temporary employees shall annually
214 provide the division director and the appropriation committees of the general assembly with a
215 complete list of all persons employed in the previous year, the length of their employment, the
216 amount of their remuneration and a description of their responsibilities.

217 (5) Board personnel for each board or commission shall be employed by and serve at the
218 pleasure of the board or commission, shall be supervised as the board or commission designates,
219 and shall have their duties and compensation prescribed by the board or commission, within
220 appropriations for that purpose, except that compensation for board personnel shall not exceed
221 that established for comparable positions as determined by the board or commission pursuant

222 to the job and pay plan of the department of economic development. Nothing herein shall be
223 construed to permit salaries for any board personnel to be lowered except by board action.

224 (6) Each board or commission shall receive complaints concerning its licensees' business
225 or professional practices. Each board or commission shall establish by rule a procedure for the
226 handling of such complaints prior to the filing of formal complaints before the administrative
227 hearing commission. The rule shall provide, at a minimum, for the logging of each complaint
228 received, the recording of the licensee's name, the name of the complaining party, the date of the
229 complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall
230 provide for informing the complaining party of the progress of the investigation, the dismissal
231 of the charges or the filing of a complaint before the administrative hearing commission.

232 16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo,
233 and others, are transferred by type I transfer to the division of professional registration. The
234 athletic commission is abolished.

235 [17.] 10. The state council on the arts, chapter 185, RSMo, and others, is transferred by
236 type II transfer to the department of economic development, and the members of the council shall
237 be appointed by the director of the department.

238 [18.] 11. The Missouri housing development commission, chapter 215, RSMo, is
239 assigned to the department of economic development, but shall remain a governmental
240 instrumentality of the state of Missouri and shall constitute a body corporate and politic.

241 [19.] 12. All the authority, powers, duties, functions, records, personnel, property,
242 matters pending and other pertinent vestiges of the division of manpower planning of the
243 department of social services are transferred by a type I transfer to the "Division of Job
244 Development and Training", which is hereby created, within the department of economic
245 development. The division of manpower planning within the department of social services is
246 abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974,
247 Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to
248 the transfers provided in this section.

249 [20.] 13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
250 that is created under the authority delegated in this chapter shall become effective only if it
251 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
252 section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no
253 force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the
254 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all
255 applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any
256 of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to
257 delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional,

258 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999,
259 shall be invalid and void.

620.1063. 1. A participating financial institution which withdraws from the program
2 may not recover any set-aside contributions which have been made to a loss reserve account. If
3 a program loan loss reserve account continuously exceeds the outstanding balance of the
4 institution's enrolled loans for twenty-four consecutive months, the department may withdraw
5 such excess to reduce the program loss reserve account to an amount equal to one hundred
6 percent of such outstanding balance. Any funds withdrawn pursuant to this subsection shall be
7 placed in the Missouri capital access program fund.

8 2. The division of finance of the department of [economic development] **insurance,**
9 **financial institutions and professional registration** is authorized to examine all program loss
10 reserve accounts maintained by financial institutions. No financial institution may participate
11 in the program unless such financial institution agrees to allow the division of finance to conduct
12 such examinations.

[620.105. The provisions of this act relating to disciplinary proceedings
2 against any person licensed or regulated under the provisions of chapter 326, 327,
3 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 345 or 346,
4 RSMo, do not apply for any circumstance occurring prior to September 28, 1981,
5 or to the construction and application of any defense in a disciplinary proceeding
6 for such circumstances. All disciplinary proceedings for circumstances occurring
7 prior to September 28, 1981, shall be conducted and determined according to the
8 provisions of law existing at the time of the occurrence of the circumstances
9 involved in the proceeding in the same manner as if this act had not been enacted,
10 any other provision of law to the contrary notwithstanding.]
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[620.106. Effective August 28, 1999, no new licensing activity or other
2 statutory requirements assigned to the division of professional registration shall
3 become effective until expenditures or personnel are specifically appropriated for
4 the purpose of conducting the business as required and the initial rules filed, if
5 appropriate, have become effective. The director of the division of professional
6 registration shall have the authority to borrow funds from any agency within the
7 division to commence operations upon appropriation for such purpose. This
8 authority shall cease at such time that a sufficient fund has been established by
9 the agency to fund its operations and repay the amount borrowed.]
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[620.111. 1. Contrary provisions of the law notwithstanding, no
2 complaint, investigatory report or information received from any source must be
3 disclosed prior to its review by the appropriate division.

4 2. At its discretion an agency may disclose complaints, completed
5 investigatory reports and information obtained from state administrative and law

6 enforcement agencies to a licensee or license applicant in order to further an
7 investigation or to facilitate settlement negotiations.

8 3. Information obtained from a federal administrative or law enforcement
9 agency shall be disclosed only after the agency has obtained written consent to
10 the disclosure from the federal administrative or law enforcement agency.

11 4. At its discretion an agency may disclose complaints and investigatory
12 reports in the course of a voluntary interstate exchange of information, or in the
13 course of any litigation concerning a licensee or license applicant, or pursuant to
14 a lawful request, or to other state or federal administrative or law enforcement
15 agencies.

16 5. Except as disclosure is specifically provided above and in section
17 610.021, RSMo, deliberations, votes or minutes of closed proceedings of
18 agencies shall not be subject to disclosure or discovery.]
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2 [620.120. When making appointments to the boards governed by
3 chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339,
4 340 and 346, RSMo, the governor shall take affirmative action to appoint women
5 and members of minority groups. In addition, the governor shall not discriminate
6 against or in favor of any person on the basis of race, sex, religion, national
7 origin, ethnic background, or language.]

2 [620.125. No rule or portion of a rule promulgated under the authority of
3 chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339,
4 340, 345, and 346, RSMo, shall become effective unless it has been promulgated
5 pursuant to the provisions of section 536.024, RSMo.]

2 [620.127. Notwithstanding any provision of law to the contrary, every
3 application for a license, certificate, registration, or permit, or renewal of a
4 license, certificate, registration, or permit issued in this state shall contain the
5 Social Security number of the applicant. This provision shall not apply to an
6 original application for a license, certificate, registration, or permit submitted by
7 a citizen of a foreign country who has never been issued a Social Security number
8 and who previously has not been licensed by any other state, United States
9 territory, or federal agency. A citizen of a foreign country applying for licensure
10 with the division of professional registration shall be required to submit his or her
11 visa or passport identification number in lieu of the Social Security number.]

2 [620.130. An orientation program for appointees to all boards or
3 commissions in the division of professional registration shall be prepared under
4 the direction of the director of the department of economic development, which
5 shall acquaint new appointees with their duties and provide available information
6 on subject matters of concern to the board or commission to which each public
member has been appointed.]

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[620.132. 1. Any public member authorized under the provisions of sections 326.160, RSMo, 327.031, RSMo, 328.030, RSMo, 329.190, RSMo, 330.110, RSMo, 331.090, RSMo, 332.021, RSMo, 333.151, RSMo, 334.120, RSMo, 335.021, RSMo, 336.130, RSMo, 337.050, RSMo, 338.110, RSMo, 339.120, RSMo, 340.120, RSMo, and 346.120, RSMo, who misses three consecutive regularly scheduled meetings of the board or council on which he serves shall forfeit his membership on that board or council. A new public member shall be appointed to the respective board or council by the governor with the advice and consent of the senate.

10 2. Each public member authorized under the provisions of law cited in
11 subsection 1 of this section shall, at the conclusion of each meeting of his
12 respective board or council, make a report on that meeting to at least one major
13 newspaper and one major radio station which serves the city or town in which the
14 meeting occurred.]

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[620.135. Except as otherwise specifically provided by law, no license for any occupation or profession shall be denied solely on the grounds that an applicant has been previously convicted of a felony.]

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[620.140. 1. All fees charged by each board assigned to the division of professional registration shall be collected by that division and promptly transmitted to the department of revenue for deposit in the state treasury, credited to the proper account as provided by law.

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2. The division and its component agencies shall permit any licensee to submit payment for fees established by rule in the form of personal check, money order, or cashier's check. All checks or money orders shall be made payable to the appropriate board. Any check or financial instrument which is returned to the division or one of its agencies due to insufficient funds, a closed account, or for other circumstances in which the check or financial instrument is not honored may subject an individual to additional costs, substantial penalties, or other actions by the division or one of its agencies. In such cases involving renewal of licenses, the renewal license may be withheld, and if issued, is not valid until the appropriate fee and any additional costs are collected. The division may require the payment of collection costs or other expenses. The affected board may establish penalty fees by rule and may suspend or revoke a license if such behavior is repetitive or the licensee fails to pay required penalty fees.

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3. License renewal fees are generally nonrefundable. Overpayments or other incorrect fees may be refundable. The division shall establish a refund reserve through the appropriation to the professional registration fees fund.

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4. Notwithstanding any other provision of law to the contrary, no board, commission or any other registration, licensing or certifying agency of the division of professional registration shall be required to collect or distribute any

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24 fee which is required for administering any test to qualify for a license,
25 registration or certificate, if any portion of the fee is to be remitted to a private
26 testing service.]
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[620.145. The division of professional registration shall maintain, for
2 each board in the division, a registry of each person holding a current license,
3 permit or certificate issued by that board. The registry shall contain the name,
4 Social Security number and address of each person licensed or registered together
5 with other relevant information as determined by the board. The registry for each
6 board shall at all times be available to the board and copies shall be supplied to
7 the board on request. Copies of the registry, except for the registrant's Social
8 Security number, shall be available from the division or the board to any
9 individual who pays the reasonable copying cost. Any individual may copy the
10 registry during regular business hours. The information in the registry shall be
11 furnished upon request to the division of child support enforcement. Questions
12 concerning the currency of license of any individual shall be answered, without
13 charge, by the appropriate board. Each year each board may publish, or cause to
14 be published, a directory containing the name and address of each person licensed
15 or registered for the current year together with any other information the board
16 deems necessary. Any expense incurred by the state relating to such publication
17 shall be charged to the board. An official copy of any such publication shall be
18 filed with the director of the department of economic development.]
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[620.146. 1. Notwithstanding other provisions of law, the director of the
2 division of professional registration may destroy records and documents of the
3 division or the boards in the division at any time if such records and documents
4 have been photographed, microphotographed, electronically generated,
5 electronically recorded, photostatted, reproduced on film or other process capable
6 of producing a clear, accurate and permanent copy of the original. Such film or
7 reproducing material shall be of durable material and the device used to
8 reproduce the records, reports, returns and other related documents on film or
9 material shall be such as to accurately reproduce and perpetuate the original
10 records and documents in all details.

11 2. The reproductions so made may be used as permanent records of the
12 original. When microfilm or a similar reproduction is used as a permanent record
13 by the director of revenue, one copy shall be stored in a fireproof vault and other
14 copies may be made for use by any person entitled thereto. All reproductions
15 shall retain the same confidentiality as is provided in the law regarding the
16 original record.

17 3. Such photostatic copy, photograph, microphotograph, electronically
18 generated, electronically recorded or other process copy shall be deemed to be an
19 original record for all purposes, and shall be admissible in evidence in all courts
20 or administrative agencies. A transcript, exemplification or certified copy of any

21 records or documents made from such photostatic copy, photograph,
22 microphotograph, electronically generated, electronically recorded or other
23 process copy shall, for all purposes be deemed to be a transcript, exemplification
24 or certified copy of the original and shall be admissible in evidence in all courts
25 or administrative agencies. No document shall be admissible pursuant to this
26 section unless the offeror shall comply with section 490.692, RSMo, when
27 applicable.

28 4. "Records and documents" include, but are not limited to, papers,
29 documents, facsimile information, microphotographic process, electronically
30 generated or electronically recorded information, deposited or filed with the
31 division of professional registration or any of the boards in the division.]
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2 [620.148. Notwithstanding any other law to the contrary, the director of
3 the division of professional registration is authorized to contract with third parties
4 to collect, account for and deposit fees on behalf of the division and licensing
5 agencies within the division.]

2 [620.149. 1. Whenever a board within the division of professional
3 registration, including the division itself when so empowered, may refuse to issue
4 a license for reasons which also serve as a basis for filing a complaint with the
5 administrative hearing commission seeking disciplinary action against a holder
6 of a license, the board, as an alternative to refusing to issue a license, may, at its
7 discretion, issue to an applicant a license subject to probation.

8 2. The board shall notify the applicant in writing of the terms of the
9 probation imposed, the basis therefor, and the date such action shall become
10 effective. The notice shall also advise the applicant of the right to a hearing
11 before the administrative hearing commission, if the applicant files a complaint
12 with the administrative hearing commission within thirty days of the date of
13 delivery or mailing by certified mail of written notice of the probation. If the
14 board issues a probated license, the applicant may file, within thirty days of the
15 date of delivery or mailing by certified mail of written notice of the probation, a
16 written complaint with the administrative hearing commission seeking review of
17 the board's determination. Such complaint shall set forth that the applicant or
18 licensee is qualified for nonprobated licensure pursuant to the laws and
19 administrative regulations relating to his or her profession. Upon receipt of such
20 complaint the administrative hearing commission shall cause a copy of such
21 complaint to be served upon the board by certified mail or by delivery of such
22 copy to the office of the board, together with a notice of the place of and the date
23 upon which the hearing on such complaint will be held. Hearings shall be held
24 pursuant to chapter 621, RSMo. The burden shall be on the board to demonstrate
25 the existence of the basis for imposing probation on the licensee. If no written
request for a hearing is received by the administrative hearing commission within

26 the thirty-day period, the right to seek review of the board's decision shall be
27 considered waived.

28 3. If the probation imposed includes restrictions or limitations on the
29 scope of practice, the license issued shall plainly state such restriction or
30 limitation. When such restriction or limitation is removed, a new license shall
31 be issued.]

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2 [620.150. There shall be established in each board within the division of
3 professional registration, including the division itself when empowered with
4 licensing authority, which was on August 28, 1998, required or authorized to
5 revoke a license for failure to submit an application for renewal, failure to
6 provide information required for renewal or nonpayment of the required renewal
7 fee, a classification for a licensee who, desires to remove himself or herself from
8 participating in the licensing system of the board or division. This classification
9 shall be distinguished from revocation of a license and from surrender of a
10 license pursuant to an agreement between the board or division and the licensee
11 filed with and approved by the administrative hearing commission. This
12 classification shall not be available to a licensee during the time there is an
13 investigation of the licensee or the licensee's practices or during the pendency of
14 a disciplinary complaint filed with the administrative hearing commission. Each
15 board within the division or the division when empowered with licensing
16 authority shall establish by rule qualifications for such classification and
17 procedures for a licensee to request an inactive license as provided in this section.
18 Notwithstanding any other law to the contrary, no board within the division or the
19 division shall be required to revoke a license when the licensee qualifies for the
20 classification authorized by this section, as provided by rule. An inactive license
21 authorized by this section shall be subject to the same requirements for
22 reinstatement or restoration as a lapsed, expired or revoked license due to failure
23 to renew the license. This section shall not affect those boards which are
24 otherwise authorized to classify a license as inactive.]

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2 [620.151. For the purpose of determining whether cause for discipline or
3 denial exists under the statutes of any board, commission or committee within the
4 division of professional registration, any licensee, registrant, permittee or
5 applicant that test positive for a controlled substance, as defined in chapter 195,
6 RSMo, is presumed to have unlawfully possessed the controlled substance in
7 violation of the drug laws or rules and regulations of this state, any other state or
8 the federal government unless he or she has a valid prescription for the controlled
9 substance. The burden of proof that the controlled substance was not unlawfully
10 possessed in violation of the drug laws or rules and regulations of this state, any
11 other state or the federal government is upon the licensee, registrant, permittee
12 or applicant.]

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2 [620.153. Any board, commission or committee within the division of
3 professional registration may impose additional discipline when it finds after
4 hearing that a licensee, registrant or permittee has violated any disciplinary terms
5 previously imposed or agreed to pursuant to settlement. The board, commission
6 or committee may impose as additional discipline, any discipline it would be
7 authorized to impose in an initial disciplinary hearing.]

2 [620.154. 1. Except as provided in this section, no disciplinary
3 proceeding against any person or entity licensed, registered or certified to practice
4 a profession within the department of economic development, division of
5 professional registration shall be initiated unless such action is commenced
6 within three years of the date upon which the licensing, registering or certifying
7 agency received notice of an alleged violation of an applicable statute or
8 regulation.

9 2. For the purpose of this section, notice shall be limited to:

10 (1) A written complaint;

11 (2) Notice of final disposition of a malpractice claim, including
12 exhaustion of all extraordinary remedies and appeals;

13 (3) Notice of exhaustion of all extraordinary remedies and appeals of a
14 conviction based upon a criminal statute of this state, any other state or the
15 federal government;

16 (4) Notice of exhaustion of all extraordinary remedies and appeals in a
17 disciplinary action by a hospital, state licensing, registering or certifying agency,
18 or an agency of the federal government.

19 3. For the purposes of this section, an action is commenced when a
20 complaint is filed by the agency with the administrative hearing commission, any
21 other appropriate agency or in a court; or when a complaint is filed by the
22 agency's legal counsel with the agency in respect to an automatic revocation or
23 a probation violation.

24 4. Disciplinary proceedings based upon repeated negligence shall be
25 exempt from all limitations set forth in this section.

26 5. Disciplinary proceedings based upon a complaint involving sexual
27 misconduct shall be exempt from all limitations set forth in this section.

28 6. Any time limitation provided in this section shall be tolled:

29 (1) During any time the accused licensee, registrant or certificant is
30 practicing exclusively outside the state of Missouri or residing outside the state
31 of Missouri and not practicing in Missouri;

32 (2) As to an individual complainant, during the time when such
33 complainant is less than eighteen years of age;

34 (3) During any time the accused licensee, registrant or certificant
35 maintains legal action against the agency; or

36 (4) When a settlement agreement is offered to the accused licensee,
registrant or certificant, in an attempt to settle such disciplinary matter without

37 formal proceeding pursuant to section 621.045, RSMo, until the accused licensee,
38 registrant or certificant rejects or accepts the settlement agreement.

39 7. The licensing agency may, in its discretion, toll any time limitation
40 when the accused licensee, registrant or certificant enters into and participates in
41 a treatment program for chemical dependency or mental impairment.

42 8. This section shall become effective January 1, 1998. The above statute
43 of limitations shall not apply to any notice received by the agency prior to
44 January 1, 1998.]

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