SCS HB 329 -- FINANCIAL INSTITUTIONS

(Vetoed by the Governor--Overridden by the General Assembly)

This bill changes the laws regarding financial institutions. In its main provisions, the bill:

(1) Specifies that the value of any funds, up to $9,999, that are placed into an irrevocable personal funeral trust account where the trustee of the account is a state or federally chartered financial institution authorized to exercise trust powers in Missouri must not be taken into account or considered an asset of the person in determining his or her eligibility for public assistance if the funds are restricted to be used only for the burial, funeral, preparation of the body, or other final disposition of the person whose funds were deposited into the trust account. A person or entity cannot charge more than 10% of the total amount deposited into a trust in order to create or set up the trust, and any fees charged for the maintenance of the trust cannot exceed 3% of the trust assets annually. A contract with any cemetery, funeral establishment, or any provider or seller cannot be required in regard to funds placed into a trust account under these provisions;

(2) Requires the Director of the Division of Finance within the Department of Insurance, Financial Institutions and Professional Registration to visit and examine a private trust company at least once each 36 months. A private trust company is one that does not engage in trust company business with the general public or otherwise hold itself out as a trustee or fiduciary for hire and instead operates for the primary benefit of a family, relative of the same family, or single family lineage, regardless of whether compensation is received or anticipated;

(3) Increases the maximum fee that a creditor can charge on a loan for 30 days or longer that is other than open-end credit as specified in the bill from 5% to 10% of the principal amount of the loan but not to exceed $75. If an open-end credit contract is tied to a transaction account in a depository institution and the contract provides for loans of 31 days or longer, the maximum credit advance fee that a creditor may charge is increased from the lesser of $25 or 5% of the credit advanced to up to the lesser of $75 or 10% of the credit advanced;

(4) Repeals the provisions requiring the directors of the Division of Finance and the Division of Credit Unions within the department to examine and determine the number and total dollar amount of residential real estate loans originated, purchased, or foreclosed and the number of residential real estate loan applications denied by a financial institution with an office in a county or city with

a population over 250,000. The bill requires the division directors to report specified information annually to the Governor and the department director with regard to state financial institutions in each county or city with a population of more than 250,000. The report must include the number and type of violations, a statement of enforcement actions taken, the names of institutions found to be in violation, the number and nature of complaints received, and the action taken on each complaint. The report must be maintained by each division as a public document for five years;

(5) Changes the provisions regarding the required hearing when a person alleges to have been aggrieved as a result of a violation of the specified provisions regarding residential loans. Currently, the division directors must conduct a hearing when he or she has reason to believe that a violation has occurred or does exist based on an examination, an investigation of a complaint that has not been resolved by negotiation, a report by the financial institution as required under Section 408.592, RSMo, or any public document or information. The bill requires the division director to conduct the hearing if he or she has reason to believe that a violation has occurred or does exist; and

(6) Adds any money or assets payable to a participant or beneficiary from or any interest of any participant or beneficiary in a retirement plan, profit-sharing plan, health savings plan, or similar plan, including an inherited account or plan, that is qualified under Section 401(a), 403(a), 403(b), 408, 408A, or 409 of the Internal Revenue Code of 1986, as amended, to the list of property that must be exempt from attachment and execution in a bankruptcy proceeding whether the participant's or beneficiary's interest arises by inheritance, designation, appointment, or otherwise.