

FIRST REGULAR SESSION

HOUSE BILL NO. 292

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CRAWFORD.

0685H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 362.105, 362.280, and 362.285, RSMo, and to enact in lieu thereof one new section relating to banking regulations.

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

Section A. Sections 362.105, 362.280, 362.285, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 362.105, to read as follows:

362.105. 1. Every bank and trust company created under the laws of this state may for a fee or other consideration, directly or through a subsidiary company, and upon complying with any applicable licensing statute:

(1) Conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, the corporation may receive and retain the interest in advance;

(2) Accept for payment, at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding one year; provided, that no bank or trust company shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and surplus fund, except with the approval of the director under such general regulations as to amount of acceptances as the director may prescribe;

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.

18 (3) Purchase and hold, for the purpose of becoming a member of a Federal Reserve
19 Bank, so much of the capital stock thereof as will qualify it for membership in the reserve bank
20 pursuant to an act of Congress, approved December 23, 1913, entitled "The Federal Reserve Act"
21 and any amendments thereto; to become a member of the Federal Reserve Bank, and to have and
22 exercise all powers, not in conflict with the laws of this state, which are conferred upon any
23 member by the Federal Reserve Act and any amendments thereto. The member bank or trust
24 company and its directors, officers and stockholders shall continue to be subject, however, to all
25 liabilities and duties imposed upon them by any law of this state and to all the provisions of this
26 chapter relating to banks or trust companies;

27 (4) Subscribe for and purchase such stock in the Federal Deposit Insurance Corporation
28 and to make such payments to and to make such deposits with the Federal Deposit Insurance
29 Corporation and to pay such assessments made by such corporation as will enable the bank or
30 trust company to obtain the benefits of the insurance of deposits under the act of Congress known
31 as "The Banking Act of 1933" and any amendments thereto;

32 (5) Invest in a bank service corporation as defined by the act of Congress known as the
33 "Bank Service Corporation Act", Public Law 87-856, as approved October 23, 1962, to the same
34 extent as provided by that act or any amendment thereto;

35 (6) Hold a noncontrolling equity interest in any business entity that conducts only
36 activities that are financial in nature or incidental to financial activity or that is established
37 pursuant to subdivision (16) of this subsection where the majority of the stock or other interest
38 is held by Missouri banks, Missouri trust companies, national banks located in Missouri, or any
39 foreign bank with a branch or branches in Missouri, or any combination of these financial
40 institutions; provided that if the entity is defined pursuant to Missouri law as any type of
41 financial institution subsidiary or other type of entity subject to special conditions or regulations,
42 those conditions and regulations shall remain applicable, and provided that such business entity
43 may be formed as any type of business entity, in which each investor's liability is limited to the
44 investment in and loans to the business entity as otherwise provided by law;

45 (7) Receive upon deposit for safekeeping personal property of every description, and to
46 own or control a safety vault and rent the boxes therein;

47 (8) Purchase and hold the stock of one safe deposit company organized and existing
48 under the laws of the state of Missouri and doing a safe deposit business on premises owned or
49 leased by the bank or trust company at the main banking house and any branch operated by the
50 bank or trust company; provided, that the purchasing and holding of the stock is first duly
51 authorized by resolution of the board of directors of the bank or trust company and by the written
52 approval of the director, and that all of the shares of the safe deposit company shall be purchased

53 and held, and shall not be sold or transferred except as a whole and not be pledged at all, all sales
54 or transfers or pledges in violation hereof to be void;

55 (9) Act as the fiscal or transfer agent of the United States, of any state, municipality,
56 body politic or corporation and in such capacity to receive and disburse money, to transfer,
57 register and countersign certificates of stock, bonds and other evidences of indebtedness;

58 (10) Acquire or convey real property for the following purposes:

59 (a) Real property conveyed to it in satisfaction or part satisfaction of debts previously
60 contracted in the course of its business; ~~and~~

61 (b) Real property purchased at sales under judgment, decrees or liens held by it; **and**

62 **(c) Real property purchased by a bank or trust company for the purpose of leasing**
63 **that property to a public entity, including government buildings, municipal buildings,**
64 **schools, and public hospitals. The bank or trust company shall lease the property only to**
65 **a public entity that has sufficient resources to satisfy all rental payments as they become**
66 **due. The lease agreement shall provide that the lessee will become the owner of the real**
67 **property and any building or facility upon the expiration of the lease. The purchase of the**
68 **real estate for this purpose cannot exceed the bank's or trust company's lending limit**
69 **under Section 362.170.**

70 (11) Purchase, hold and become the owner and lessor of personal property acquired upon
71 the specific request of and for use of a customer; and, in addition, leases that neither anticipate
72 full purchase price repayment on the leased asset, nor require the lease to cover the physical life
73 of the asset, other than those for motor vehicles which will not be used by bank or trust company
74 personnel, and may incur such additional obligations as may be incident to becoming an owner
75 and lessor of the property, subject to the following limitations:

76 (a) Lease transactions do not result in loans for the purpose of section 362.170, but the
77 total amount disbursed under leasing obligations or rentals by any bank to any person,
78 partnership, association, or corporation shall at no time exceed the legal loan limit permitted by
79 statute except upon the written approval of the director of finance; **and**

80 (b) Lease payments are in the nature of rent rather than interest, and the provisions of
81 chapter 408 are not applicable;

82 (12) Contract with another bank or trust company, bank service corporation or other
83 partnership, corporation, association or person, within or without the state, to render or receive
84 **any banking or trust services** ~~[such as check and deposit sorting and posting, computation and~~
85 ~~posting of interest and other credits and charges, preparation and mailing of checks, statements,~~
86 ~~notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, financial~~
87 ~~counseling, or similar services, or the storage, transmitting or processing of any information or~~
88 ~~data; except that, the contract shall provide, to the satisfaction of the director of finance, that the~~

~~89 party providing such services to a bank or trust company will be subject to regulation and~~
~~90 examination to the same extent as if the services were being performed by the bank or trust~~
~~91 company on its own premises. This subdivision shall not be deemed to authorize a bank or trust~~
~~92 company to provide any customer services through any system of electronic funds transfer at~~
~~93 places other than bank premises;]~~ **authorized under this chapter. Any person or entity that**
94 provides, by contract or otherwise, services to a bank or trust company shall be subject to
95 regulations and examination by the division of finance to the same extent as if the service
96 was being performed by the bank or trust company on its own premises. Each bank or
97 trust company under the jurisdiction of the division of finance shall provide a list of all
98 persons or entities providing services to the bank or trust company;

99 (13) Purchase and hold stock in a corporation whose only purpose is to purchase, lease,
100 hold or convey real property of a character which the bank or trust company holding stock in the
101 corporation could itself purchase, lease, hold or convey pursuant to the provisions of ~~[paragraph~~
102 ~~(a) of]~~ subdivision (10) of this subsection; provided, the purchase and holding of the stock is first
103 duly authorized by resolution of the board of directors of the bank or trust company ~~[and by the~~
104 ~~written approval of the director,]~~ and that all of the shares of the corporation shall be purchased
105 and held by the bank or trust company and shall not be sold or transferred except as a whole;

106 (14) Purchase and sell investment securities, without recourse, solely upon order and for
107 the account of customers; and establish and maintain one or more mutual funds and offer to the
108 public shares or participations therein. Any bank which engages in such activity shall comply
109 with all provisions of chapter 409 regarding the licensing and registration of sales personnel for
110 mutual funds so offered, provided that such banks shall register as a broker-dealer with the office
111 of the commissioner of securities and shall consent to supervision and inspection by that office
112 and shall be subject to the continuing jurisdiction of that office;

113 (15) Make debt or equity investments in corporations or projects, whether for profit or
114 not for profit, designed to promote the development of the community and its welfare, provided
115 that the aggregate investment in all such corporations and in all such projects does not exceed
116 five percent of the unimpaired capital of the bank, and provided that this limitation shall not
117 apply to loans made under the authority of other provisions of law, and other provisions of law
118 shall not limit this subdivision; **and**

119 (16) Offer through one or more subsidiaries any products and services which a national
120 bank may offer through its financial subsidiaries, subject to the limitations that are applicable to
121 national bank financial subsidiaries, and provided such bank or trust company meets the division
122 of finance safety and soundness considerations. This subdivision is enacted to provide in part
123 competitive equality with national banks' powers under the Gramm-Leach-Bliley Act of 1999,
124 Public Law 106-102.

125 2. In addition to the power and authorities granted in subsection 1 of this section, and
126 notwithstanding any limitations therein, a bank or trust company may:

127 (1) Purchase or lease, in an amount not exceeding its legal loan limit, real property and
128 improvements thereto suitable for the convenient conduct of its functions. The bank may derive
129 income from renting or leasing such real property or improvements or both. If the purchase or
130 lease of such real property or improvements exceeds the legal loan limit or is from an officer,
131 director, employee, affiliate, principal shareholder or a related interest of such person, prior
132 approval shall be obtained from the director of finance; and

133 (2) Loan money on real estate as defined in section 442.010, and handle escrows,
134 settlements and closings on real estate for the benefit of the bank's customers, as a core part of
135 the banking business, notwithstanding any other provision of law to the contrary.

136 3. In addition to the powers and authorities granted in subsection 1 of this section, every
137 trust company created under the laws of this state shall be authorized and empowered to:

138 (1) Receive money in trust and to accumulate the same at such rate of interest as may be
139 obtained or agreed upon, or to allow such interest thereon as may be prescribed or agreed;

140 (2) Accept and execute all such trusts and perform such duties of every description as
141 may be committed to it by any person or persons whatsoever, or any corporation, and act as
142 assignee, receiver, trustee and depository, and to accept and execute all such trusts and perform
143 such duties of every description as may be committed or transferred to it by order, judgment or
144 decree of any courts of record of this state or other states, or of the United States;

145 (3) Take, accept and hold, by the order, judgment or decree of any court of this state, or
146 of any other state, or of the United States, or by gift, grant, assignment, transfer, devise or
147 bequest of any person or corporation, any real or personal property in trust, and to execute and
148 perform any and all the legal and lawful trusts in regard to the same upon the terms, conditions,
149 limitations and restrictions which may be declared, imposed, established or agreed upon in and
150 by the order, judgment, decree, gift, grant, assignment, transfer, devise or bequest;

151 (4) Buy, invest in and sell all kinds of stocks or other investment securities;

152 (5) Execute, as principal or surety, any bond or bonds required by law to be given in any
153 proceeding, in law or equity, in any of the courts of this state or other states, or of the United
154 States;

155 (6) Act as trustee, personal representative, or conservator or in any other like fiduciary
156 capacity; **and**

157 (7) Act as attorney-in-fact or agent of any person or corporation, foreign or domestic, in
158 the management and control of real or personal property, the sale or conveyance of same, the
159 investment of money, and for any other lawful purpose.

160 4. (1) In addition to the powers and authorities granted in this section, the director of
161 finance may, from time to time, with the approval of the state banking and savings and loan
162 board, issue orders granting such other powers and authorities as have been granted to financial
163 institutions subject to the supervision of the federal government to:

164 (a) State-chartered banks and trust companies which are necessary to enable such banks
165 and trust companies to compete;

166 (b) State-chartered banks and trust companies to establish branches to the same extent
167 that federal law permits national banks to establish branches;

168 (c) Subsidiaries of state-chartered banks and trust companies to the same extent powers
169 are granted to national bank subsidiaries to enable such banks and trust companies to compete;
170 **and**

171 (d) State-chartered banks and trust companies to establish trust representative offices to
172 the same extent national banks are permitted such offices[-] ; **and**

173 (2) The orders shall be promulgated as provided in section 361.105 and shall not be
174 inconsistent with the constitution and the laws of this state.

175 5. As used in this section, the term "subsidiary" shall include one or more business
176 entities of which the bank or trust company is the owner, provided the owner's liability is limited
177 by the investment in and loans to the subsidiary as otherwise provided for by law.

178 6. A bank or trust company to which authority is granted by regulation in subsection 4
179 of this section, based on the population of the political subdivision, may continue to exercise
180 such authority for up to five years after the appropriate decennial census indicates that the
181 population of the town in which such bank or trust company is located has exceeded the limits
182 provided for by regulation pursuant to subsection 4 of this section.

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~~[362.280. 1. The board of directors of every bank and trust company at
2 least once in each year and whenever and as often as required by the director, and
3 within thirty days after notice from him, shall examine or cause a committee of
4 at least three of its members or stockholders to examine fully the books, papers
5 and affairs of the bank, and the loans and discounts and acceptances thereof, and
6 particularly the loans or discounts or acceptances made directly or indirectly to
7 its officers or directors, or for the benefit of these officers or directors, or for the
8 benefit of other corporations of which these officers or directors are also officers
9 or directors, or in which they have a beneficial interest as stockholders, creditors,
10 or otherwise, with the special view of ascertaining their safety and present value,
11 and the value of the collateral security, if any, held in connection therewith, and
12 into such other matters as the director may require; provided, however, that no
13 examination shall be required of a bank or trust company which is a member of
14 the Federal Reserve System or of a bank or trust company whose deposits are
15 insured by the Federal Deposit Insurance Corporation.]~~

16 ~~2. The directors or committee of stockholders shall have the power to~~
17 ~~employ such assistance in making such examination as they may deem~~
18 ~~necessary.]~~
19

2 ~~[362.285. 1. Within ten days succeeding any examination made pursuant~~
3 ~~to the requirements of section 362.280, a report in writing thereof, sworn to by~~
4 ~~the directors or stockholders making the same, shall be made to the board of~~
5 ~~directors of the bank or trust company, and placed on file in the bank or trust~~
6 ~~company, and a duplicate thereof filed in the office of the finance director.~~

7 ~~2. The report shall particularly contain a statement of the assets and~~
8 ~~liabilities of the bank or trust company examined, as shown by the books,~~
9 ~~together with such deductions from the assets, and the addition of the liabilities,~~
10 ~~direct, indirect, contingent or otherwise, as the directors or committee, after the~~
11 ~~examination, may find necessary in order to determine the true condition of the~~
12 ~~bank or trust company. It shall also contain a statement showing in detail every~~
13 ~~known liability to the bank or trust company, direct or indirect, contingent or~~
14 ~~otherwise, of every officer or director thereof and of every corporation in which~~
15 ~~the officer or director owns stock to the amount of twenty-five percent of the total~~
16 ~~outstanding stock, or of which the officer or director is also an officer or director.~~
17 ~~It shall also contain a statement, in detail, of loans, if any, which in their opinion~~
18 ~~are doubtful or worthless, together with their reasons for so regarding them; also~~
19 ~~a statement of loans made on collateral security which in their opinion are~~
20 ~~insufficiently secured, giving in each case the amount of the loan, the name and~~
21 ~~market value of the collateral, if it has any market value, and, if not, a statement~~
22 ~~of that fact, and its actual value as nearly as possible. The report shall also~~
23 ~~contain a statement of overdrafts, of the names and amounts of the ones~~
24 ~~considered worthless or doubtful, and a full statement of such other matters as~~
25 ~~affect the solvency and soundness of the institution.~~

26 ~~3. If the directors of any bank or trust company shall fail to make, or to~~
27 ~~cause to be made or to file the report of examination in the manner and within the~~
28 ~~time specified, the bank or trust company shall forfeit to the state one hundred~~
~~dollars for every day such report shall be delayed.]~~

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