

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE NO. 2

FOR

HOUSE BILL NOS. 1692, 1209, 1405, 1499, 1535 & 1811

AN ACT

To repeal sections 193.145, 193.265, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 288.034, 327.031, 327.041, 327.351, 327.411, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.503, 339.710, 452.430, 511.580, 537.296, 563.011, 563.031, 571.030, 571.070, 571.104, and 571.107, RSMo, and to enact in lieu thereof eighty-eight new sections relating to real estate, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 193.145, 193.265, 208.010, 214.160,
2 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310,
3 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360,
4 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410,
5 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 288.034,
6 327.031, 327.041, 327.351, 327.411, 339.010, 339.020, 339.030,
7 339.040, 339.080, 339.110, 339.160, 339.170, 339.503, 339.710,
8 452.430, 511.580, 537.296, 563.011, 563.031, 571.030, 571.070,
9 571.104, and 571.107, RSMo, are repealed and eighty-eight new

1 sections enacted in lieu thereof, to be known as sections
2 171.185, 193.145, 193.265, 208.010, 214.160, 214.270, 214.276,
3 214.277, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325,
4 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365,
5 214.367, 214.387, 214.389, 214.392, 214.400, 214.410, 214.500,
6 214.504, 214.508, 214.512, 214.516, 214.550, 246.310, 288.034,
7 306.532, 327.031, 327.041, 327.351, 327.411, 339.010, 339.020,
8 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.503,
9 339.710, 339.845, 339.1100, 339.1105, 339.1110, 339.1115,
10 339.1120, 339.1125, 339.1130, 339.1135, 339.1140, 339.1145,
11 339.1150, 339.1155, 339.1160, 339.1170, 339.1175, 339.1180,
12 339.1185, 339.1190, 339.1200, 339.1205, 339.1210, 339.1215,
13 339.1220, 339.1230, 339.1235, 339.1240, 441.645, 452.430,
14 493.055, 511.580, 537.296, 563.011, 563.031, 571.030, 571.070,
15 571.104 and 571.107 to read as follows:

16 171.185. No school district located in any city of the
17 third classification with more than forty-six thousand eight
18 hundred but fewer than forty-seven thousand inhabitants shall
19 operate a materials recovery and recycling facility within five
20 hundred feet of a residential property.

21 193.145. 1. A certificate of death for each death which
22 occurs in this state shall be filed with the local registrar, or
23 as otherwise directed by the state registrar, within five days
24 after death and shall be registered if such certificate has been
25 completed and filed pursuant to this section. All data providers
26 in the death registration process, including, but not limited to,
27 the state registrar, local registrars, the state medical
28 examiner, county medical examiners, coroners, funeral directors,

1 embalmers, sheriffs, attending physicians and resident
2 physicians, chief medical officers of licensed health care
3 facilities, and other public or private institutions providing
4 medical care, treatment, or confinement to persons, shall be
5 required to use any electronic death registration system required
6 under subsection 1 of section 193.265 within six months of the
7 system being certified by the director of the department of
8 health and senior services to be operational and available to all
9 data providers in the death registration process. Nothing in
10 this section shall prevent the state registrar from adopting
11 pilot programs or voluntary electronic death registration
12 programs until such time as the system can be certified, however,
13 no such pilot or voluntary electronic death registration program
14 shall prevent the filing of a death certificate with the local
15 registrar or the ability to obtain certified copies of death
16 certificates under subsection 2 of section 193.265 until six
17 months after said certification that the system is operational.
18 Within eighteen months of said certification of the electronic
19 death registration system as being operational, the department
20 shall have in place such systems so as to allow the funeral
21 director filing the death certificate to print certified copies
22 of the certificates, after the certificates have been
23 electronically registered, at a licensed funeral establishment.
24 Any such fees for the certified copies printed at a licensed
25 funeral establishment shall be directed as if the certified
26 copies were obtained from the local registrar where the licensed
27 funeral establishment is located.

28 2. If the place of death is unknown but the dead body is

1 found in this state, the certificate of death shall be completed
2 and filed pursuant to the provisions of this section. The place
3 where the body is found shall be shown as the place of death.
4 The date of death shall be the date on which the remains were
5 found.

6 3. When death occurs in a moving conveyance in the United
7 States and the body is first removed from the conveyance in this
8 state, the death shall be registered in this state and the place
9 where the body is first removed shall be considered the place of
10 death. When a death occurs on a moving conveyance while in
11 international waters or air space or in a foreign country or its
12 air space and the body is first removed from the conveyance in
13 this state, the death shall be registered in this state but the
14 certificate shall show the actual place of death if such place
15 may be determined.

16 4. The funeral director or person in charge of final
17 disposition of the dead body shall file the certificate of death.
18 The funeral director or person in charge of the final disposition
19 of the dead body shall obtain or verify:

20 (1) The personal data from the next of kin or the best
21 qualified person or source available; and

22 (2) The medical certification from the person responsible
23 for such certification.

24 5. The medical certification shall be completed, attested
25 to its accuracy either by signature or an electronic process
26 approved by the department, and returned to the funeral director
27 or person in charge of final disposition within seventy-two hours
28 after death by the physician in charge of the patient's care for

1 the illness or condition which resulted in death. In the absence
2 of the physician or with the physician's approval the certificate
3 may be completed and attested to its accuracy either by signature
4 or an approved electronic process by the physician's associate
5 physician, the chief medical officer of the institution in which
6 death occurred, or the physician who performed an autopsy upon
7 the decedent, provided such individual has access to the medical
8 history of the case, views the deceased at or after death and
9 death is due to natural causes. The state registrar may approve
10 alternate methods of obtaining and processing the medical
11 certification and filing the death certificate. The Social
12 Security number of any individual who has died shall be placed in
13 the records relating to the death and recorded on the death
14 certificate.

15 6. When death occurs from natural causes more than
16 thirty-six hours after the decedent was last treated by a
17 physician, the case shall be referred to the county medical
18 examiner or coroner or physician or local registrar for
19 investigation to determine and certify the cause of death. If
20 the death is determined to be of a natural cause, the medical
21 examiner or coroner or local registrar shall refer the
22 certificate of death to the attending physician for such
23 physician's certification. If the attending physician refuses or
24 is otherwise unavailable, the medical examiner or coroner or
25 local registrar shall attest to the accuracy of the certificate
26 of death either by signature or an approved electronic process
27 within thirty-six hours.

28 7. If the circumstances suggest that the death was caused

1 by other than natural causes, the medical examiner or coroner
2 shall determine the cause of death and shall complete and attest
3 to the accuracy either by signature or an approved electronic
4 process the medical certification within seventy-two hours after
5 taking charge of the case.

6 8. If the cause of death cannot be determined within
7 seventy-two hours after death, the attending medical examiner or
8 coroner or attending physician or local registrar shall give the
9 funeral director, or person in charge of final disposition of the
10 dead body, notice of the reason for the delay, and final
11 disposition of the body shall not be made until authorized by the
12 medical examiner or coroner, attending physician or local
13 registrar.

14 9. When a death is presumed to have occurred within this
15 state but the body cannot be located, a death certificate may be
16 prepared by the state registrar upon receipt of an order of a
17 court of competent jurisdiction which shall include the finding
18 of facts required to complete the death certificate. Such a
19 death certificate shall be marked "Presumptive", show on its face
20 the date of registration, and identify the court and the date of
21 decree.

22 193.265. 1. For the issuance of a certification or copy of
23 a death record, the applicant shall pay a fee of thirteen dollars
24 for the first certification or copy and a fee of ten dollars for
25 each additional copy ordered at that time. For the issuance of a
26 certification or copy of a birth, marriage, divorce, or fetal
27 death record, the applicant shall pay a fee of fifteen dollars.
28 All fees shall be deposited to the state department of revenue.

1 Beginning August 28, 2004, for each vital records fee collected,
2 the director of revenue shall credit four dollars to the general
3 revenue fund, five dollars to the children's trust fund, one
4 dollar shall be credited to the endowed care cemetery audit fund,
5 and three dollars for the first copy of death records and five
6 dollars for birth, marriage, divorce, and fetal death records
7 shall be credited to the Missouri public services health fund
8 established in section 192.900, RSMo. Money in the endowed care
9 cemetery audit fund shall be available by appropriation to the
10 division of professional registration to pay its expenses in
11 administering sections 214.270 to 214.410, RSMo. All interest
12 earned on money deposited in the endowed care cemetery audit fund
13 shall be credited to the endowed care cemetery fund.

14 Notwithstanding the provisions of section 33.080, RSMo, to the
15 contrary, money placed in the endowed care cemetery audit fund
16 shall not be transferred and placed to the credit of general
17 revenue until the amount in the fund at the end of the biennium
18 exceeds three times the amount of the appropriation from the
19 endowed care cemetery audit fund for the preceding fiscal year.

20 The money deposited in the public health services fund under this
21 section shall be deposited in a separate account in the fund, and
22 moneys in such account, upon appropriation, shall be used to
23 automate and improve the state vital records system, and develop
24 and maintain an electronic birth and death registration system
25 [which shall be implemented no later than December 31, 2009].

26 For any search of the files and records, when no record is found,
27 the state shall be entitled to a fee equal to the amount for a
28 certification of a vital record for a five-year search to be paid

1 by the applicant. For the processing of each legitimation,
2 adoption, court order or recording after the registrant's twelfth
3 birthday, the state shall be entitled to a fee equal to the
4 amount for a certification of a vital record. Except whenever a
5 certified copy or copies of a vital record is required to perfect
6 any claim of any person on relief, or any dependent of any person
7 who was on relief for any claim upon the government of the state
8 or United States, the state registrar shall, upon request,
9 furnish a certified copy or so many certified copies as are
10 necessary, without any fee or compensation therefor.

11 2. For the issuance of a certification of a death record by
12 the local registrar, the applicant shall pay a fee of thirteen
13 dollars for the first certification or copy and a fee of ten
14 dollars for each additional copy ordered at that time. For the
15 issuance of a certification or copy of a birth, marriage,
16 divorce, or fetal death record, the applicant shall pay a fee of
17 fifteen dollars. All fees shall be deposited to the official
18 city or county health agency. A certified copy of a death record
19 by the local registrar can only be issued within twenty-four
20 hours of receipt of the record by the local registrar.

21 Computer-generated certifications of death records may be issued
22 by the local registrar after twenty-four hours of receipt of the
23 records. The fees paid to the official county health agency
24 shall be retained by the local agency for local public health
25 purposes.

26 208.010. 1. In determining the eligibility of a claimant
27 for public assistance pursuant to this law, it shall be the duty
28 of the division of family services to consider and take into

1 account all facts and circumstances surrounding the claimant,
2 including his or her living conditions, earning capacity, income
3 and resources, from whatever source received, and if from all the
4 facts and circumstances the claimant is not found to be in need,
5 assistance shall be denied. In determining the need of a
6 claimant, the costs of providing medical treatment which may be
7 furnished pursuant to sections 208.151 to 208.158 and 208.162
8 shall be disregarded. The amount of benefits, when added to all
9 other income, resources, support, and maintenance shall provide
10 such persons with reasonable subsistence compatible with decency
11 and health in accordance with the standards developed by the
12 division of family services; provided, when a husband and wife
13 are living together, the combined income and resources of both
14 shall be considered in determining the eligibility of either or
15 both. "Living together" for the purpose of this chapter is
16 defined as including a husband and wife separated for the purpose
17 of obtaining medical care or nursing home care, except that the
18 income of a husband or wife separated for such purpose shall be
19 considered in determining the eligibility of his or her spouse,
20 only to the extent that such income exceeds the amount necessary
21 to meet the needs (as defined by rule or regulation of the
22 division) of such husband or wife living separately. In
23 determining the need of a claimant in federally aided programs
24 there shall be disregarded such amounts per month of earned
25 income in making such determination as shall be required for
26 federal participation by the provisions of the federal Social
27 Security Act (42 U.S.C.A. 301 et seq.), or any amendments
28 thereto. When federal law or regulations require the exemption

1 of other income or resources, the division of family services may
2 provide by rule or regulation the amount of income or resources
3 to be disregarded.

4 2. Benefits shall not be payable to any claimant who:

5 (1) Has or whose spouse with whom he or she is living has,
6 prior to July 1, 1989, given away or sold a resource within the
7 time and in the manner specified in this subdivision. In
8 determining the resources of an individual, unless prohibited by
9 federal statutes or regulations, there shall be included (but
10 subject to the exclusions pursuant to subdivisions (4) and (5) of
11 this subsection, and subsection 5 of this section) any resource
12 or interest therein owned by such individual or spouse within the
13 twenty-four months preceding the initial investigation, or at any
14 time during which benefits are being drawn, if such individual or
15 spouse gave away or sold such resource or interest within such
16 period of time at less than fair market value of such resource or
17 interest for the purpose of establishing eligibility for
18 benefits, including but not limited to benefits based on
19 December, 1973, eligibility requirements, as follows:

20 (a) Any transaction described in this subdivision shall be
21 presumed to have been for the purpose of establishing eligibility
22 for benefits or assistance pursuant to this chapter unless such
23 individual furnishes convincing evidence to establish that the
24 transaction was exclusively for some other purpose;

25 (b) The resource shall be considered in determining
26 eligibility from the date of the transfer for the number of
27 months the uncompensated value of the disposed of resource is
28 divisible by the average monthly grant paid or average Medicaid

1 payment in the state at the time of the investigation to an
2 individual or on his or her behalf under the program for which
3 benefits are claimed, provided that:

4 a. When the uncompensated value is twelve thousand dollars
5 or less, the resource shall not be used in determining
6 eligibility for more than twenty-four months; or

7 b. When the uncompensated value exceeds twelve thousand
8 dollars, the resource shall not be used in determining
9 eligibility for more than sixty months;

10 (2) The provisions of subdivision (1) of this subsection
11 shall not apply to a transfer, other than a transfer to
12 claimant's spouse, made prior to March 26, 1981, when the
13 claimant furnishes convincing evidence that the uncompensated
14 value of the disposed of resource or any part thereof is no
15 longer possessed or owned by the person to whom the resource was
16 transferred;

17 (3) Has received, or whose spouse with whom he or she is
18 living has received, benefits to which he or she was not entitled
19 through misrepresentation or nondisclosure of material facts or
20 failure to report any change in status or correct information
21 with respect to property or income as required by section
22 208.210. A claimant ineligible pursuant to this subsection shall
23 be ineligible for such period of time from the date of discovery
24 as the division of family services may deem proper; or in the
25 case of overpayment of benefits, future benefits may be
26 decreased, suspended or entirely withdrawn for such period of
27 time as the division may deem proper;

28 (4) Owns or possesses resources in the sum of one thousand

1 dollars or more; provided, however, that if such person is
2 married and living with spouse, he or she, or they, individually
3 or jointly, may own resources not to exceed two thousand dollars;
4 and provided further, that in the case of a temporary assistance
5 for needy families claimant, the provision of this subsection
6 shall not apply;

7 (5) Prior to October 1, 1989, owns or possesses property of
8 any kind or character, excluding amounts placed in an irrevocable
9 prearranged funeral or burial contract [pursuant to subsection 2
10 of section 436.035, RSMo, and subdivision (5) of subsection 1 of
11 section 436.053, RSMO] under chapter 436, or has an interest in
12 property, of which he or she is the record or beneficial owner,
13 the value of such property, as determined by the division of
14 family services, less encumbrances of record, exceeds twenty-nine
15 thousand dollars, or if married and actually living together with
16 husband or wife, if the value of his or her property, or the
17 value of his or her interest in property, together with that of
18 such husband and wife, exceeds such amount;

19 (6) In the case of temporary assistance for needy families,
20 if the parent, stepparent, and child or children in the home owns
21 or possesses property of any kind or character, or has an
22 interest in property for which he or she is a record or
23 beneficial owner, the value of such property, as determined by
24 the division of family services and as allowed by federal law or
25 regulation, less encumbrances of record, exceeds one thousand
26 dollars, excluding the home occupied by the claimant, amounts
27 placed in an irrevocable prearranged funeral or burial contract
28 [pursuant to subsection 2 of section 436.035, RSMo, and

1 subdivision (5) of subsection 1 of section 436.053, RSMO] under
2 chapter 436, one automobile which shall not exceed a value set
3 forth by federal law or regulation and for a period not to exceed
4 six months, such other real property which the family is making a
5 good-faith effort to sell, if the family agrees in writing with
6 the division of family services to sell such property and from
7 the net proceeds of the sale repay the amount of assistance
8 received during such period. If the property has not been sold
9 within six months, or if eligibility terminates for any other
10 reason, the entire amount of assistance paid during such period
11 shall be a debt due the state;

12 (7) Is an inmate of a public institution, except as a
13 patient in a public medical institution.

14 3. In determining eligibility and the amount of benefits to
15 be granted pursuant to federally aided programs, the income and
16 resources of a relative or other person living in the home shall
17 be taken into account to the extent the income, resources,
18 support and maintenance are allowed by federal law or regulation
19 to be considered.

20 4. In determining eligibility and the amount of benefits to
21 be granted pursuant to federally aided programs, the value of
22 burial lots or any amounts placed in an irrevocable prearranged
23 funeral or burial contract [pursuant to subsection 2 of section
24 436.035, RSMo, and subdivision (5) of subsection 1 of section
25 436.053, RSMO,] under chapter 436 shall not be taken into account
26 or considered an asset of the burial lot owner or the beneficiary
27 of an irrevocable prearranged funeral or funeral contract. For
28 purposes of this section, "burial lots" means any burial space as

1 defined in section 214.270, RSMo, and any memorial, monument,
2 marker, tombstone or letter marking a burial space. If the
3 beneficiary, as defined in chapter 436, RSMo, of an irrevocable
4 prearranged funeral or burial contract receives any public
5 assistance benefits pursuant to this chapter and if the purchaser
6 of such contract or his or her successors in interest [cancel or
7 amend] transfer, amend, or take any other such actions regarding
8 the contract so that any person will be entitled to a refund,
9 such refund shall be paid to the state of Missouri [up to the
10 amount of public assistance benefits provided pursuant to this
11 chapter with any remainder to be paid to those persons designated
12 in chapter 436, RSMo] with any amount in excess of the public
13 assistance benefits provided under this chapter to be refunded by
14 the state of Missouri to the purchaser or his or her successors.
15 In determining eligibility and the amount of benefits to be
16 granted under federally aided programs, the value of any life
17 insurance policy where a seller or provider is made the
18 beneficiary or where the life insurance policy is assigned to a
19 seller or provider, either being in consideration for an
20 irrevocable prearranged funeral contract under chapter 436, shall
21 not be taken into account or considered an asset of the
22 beneficiary of the irrevocable prearranged funeral contract.

23 5. In determining the total property owned pursuant to
24 subdivision (5) of subsection 2 of this section, or resources, of
25 any person claiming or for whom public assistance is claimed,
26 there shall be disregarded any life insurance policy, or
27 prearranged funeral or burial contract, or any two or more
28 policies or contracts, or any combination of policies and

1 contracts, which provides for the payment of one thousand five
2 hundred dollars or less upon the death of any of the following:

3 (1) A claimant or person for whom benefits are claimed; or

4 (2) The spouse of a claimant or person for whom benefits
5 are claimed with whom he or she is living. If the value of such
6 policies exceeds one thousand five hundred dollars, then the
7 total value of such policies may be considered in determining
8 resources; except that, in the case of temporary assistance for
9 needy families, there shall be disregarded any prearranged
10 funeral or burial contract, or any two or more contracts, which
11 provides for the payment of one thousand five hundred dollars or
12 less per family member.

13 6. Beginning September 30, 1989, when determining the
14 eligibility of institutionalized spouses, as defined in 42 U.S.C.
15 Section 1396r-5, for medical assistance benefits as provided for
16 in section 208.151 and 42 U.S.C. Sections 1396a et seq., the
17 division of family services shall comply with the provisions of
18 the federal statutes and regulations. As necessary, the division
19 shall by rule or regulation implement the federal law and
20 regulations which shall include but not be limited to the
21 establishment of income and resource standards and limitations.
22 The division shall require:

23 (1) That at the beginning of a period of continuous
24 institutionalization that is expected to last for thirty days or
25 more, the institutionalized spouse, or the community spouse, may
26 request an assessment by the division of family services of total
27 countable resources owned by either or both spouses;

28 (2) That the assessed resources of the institutionalized

1 spouse and the community spouse may be allocated so that each
2 receives an equal share;

3 (3) That upon an initial eligibility determination, if the
4 community spouse's share does not equal at least twelve thousand
5 dollars, the institutionalized spouse may transfer to the
6 community spouse a resource allowance to increase the community
7 spouse's share to twelve thousand dollars;

8 (4) That in the determination of initial eligibility of the
9 institutionalized spouse, no resources attributed to the
10 community spouse shall be used in determining the eligibility of
11 the institutionalized spouse, except to the extent that the
12 resources attributed to the community spouse do exceed the
13 community spouse's resource allowance as defined in 42 U.S.C.
14 Section 1396r-5;

15 (5) That beginning in January, 1990, the amount specified
16 in subdivision (3) of this subsection shall be increased by the
17 percentage increase in the Consumer Price Index for All Urban
18 Consumers between September, 1988, and the September before the
19 calendar year involved; and

20 (6) That beginning the month after initial eligibility for
21 the institutionalized spouse is determined, the resources of the
22 community spouse shall not be considered available to the
23 institutionalized spouse during that continuous period of
24 institutionalization.

25 7. Beginning July 1, 1989, institutionalized individuals
26 shall be ineligible for the periods required and for the reasons
27 specified in 42 U.S.C. Section 1396p.

28 8. The hearings required by 42 U.S.C. Section 1396r-5 shall

1 be conducted pursuant to the provisions of section 208.080.

2 9. Beginning October 1, 1989, when determining eligibility
3 for assistance pursuant to this chapter there shall be
4 disregarded unless otherwise provided by federal or state
5 statutes, the home of the applicant or recipient when the home is
6 providing shelter to the applicant or recipient, or his or her
7 spouse or dependent child. The division of family services shall
8 establish by rule or regulation in conformance with applicable
9 federal statutes and regulations a definition of the home and
10 when the home shall be considered a resource that shall be
11 considered in determining eligibility.

12 10. Reimbursement for services provided by an enrolled
13 Medicaid provider to a recipient who is duly entitled to Title
14 XIX Medicaid and Title XVIII Medicare Part B, Supplementary
15 Medical Insurance (SMI) shall include payment in full of
16 deductible and coinsurance amounts as determined due pursuant to
17 the applicable provisions of federal regulations pertaining to
18 Title XVIII Medicare Part B, except the applicable Title XIX cost
19 sharing.

20 11. A "community spouse" is defined as being the
21 noninstitutionalized spouse.

22 12. An institutionalized spouse applying for Medicaid and
23 having a spouse living in the community shall be required, to the
24 maximum extent permitted by law, to divert income to such
25 community spouse to raise the community spouse's income to the
26 level of the minimum monthly needs allowance, as described in 42
27 U.S.C. Section 1396r-5. Such diversion of income shall occur
28 before the community spouse is allowed to retain assets in excess

1 of the community spouse protected amount described in 42 U.S.C.
2 Section 1396r-5.

3 214.160. The county commission shall invest or loan said
4 trust fund or funds only in United States government, state,
5 county or municipal bonds, [or] certificates of deposit, first
6 real estate mortgages, or deeds of trust. They shall use the net
7 income from said trust fund or funds or so much thereof as is
8 necessary to support and maintain and beautify any public or
9 private cemetery or any particular part thereof which may be
10 designated by the person, persons or firm or association making
11 said gift or bequest. In maintaining or supporting the cemetery
12 or any particular part or portion thereof the commission shall as
13 nearly as possible follow the expressed wishes of the creator of
14 said trust fund.

15 214.270. As used in sections 214.270 to 214.410, the
16 following terms mean:

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

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

24 (3) "Burial merchandise", a monument, marker, memorial,
25 tombstone, headstone, urn, outer burial container, or similar
26 article which may contain specific lettering, shape, color, or
27 design as specified by the purchaser;

28 (4) "Cemetery", property restricted in use for the

1 interment of the human dead by formal dedication or reservation
2 by deed but shall not include any of the foregoing held or
3 operated by the state or federal government or any political
4 subdivision thereof, any incorporated city or town, any county or
5 any religious organization, cemetery association or fraternal
6 society holding the same for sale solely to members and their
7 immediate families;

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

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

18 (7) "Cemetery prearranged contract", any contract with a
19 cemetery or cemetery operator for [goods and services covered by
20 this chapter which includes a sale of burial merchandise in which
21 delivery of merchandise or a valid warehouse receipt under
22 sections 214.270 to 214.550 is deferred pursuant to written
23 instructions from the purchaser. It shall also mean any contract
24 for goods and services covered by sections 214.270 to 214.550
25 which includes a sale of burial services to be performed at a
26 future date] burial merchandise or burial services covered by
27 sections 214.270 to 214.410 which is entered into before the
28 death of the individual for whom the burial merchandise or burial

1 services are intended;

2 (8) "Cemetery service" or "burial service", those services
3 performed by a cemetery owner or operator licensed as an endowed
4 care or nonendowed cemetery including setting a monument or
5 marker, setting a tent, excavating a grave, interment,
6 entombment, inurnment, setting a vault, or other related services
7 within the cemetery;

8 (9) "Columbarium", a building or structure for the
9 inurnment of cremated human remains;

10 (10) "Community mausoleum", a mausoleum containing a
11 substantial area of enclosed space and having either a heating,
12 ventilating or air conditioning system;

13 (11) "Department", department of insurance, financial
14 institutions and professional registration;

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

18 (13) "Director", director of the division of professional
19 registration;

20 (14) "Division", division of professional registration;

21 (15) "Endowed care", the maintenance, repair and care of
22 all burial space subject to the endowment within a cemetery,
23 including any improvements made for the benefit of such burial
24 space. Endowed care shall include the general overhead expenses
25 needed to accomplish such maintenance, repair, care and
26 improvements. Endowed care shall include the terms perpetual
27 care, permanent care, continual care, eternal care, care of
28 duration, or any like term;

1 (16) "Endowed care cemetery", a cemetery, or a section of a
2 cemetery, which represents itself as offering endowed care and
3 which complies with the provisions of sections 214.270 to
4 214.410;

5 (17) "Endowed care fund", "endowed care trust", or "trust",
6 any cash or cash equivalent, to include any income therefrom,
7 impressed with a trust by the terms of any gift, grant,
8 contribution, payment, devise or bequest to an endowed care
9 cemetery, or its endowed care trust, or funds to be delivered to
10 an endowed care cemetery's trust received pursuant to a contract
11 and accepted by any endowed care cemetery operator or his agent.
12 This definition includes the terms endowed care funds,
13 maintenance funds, memorial care funds, perpetual care funds, or
14 any like term;

15 (18) "Escrow account", an account established in lieu of an
16 endowed care fund as provided under section 214.330 or an account
17 used to hold deposits under section 214.387;

18 (19) "Escrow agent", an attorney, title company, certified
19 public accountant or other person authorized by the division to
20 exercise escrow powers under the laws of this state;

21 (20) "Escrow agreement", an agreement subject to approval
22 by the office between an escrow agent and a cemetery operator or
23 its agent or related party with common ownership, to receive and
24 administer payments under cemetery prearranged contracts sold by
25 the cemetery operator;

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

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

5 (23) "Garden mausoleum", a mausoleum without a substantial
6 area of enclosed space and having its crypt and niche fronts open
7 to the atmosphere. Ventilation of the crypts by forced air or
8 otherwise does not constitute a garden mausoleum as a community
9 mausoleum;

10 (24) "Government cemetery", or "municipal cemetery", a
11 cemetery owned, operated, controlled or managed by the federal
12 government, the state or a political subdivision of the state,
13 including a county or municipality or instrumentality thereof;

14 (25) "Grave" or "plot", a place of ground in a cemetery,
15 used or intended to be used for burial of human remains;

16 (26) "Human remains", the body of a deceased person in any
17 state of decomposition, as well as cremated remains;

18 (27) "Inurnment", placing an urn containing cremated
19 remains in a burial space;

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

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

26 (30) "Niche", a space in a columbarium used or intended to
27 be used for inurnment of cremated remains;

28 (31) "Nonendowed care cemetery", or "nonendowed cemetery",

1 a cemetery or a section of a cemetery for which no endowed care
2 trust fund has been established in accordance with sections
3 214.270 to 214.410;

4 (32) "Office", the office of endowed care cemeteries within
5 the division of professional registration;

6 (33) "Owner of burial space", a person to whom the cemetery
7 operator or his authorized agent has transferred the right of use
8 of burial space;

9 (34) "Person", an individual, corporation, partnership,
10 joint venture, association, trust or any other legal entity;

11 (35) "Registry", the list of cemeteries maintained in the
12 division office for public review. The division may charge a fee
13 for copies of the registry;

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

19 (37) "Surface lawn crypt", a sealed burial chamber whose
20 lid protrudes above the land surface;

21 (38) "Total acreage", the entire tract which is dedicated
22 to or reserved for cemetery purposes;

23 (39) "Trustee of an endowed care fund", the separate legal
24 entity qualified under section 214.330 appointed as trustee of an
25 endowed care fund.

26 214.276. 1. The division may refuse to issue or renew any
27 license, required pursuant to sections 214.270 to 214.516 for one
28 or any combination of causes stated in subsection 2 of this

1 section. The division shall notify the applicant in writing of
2 the reasons for the refusal and shall advise the applicant of his
3 or her right to file a complaint with the administrative hearing
4 commission as provided by chapter 621, RSMo.

5 2. The division may cause a complaint to be filed with the
6 administrative hearing commission as provided in chapter 621,
7 RSMo, against any holder of any license, required by sections
8 214.270 to 214.516 or any person who has failed to surrender his
9 or her license, for any one or any combination of the following
10 causes:

11 (1) Use of any controlled substance, as defined in chapter
12 195, RSMo, or alcoholic beverage to an extent that such use
13 impairs a person's ability to perform the work of any profession
14 licensed or regulated by sections 214.270 to 214.516;

15 (2) The person has been finally adjudicated and found
16 guilty, or entered a plea of guilty or nolo contendere, in a
17 criminal prosecution pursuant to the laws of any state or of the
18 United States, for any offense reasonably related to the
19 qualifications, functions or duties of any profession licensed or
20 regulated pursuant to sections 214.270 to 214.516, for any
21 offense an essential element of which is fraud, dishonesty or an
22 act of violence, or for any offense involving moral turpitude,
23 whether or not sentence is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery
25 in securing any license, issued pursuant to sections 214.270 to
26 214.516 or in obtaining permission to take any examination given
27 or required pursuant to sections 214.270 to 214.516;

28 (4) Obtaining or attempting to obtain any fee, charge or

1 other compensation by fraud, deception or misrepresentation;

2 (5) Incompetence, misconduct, gross negligence, fraud,
3 misrepresentation or dishonesty in the performance of the
4 functions or duties of any profession regulated by sections
5 214.270 to 214.516;

6 (6) Violation of, or assisting or enabling any person to
7 violate, any provision of sections 214.270 to 214.516, or any
8 lawful rule or regulation adopted pursuant to sections 214.270 to
9 214.516;

10 (7) Impersonation of any person holding a license or
11 allowing any person to use his or her license;

12 (8) Disciplinary action against the holder of a license or
13 other right to practice any profession regulated by sections
14 214.270 to 214.516 granted by another state, territory, federal
15 agency or country upon grounds for which revocation or suspension
16 is authorized in this state;

17 (9) A person is finally adjudged insane or incompetent by a
18 court of competent jurisdiction;

19 (10) Assisting or enabling any person to practice or offer
20 to practice any profession licensed or regulated by sections
21 214.270 to 214.516 who is not registered and currently eligible
22 to practice pursuant to sections 214.270 to 214.516;

23 (11) Issuance of a license based upon a material mistake of
24 fact;

25 (12) Failure to display a valid license;

26 (13) Violation of any professional trust or confidence;

27 (14) Use of any advertisement or solicitation which is
28 false, misleading or deceptive to the general public or persons

1 to whom the advertisement or solicitation is primarily directed;

2 (15) Willfully and through undue influence selling a burial
3 space, cemetery services or merchandise.

4 3. After the filing of such complaint, the proceedings
5 shall be conducted in accordance with the provisions of chapter
6 621, RSMo. Upon a finding by the administrative hearing
7 commission that the grounds, provided in subsection 2 of this
8 section, for disciplinary action are met, the division may singly
9 or in combination, censure or place the person named in the
10 complaint on probation on such terms and conditions as the
11 division deems appropriate for a period not to exceed five years,
12 or may suspend, or revoke the license or permit or may impose a
13 penalty allowed by subsection 4 of section 214.410. No new
14 license shall be issued to the owner or operator of a cemetery or
15 to any corporation controlled by such owner for three years after
16 the revocation of the certificate of the owner or of a
17 corporation controlled by the owner.

18 4. [Operators of all existing endowed care or nonendowed
19 care cemeteries shall, prior to August twenty-eighth following
20 August 28, 2001, apply for a license pursuant to this section.
21 All endowed care or nonendowed care cemeteries operating in
22 compliance with sections 214.270 to 214.516 prior to August
23 twenty-eighth following August 28, 2001, shall be granted a
24 license by the division upon receipt of application.

25 5.] The division may settle disputes arising under
26 subsections 2 and 3 of this section by consent agreement or
27 settlement agreement between the division and the holder of a
28 license. Within such a settlement agreement, the division may

1 singly or in combination impose any discipline or penalties
2 allowed by this section or subsection 4 of section 214.410.
3 Settlement of such disputes shall be entered into pursuant to the
4 procedures set forth in section 621.045, RSMo.

5 5. Use of the procedures set out in this section shall not
6 preclude the application of any other remedy provided by this
7 chapter.

8 214.277. 1. Upon application by the division, and the
9 necessary burden having been met, a court of general jurisdiction
10 may grant an injunction, restraining order or other order as may
11 be appropriate to enjoin a person from:

12 (1) Offering to engage or engaging in the performance of
13 any acts or practices for which a certificate of registration or
14 authority, permit or license is required upon a showing that such
15 acts or practices were performed or offered to be performed
16 without a certificate of registration or authority, permit or
17 license; or

18 (2) Engaging in any practice or business authorized by a
19 certificate of registration or authority, permit or license
20 issued pursuant to this chapter upon a showing that the holder
21 presents a substantial probability of serious danger to the
22 health, safety or welfare of any resident of this state or client
23 or patient of the licensee.

24 2. [Any such action shall be commenced either in the county
25 in which such conduct occurred or in the county in which the
26 defendant resides.

27 3.] Any action brought pursuant to this section shall be in
28 addition to and not in lieu of any penalty provided by this

1 chapter and may be brought concurrently with other actions to
2 enforce this chapter.

3 214.282. 1. Each contract sold by a cemetery operator for
4 cemetery services or for grave lots, grave spaces, markers,
5 monuments, memorials, tombstones, crypts, niches, mausoleums, or
6 other receptacles shall be voidable by the purchaser and deemed
7 unenforceable unless:

8 (1) It is in writing;

9 (2) It is executed by a cemetery operator who is in
10 compliance with the licensing provisions of this chapter;

11 (3) It identifies the contract purchaser and identifies the
12 cemetery services or other items to be provided;

13 (4) It identifies the name and address of any trustee or
14 escrow agent that will receive payments made pursuant to the
15 contract under the provisions of sections 214.320, 214.330, or
16 214.387, if applicable;

17 (5) It contains the name and address of the cemetery
18 operator; and

19 (6) It identifies any grounds for cancellation by the
20 purchaser or by the cemetery operator on default of payment.

21 2. If a cemetery prearranged contract does not
22 substantially comply with the provisions of this section, all
23 payments made under such contract shall be recoverable by the
24 purchaser, or the purchaser's legal representative, from the
25 contract seller or other payee thereof, together with interest at
26 the rate of ten percent per annum and all reasonable costs of
27 collection, including attorneys' fees.

28 214.283. 1. Any person, entity, association, city, town,

1 village, county or political subdivision that purchases, receives
2 or holds any real estate used for the burial of dead human
3 bodies, excluding a family burial ground, shall notify the office
4 of the endowed care cemeteries of the name, location and address
5 of such real estate on a form approved by the office, before
6 October 1, 2010, or within thirty days of purchasing, receiving
7 or holding such land or of being notified by the office of the
8 requirements of this provision. No fee shall be charged for such
9 notification nor shall any penalty be assessed for failure to
10 register. This section shall not be deemed to exempt any
11 operator of an endowed care cemetery or non-endowed care cemetery
12 from being duly licensed as required by this chapter.

13 2. The division shall establish and maintain a registry of
14 cemeteries and the registry shall be available to the public for
15 review at the division office or copied upon request. The
16 division may charge a fee for copies of the register.

17 (1) If, in the course of a land survey of property located
18 in this state, a surveyor licensed pursuant to chapter 327, RSMo,
19 locates any cemetery which has not been previously registered,
20 the surveyor shall file a statement with the division regarding
21 the location of the cemetery. The statement shall be filed on a
22 form as defined by division rule. No fee shall be charged to the
23 surveyor for such filing.

24 (2) Any person, family, group, association, society or
25 county surveyor may submit to the division, on forms provided by
26 the division, the names and locations of any cemetery located in
27 this state for inclusion in the registry. No fee shall be
28 charged for such submissions.

1 214.300. Any cemetery operator may, after October 13, 1961,
2 qualify to operate a cemetery which has been operated as a
3 nonendowed cemetery for a minimum of two years, as an endowed
4 care cemetery by:

5 (1) So electing in compliance with section 214.280;

6 (2) Establishing an endowed care trust fund in cash of one
7 thousand dollars for each acre in said cemetery with a minimum of
8 five thousand dollars and a maximum of twenty-five thousand
9 dollars;

10 (3) Filing the report required by section 214.340.

11 214.310. 1. Any cemetery operator who elects to operate a
12 new cemetery as an endowed care cemetery or who represents to the
13 public that perpetual, permanent, endowed, continual, eternal
14 care, care of duration or similar care will be furnished cemetery
15 property sold shall create an endowed care trust fund and shall
16 deposit a minimum of twenty-five thousand dollars for cemeteries
17 that have in excess of one hundred burials annually or a minimum
18 of five thousand dollars for cemeteries that have one hundred or
19 less burials annually in such fund before selling or disposing of
20 any burial space in said cemetery, or in lieu thereof such
21 cemetery owner may furnish a surety bond issued by a bonding
22 company or insurance company authorized to do business in this
23 state in the face amount of thirty thousand dollars, and such
24 bond shall run to the office of endowed care cemeteries for the
25 benefit of the care trust funds held by such cemetery. This bond
26 shall be for the purpose of guaranteeing an accumulation of
27 twenty-five thousand dollars in such care trust fund and also for
28 the further purpose of assuring that the cemetery owner shall

1 provide annual perpetual or endowment care in an amount equal to
2 the annual reasonable return on a secured cash investment of
3 twenty-five thousand dollars until twenty-five thousand dollars
4 is accumulated in said endowed care trust funds, and these shall
5 be the conditions of such surety bond; provided, however, the
6 liability of the principal and surety on the bond shall in no
7 event exceed thirty thousand dollars. Provided further, that
8 whenever a cemetery owner which has made an initial deposit to
9 the endowed care trust fund demonstrates to the satisfaction of
10 the administrator of the office of endowed care cemeteries that
11 more than twenty-five thousand dollars has been accumulated in
12 the endowed care trust fund, the cemetery owner may petition the
13 administrator of the office of endowed care cemeteries for an
14 order to dissolve the surety bond requirement, so long as at
15 least twenty-five thousand dollars always remains in the endowed
16 care trust fund.

17 2. Construction of a mausoleum, lawn crypt, columbarium or
18 crematorium as part of a cemetery then operated as an endowed
19 care cemetery shall not be considered the establishment of a new
20 cemetery for purposes of this section.

21 3. Any endowed care cemetery which does not maintain a
22 **[fully]** adequately staffed office in the county in which the
23 cemetery is located shall have prominently displayed on the
24 premises a sign clearly stating the operator's name, address and
25 telephone number. If the operator does not reside in the county
26 in which the cemetery is located, the sign shall also state the
27 name, address and telephone number of a resident of the county
28 who is the authorized agent of the operator or the location of an

1 office of the cemetery which is within ten miles of such
2 cemetery. In jurisdictions where ordinances require signs to
3 meet certain specifications, a weatherproof notice containing the
4 information required by this subsection shall be sufficient.

5 214.320. 1. An operator of an endowed care cemetery shall
6 establish and deposit in an endowed care trust fund not less than
7 the following amounts for burial space sold or disposed of, with
8 such deposits to the endowed care trust fund to be made
9 ~~[semiannually]~~ monthly on all burial space that has been fully
10 paid for to the date of deposit:

11 (1) A minimum of fifteen percent of the gross sales price,
12 or twenty dollars, whichever is greater, for each grave space
13 sold;

14 (2) A minimum of ten percent of the gross sales price of
15 each crypt or niche sold in a community mausoleum, or a minimum
16 of one hundred dollars for each crypt or ~~[ten dollars for each~~
17 ~~niche sold in a garden mausoleum]~~ fifty dollars for each niche
18 sold in a community mausoleum, whichever is greater;

19 (3) A minimum of ten percent of the gross sales price of
20 each crypt or niche sold in a garden mausoleum, or a minimum of
21 one hundred dollars for each crypt or twenty-five dollars for
22 each niche sold in a garden mausoleum, whichever is greater;

23 ~~_____~~ (4) A minimum of ~~[seventy-five dollars per grave space for]~~
24 ten percent of the gross sales price of each lawn crypt sold or a
25 minimum of seventy-five dollars, whichever is greater.

26 2. Notwithstanding the provisions of subdivision (2) of
27 subsection 1 of this section, a cemetery operator who has made
28 the initial deposit in trust as required by sections 214.270 to

1 214.410 from his own funds, and not from funds deposited with
2 respect to sales of burial space, may deposit only one-half the
3 minimum amounts set forth in subdivisions (1) and (2) of
4 subsection 1 of this section, until he shall have recouped his
5 entire initial deposit. Thereafter, he shall make the minimum
6 deposits required under subdivisions (1), (2) ~~[and],~~ (3), and (4)
7 of subsection 1 of this section.

8 3. As required by section 214.340, each operator of an
9 endowed care cemetery shall[, after August 28, 1990,] file with
10 the division of professional registration, on a form provided by
11 the division, an annual endowed care trust fund report. The
12 operator of any cemetery representing the cemetery, or any
13 portion of the cemetery, as an endowed care cemetery shall make
14 available to the division for inspection or audit at any
15 reasonable time only those cemetery records and trust fund
16 records necessary to determine whether the cemetery's endowed
17 care trust fund is in compliance with sections 214.270 to
18 214.410. Each cemetery operator who has established a
19 ~~[segregated]~~ escrow account pursuant to section ~~[214.385]~~ 214.387
20 shall make available to the division for inspection or audit at
21 any reasonable time those cemetery records and financial
22 institution records necessary to determine whether the cemetery
23 operator is in compliance with the provisions of section
24 ~~[214.385.~~ All documents, records, and work product from any
25 inspections or audits performed by or at the direction of the
26 division shall remain in the possession of the division of
27 professional registration and shall not be sent to the state
28 board of embalmers and funeral directors. No charge shall be

1 made for such inspections or audits] 214.387.

2 4. [If any endowed care cemetery operator conducts the
3 trust fund accounting and record keeping outside of this state,
4 then such operator shall maintain current and accurate copies of
5 such accounting and record keeping within this state and such
6 copies shall be readily available to the division for inspection
7 or audit purposes.

8 5.] No cemetery operator shall operate or represent to the
9 public by any title, description, or similar terms that a
10 cemetery provides endowed care unless the cemetery is in
11 compliance with the provisions of sections 214.270 to 214.410.

12 5. A cemetery operator shall be exempt from the provisions
13 of chapter 436 for the sale of cemetery services or for grave
14 lots, grave spaces, markers, monuments, memorials, tombstones,
15 crypts, niches or mausoleums, outer burial containers or other
16 receptacle. A cemetery operator shall be prohibited from
17 adjusting or establishing the sales price of items with the
18 intent of evading the trusting or escrow provisions of this
19 chapter.

20 214.325. If the deposits to any endowed care trust fund
21 [required by sections 214.270 to 214.410] are less than the total
22 sum required to be set aside and deposited since the effective
23 date of such sections, the cemetery operator shall correct such
24 deficiency by depositing not less than twenty percent of such
25 deficiency each year for five years [following August 28, 1990,]
26 and shall file, on the form provided by the division, a statement
27 outlining the date and amount such deposits were made. If the
28 cemetery operator fails to correct the deficiency with respect to

1 funds maintained under section 214.330, the cemetery operator
2 shall thereafter not represent the cemetery as an endowed care
3 cemetery. Any funds held in the cemetery's endowed care trust
4 shall continue to be used for endowed care for that cemetery.
5 The cemetery operator shall remain subject to the provisions of
6 sections 214.270 to 214.410 for any cemetery or any section of
7 the cemetery for which endowed care payments have been collected,
8 subject to the penalties contained in section 214.410, and civil
9 actions as well as subject to any regulations promulgated by the
10 division. For purposes of this section, the term "deficiency"
11 shall mean a deficiency in the amount required to be deposited
12 pursuant to section 214.320, or a deficiency created by
13 disbursements in excess of what is permitted under section
14 214.330 and shall not include or be affected by deficiencies or
15 shortages caused by the fluctuating value of investments.

16 214.330. 1. [The endowed care fund required by sections
17 214.270 to 214.410 shall be permanently set aside in trust or in
18 accordance with the provisions of subsection 2 of this section.
19 The trustee of the endowed care trust shall be a state- or
20 federally chartered financial institution authorized to exercise
21 trust powers in Missouri and located in this state. The income
22 from the endowed care fund shall be distributed to the cemetery
23 operator at least annually or in other convenient installments.
24 The cemetery operator shall have the duty and responsibility to
25 apply the income to provide care and maintenance only for that
26 part of the cemetery in which burial space shall have been sold
27 and with respect to which sales the endowed care fund shall have
28 been established and not for any other purpose. The principal of

1 such funds shall be kept intact and appropriately invested by the
2 trustee, or the independent investment advisor. An endowed care
3 trust agreement may provide that when the principal in an endowed
4 care trust exceeds two hundred fifty thousand dollars, investment
5 decisions regarding the principal and undistributed income may be
6 made by a federally registered or Missouri-registered independent
7 qualified investment advisor designated by the cemetery owner,
8 relieving the trustee of all liability regarding investment
9 decisions made by such qualified investment advisor. It shall be
10 the duty of the trustee, or the investment advisor, in the
11 investment of such funds to exercise the diligence and care men
12 of ordinary prudence, intelligence and discretion would employ,
13 but with a view to permanency of investment considering probable
14 safety of capital investment, income produced and appreciation of
15 capital investment. The trustee's duties shall be the
16 maintenance of records and the accounting for and investment of
17 moneys deposited by the operator to the endowed care fund. For
18 the purposes of sections 214.270 to 214.410, the trustee or
19 investment advisor shall not be deemed to be responsible for the
20 care, the maintenance, or the operation of the cemetery, or for
21 any other matter relating to the cemetery, including, but not
22 limited to, compliance with environmental laws and regulations.
23 With respect to cemetery property maintained by cemetery care
24 funds, the cemetery operator shall be responsible for the
25 performance of the care and maintenance of the cemetery property
26 owned by the cemetery operator and for the opening and closing of
27 all graves, crypts, or niches for human remains in any cemetery
28 property owned by the cemetery operator.

1 2. If the endowed care cemetery fund is not permanently set
2 aside in a trust fund as required by subsection 1 of this section
3 then the funds shall be permanently set aside in a segregated
4 bank account which requires the signature of the cemetery owner
5 and either the administrator of the office of endowed care
6 cemeteries, or the signature of a licensed practicing attorney
7 with escrow powers in this state as joint signatories for any
8 distribution from the trust fund. No funds shall be expended
9 without the signature of either the administrator of the office
10 of endowed care cemeteries, or a licensed practicing attorney
11 with escrow powers in this state. The account shall be insured
12 by the Federal Deposit Insurance Corporation or comparable
13 deposit insurance and held in the state- or federally chartered
14 financial institution authorized to do business in Missouri and
15 located in this state. The income from the endowed care fund
16 shall be distributed to the cemetery operator at least in annual
17 or semiannual installments. The cemetery operator shall have the
18 duty and responsibility to apply the income to provide care and
19 maintenance only for that part of the cemetery in which burial
20 space shall have been sold and with respect to which sales the
21 endowed care fund shall have been established and not for any
22 other purpose. The principal of such funds shall be kept intact
23 and appropriately invested by the cemetery operator with written
24 approval of either the administrator of the office of endowed
25 care cemeteries or a licensed practicing attorney with escrow
26 powers in this state. It shall be the duty of the cemetery owner
27 in the investment of such funds to exercise the diligence and
28 care a person of reasonable prudence, intelligence and discretion

1 would employ, but with a view to permanency of investment
2 considering probable safety of capital investment, income
3 produced and appreciation of capital investment. The cemetery
4 owner's duties shall be the maintenance of records and the
5 accounting for an investment of moneys deposited by the operator
6 to the endowed care fund. For purposes of sections 214.270 to
7 214.410, the administrator of the office of endowed care
8 cemeteries or the licensed practicing attorney with escrow powers
9 in this state shall not be deemed to be responsible for the care,
10 maintenance, or operation of the cemetery. With respect to
11 cemetery property maintained by cemetery care funds, the cemetery
12 operator shall be responsible for the performance of the care and
13 maintenance of the cemetery property owned by the cemetery
14 operator and for the opening and closing of all graves, crypts,
15 or niches for human remains in any cemetery property owned by the
16 cemetery operator.

17 3. The cemetery operator shall be accountable to the owners
18 of burial space in the cemetery for compliance with sections
19 214.270 to 214.410.

20 4. All endowed care funds shall be administered in
21 accordance with an endowed care fund agreement. The endowed care
22 fund agreement shall be subject to review and approval by the
23 office of endowed care cemeteries or by a licensed practicing
24 attorney with escrow powers in this state. The endowed care
25 cemetery shall be notified in writing by the office of endowed
26 care cemeteries or by a licensed practicing attorney with escrow
27 powers in this state regarding the approval or disapproval of the
28 endowed care fund agreement and regarding any changes required to

1 be made for compliance with this chapter and the rules and
2 regulations promulgated thereunder. A copy of the proposed
3 endowed care fund agreement shall be submitted to the office of
4 endowed care cemeteries. The office of endowed care cemeteries
5 or a licensed practicing attorney with escrow powers in this
6 state shall notify the endowed care cemetery in writing of
7 approval and of any required change. Any amendment or change to
8 the endowed care fund agreement shall be submitted to the office
9 of endowed care cemeteries or to a licensed practicing attorney
10 with escrow powers in this state for review and approval. Said
11 amendment or change shall not be effective until approved by the
12 office of endowed care cemeteries or by a licensed practicing
13 attorney with escrow powers in this state. All endowed care
14 cemeteries shall be under a continuing duty to file with the
15 office of endowed care cemeteries or with a licensed practicing
16 attorney with escrow powers in this state and to submit for
17 approval any and all changes, amendment, or revisions of the
18 endowed care fund agreement.

19 5. No principal shall be distributed from an endowed care
20 trust fund except to the extent that a unitrust election is in
21 effect with respect to such trust under the provisions of section
22 469.411, RSMo.] The endowed care trust fund required by sections
23 214.270 to 214.410 shall be permanently set aside in trust or in
24 accordance with the provisions of subsection 2 of this section.
25 The trustee of the endowed care trust shall be a state or
26 federally chartered financial institution authorized to exercise
27 trust powers in Missouri. The contact information for a trust
28 officer or duly appointed representative of the trustee with

1 knowledge and access to the trust fund accounting and trust fund
2 records must be disclosed to the office or its duly authorized
3 representative upon request.

4 (1) The trust fund records, including all trust fund
5 accounting records, shall be maintained in the state of Missouri
6 at all times or shall be electronically stored so that the
7 records may be made available in the state of Missouri within
8 fifteen business days of receipt of a written request. The
9 operator of an endowed care cemetery shall maintain a current
10 name and address of the trustee and the records custodian for the
11 endowed care trust fund and shall supply such information to the
12 office, or its representative, upon request;

13 (2) Missouri law shall control all endowed care trust funds
14 and the Missouri courts shall have jurisdiction over endowed care
15 trusts regardless of where records may be kept or various
16 administrative tasks may be performed.

17 2. An endowed care trust fund shall be administered in
18 accordance with Missouri law governing trusts, including but not
19 limited to the applicable provisions of chapters 456 and 469,
20 except as specifically provided in this subsection or where the
21 provisions of sections 214.270 to 214.410 provide differently,
22 provided that a cemetery operator shall not in any circumstances
23 be authorized to restrict, enlarge, change, or modify the
24 requirements of this section or the provisions of chapters 456
25 and 469 by agreement or otherwise.

26 (1) Income and principal of an endowed care trust fund
27 shall be determined under the provisions of law applicable to
28 trusts, except that the provisions of section 469.405 shall not

1 apply.

2 (2) No principal shall be distributed from an endowed care
3 trust fund except to the extent that a unitrust election is in
4 effect with respect to such trust under the provisions of section
5 469.411.

6 (3) No right to transfer jurisdiction from Missouri under
7 section 456.1-108 shall exist for endowed care trusts.

8 (4) All endowed care trusts shall be irrevocable.

9 (5) No trustee shall have the power to terminate an endowed
10 care trust fund under the provisions of section 456.4-414.

11 (6) A unitrust election made in accordance with the
12 provisions of chapter 469 shall be made by the cemetery operator
13 in the terms of the endowed care trust fund agreement itself, not
14 by the trustee.

15 (7) No contract of insurance shall be deemed a suitable
16 investment for an endowed care trust fund.

17 (8) The income from the endowed care fund may be
18 distributed to the cemetery operator at least annually on a date
19 designated by the cemetery operator, but no later than sixty days
20 following the end of the trust fund year. Any income not
21 distributed within sixty days following the end of the trust's
22 fiscal year shall be added to and held as part of the principal
23 of the trust fund.

24 3. The cemetery operator shall have the duty and
25 responsibility to apply the income distributed to provide care
26 and maintenance only for that part of the cemetery designated as
27 an endowed care section and not for any other purpose.

28 4. In addition to any other duty, obligation, or

1 requirement imposed by sections 214.270 to 214.410 or the endowed
2 care trust agreement, the trustee's duties shall be the
3 maintenance of records related to the trust and the accounting
4 for and investment of moneys deposited by the operator to the
5 endowed care trust fund.

6 (1) For the purposes of sections 214.270 to 214.410, the
7 trustee shall not be deemed responsible for the care, the
8 maintenance, or the operation of the cemetery, or for any other
9 matter relating to the cemetery, or the proper expenditure of
10 funds distributed by the trustee to the cemetery operator,
11 including, but not limited to, compliance with environmental laws
12 and regulations.

13 (2) With respect to cemetery property maintained by endowed
14 care funds, the cemetery operator shall be responsible for the
15 performance of the care and maintenance of the cemetery property.

16 5. If the endowed care cemetery fund is not permanently set
17 aside in a trust fund as required by subsection 1 of this
18 section, then the funds shall be permanently set aside in an
19 escrow account in the state of Missouri. Funds in an escrow
20 account shall be placed in an endowed care trust fund under
21 subsection 1 if the funds in the escrow account exceed three
22 hundred fifty thousand dollars, unless otherwise approved by the
23 division for good cause. The account shall be insured by the
24 Federal Deposit Insurance Corporation or comparable deposit
25 insurance and held in a state or federally chartered financial
26 institution authorized to do business in Missouri and located in
27 this state.

28 (1) The interest from the escrow account may be distributed

1 to the cemetery operator at least in annual or semiannual
2 installments, but not later than six months following the
3 calendar year. Any interest not distributed within six months
4 following the end of the calendar year shall be added to and held
5 as part of the principal of the account.

6 (2) The cemetery operator shall have the duty and
7 responsibility to apply the interest to provide care and
8 maintenance only for that part of the cemetery in which burial
9 space shall have been sold and with respect to which sales the
10 escrow account shall have been established and not for any other
11 purpose. The principal of such funds shall be kept intact. The
12 cemetery operator's duties shall be the maintenance of records
13 and the accounting for an investment of moneys deposited by the
14 operator to the escrow account. For purposes of sections 214.270
15 to 214.410, the administrator of the office of endowed care
16 cemeteries shall not be deemed to be responsible for the care,
17 maintenance, or operation of the cemetery. With respect to
18 cemetery property maintained by cemetery care funds, the cemetery
19 operator shall be responsible for the performance of the care and
20 maintenance of the cemetery property owned by the cemetery
21 operator.

22 (3) The division may approve an escrow agent if the escrow
23 agent demonstrates the knowledge, skill, and ability to handle
24 escrow funds and financial transactions and is of good moral
25 character.

26 6. The cemetery operator shall be accountable to the owners
27 of burial space in the cemetery for compliance with sections
28 214.270 to 214.410.

1 7. Excluding funds held in an escrow account, all endowed
2 care trust funds shall be administered in accordance with an
3 endowed care trust fund agreement, which shall be submitted to
4 the office by the cemetery operator for review and approval. The
5 endowed care cemetery shall be notified in writing by the office
6 of endowed care cemeteries regarding the approval or disapproval
7 of the endowed care trust fund agreement and regarding any
8 changes required to be made for compliance with sections 214.270
9 to 214.410 and the rules and regulations promulgated thereunder.

10 8. All endowed care cemeteries shall be under a continuing
11 duty to file with the office of endowed care cemeteries and to
12 submit for prior approval any and all changes, amendments, or
13 revisions of the endowed care trust fund agreement, at least
14 thirty days before the effective date of such change, amendment,
15 or revision.

16 9. If the endowed care trust fund agreement, or any
17 changes, amendments, or revisions filed with the office, are not
18 disapproved by the office within thirty days after submission by
19 the cemetery operator, the endowed care trust fund agreement, or
20 the related change, amendment, or revision, shall be deemed
21 approved and may be used by the cemetery operator and the
22 trustee. Notwithstanding any other provision of this section,
23 the office may review and disapprove an endowed care trust fund
24 agreement, or any submitted change, amendment, or revision, after
25 the thirty days provided herein or at any other time if the
26 agreement is not in compliance with sections 214.270 to 214.410
27 or the rules promulgated thereunder. Notice of disapproval by
28 the office shall be in writing and delivered to the cemetery

1 operator and the trustee within ten days of disapproval.

2 10. Funds in an endowed care trust fund or escrow account
3 may be commingled with endowed care funds for other endowed care
4 cemeteries, provided that the cemetery operator and the trustee
5 shall maintain adequate accounting records of the disbursements,
6 contributions, and income allocated for each cemetery.

7 11. By accepting the trusteeship of an endowed care trust
8 or accepting funds as an escrow agent pursuant to sections
9 214.270 to 214.410, the trustee or escrow agent submits
10 personally to the jurisdiction of the courts of this state and
11 the office of endowed care cemeteries regarding the
12 administration of the trust or escrow account. A trustee or
13 escrow agent shall consent in writing to the jurisdiction of the
14 state of Missouri and the office in regards to the trusteeship or
15 the operation of the escrow account and to the appointment of the
16 office of secretary of state as its agent for service of process
17 regarding any administrative or legal actions relating to the
18 trust or the escrow account, if it has no designated agent for
19 service of process located in this state. Such consent shall be
20 filed with the office prior to accepting funds pursuant to
21 sections 214.270 to 214.410 as trustee or as an escrow agent on a
22 form provided by the office by rule.

23 214.335. 1. Any endowed care cemetery may require a
24 contribution to the endowed care fund or to a separate memorial
25 care fund for each memorial or monument installed on a grave in
26 the cemetery. Such contribution, if required by a cemetery,
27 shall not exceed twenty cents per square inch of base area, and
28 shall be charged on every installation regardless of the person

1 performing the installation. Each contribution made pursuant to
2 a contract or agreement entered into after August 28, 1990, shall
3 be entrusted and administered pursuant to sections 214.270 to
4 214.410 for the endowed care fund. Each contribution made
5 pursuant to a contract or agreement entered into before August
6 28, 1990, shall be governed by the law in effect at the time the
7 contract or agreement was entered into.

8 2. If the deposits to any endowed care trust fund are less
9 than the total sum required to be set aside and deposited since
10 the effective date of such sections, the cemetery operator shall
11 correct such deficiency by depositing not less than twenty
12 percent of such deficiency each year for five years and shall
13 file, on the form provided by the division, a statement outlining
14 the date and amount such deposits were made. If the cemetery
15 operator fails to correct the deficiency with respect to funds
16 maintained under section 214.330, the cemetery operator shall
17 thereafter not represent the cemetery as an endowed care
18 cemetery. Any funds held in the cemetery's endowed care trust
19 shall continue to be used for endowed care for that cemetery.
20 The cemetery operator shall remain subject to the provisions of
21 sections 214.270 to 214.410 for any cemetery or any section of
22 the cemetery for which endowed care payments have been collected,
23 subject to the penalties contained in section 214.410, and civil
24 actions, as well as subject to any regulations promulgated by the
25 division. For purposes of this section, the term "deficiency"
26 shall mean a deficiency in the amount required to be deposited
27 pursuant to subsection 1 of this section, or a deficiency created
28 by disbursements in excess of what is permitted under section

1 214.330 and shall not include or be affected by deficiencies or
2 shortages caused by the fluctuating value of investments.

3 214.340. 1. Each operator of an endowed care cemetery
4 shall maintain at an office in the cemetery or, if the cemetery
5 has no office in the cemetery, at an office within a reasonable
6 distance of the cemetery, the reports of the endowed care trust
7 fund's operation for the preceding seven years. Each report
8 shall contain, at least, the following information:

9 (1) Name and address of the trustee of the endowed care
10 trust fund and the depository, if different from the trustee;

11 (2) Balance per previous year's report;

12 (3) Principal contributions received since previous report;

13 (4) Total earnings since previous report;

14 (5) Total distribution to the cemetery operator since the
15 previous report;

16 (6) Current balance;

17 (7) A statement of all assets listing cash, real or
18 personal property, stocks, bonds, and other assets, showing cost,
19 acquisition date and current market value of each asset;

20 (8) Total expenses, excluding distributions to cemetery
21 operator, since previous report; and

22 (9) A statement of the cemetery's total acreage and of its
23 developed acreage.

24 2. Subdivisions (1) through (7) of the report described in
25 subsection 1 above shall be certified to under oath as complete
26 and correct by a corporate officer of the trustee. Subdivision
27 (8) of such report shall be certified under oath as complete and
28 correct by an officer of the cemetery operator. Both the trustee

1 and cemetery operator or officer shall be subject to the penalty
2 of making a false affidavit or declaration.

3 3. The report shall be placed in the cemetery's office
4 within ninety days of the close of the trust's fiscal year. A
5 copy of this report shall be filed by the cemetery operator with
6 the division of professional registration as condition of license
7 renewal as required by subsection 4 of section 214.275. [The
8 report shall not be sent to the state board of embalmers and
9 funeral directors.]

10 4. Each cemetery operator who establishes [a segregated] an
11 escrow or trust account pursuant to [subsection 1 of section
12 214.385] section 214.387 shall file with the report required
13 under subsection 1 of this section [a segregated] an escrow or
14 trust account report that shall provide the following
15 information:

16 (1) The [number of monuments, markers and memorials] total
17 face value of all contracts for burial merchandise and services
18 that have been deferred for delivery by purchase designation; and

19 (2) [The aggregate wholesale cost of all such monuments,
20 markers and memorials; and

21 (3)] The amount on deposit in the [segregated] escrow or
22 trust account established pursuant to section [214.385] 214.387,
23 and the account number in the case of an escrow account.

24 214.345. 1. Any cemetery operator who negotiates the sale
25 of burial space in any cemetery located in this state shall
26 provide each prospective owner of burial space a written
27 statement, which may be a separate form or a part of the sales
28 contract, which states and explains in plain language that the

1 burial space is part of an endowed care cemetery; that the
2 cemetery has established and maintains the endowed care trust
3 fund required by law; and that the information regarding the fund
4 described in section 214.340 is available to the prospective
5 purchaser. If the burial space is in a nonendowed cemetery, or
6 in a nonendowed section of an endowed care cemetery, the cemetery
7 operator shall state he has elected not to establish an endowed
8 care trust fund.

9 2. The operator of each endowed care cemetery shall, upon
10 request, give to the public for retention a copy of the endowed
11 care trust fund annual report prepared pursuant to the provisions
12 of subsection 1 of section 214.340.

13 214.360. No cemetery operator, nor any director, officer or
14 shareholder of any cemetery may borrow or in any other way make
15 use of the endowed care trust funds for his own use, directly or
16 indirectly, or for furthering or developing his or any other
17 cemetery, nor may any trustee lend or make such funds available
18 for said purpose or for the use of any operator or any director,
19 officer or shareholder of any cemetery.

20 214.363. In the event of a cemetery's bankruptcy,
21 insolvency, or assignment for the benefit of creditors, the
22 endowed care trust funds shall not be available to any creditor
23 as assets of the cemetery's owner or to pay any expenses of any
24 bankruptcy or similar proceeding, but shall be retained intact to
25 provide for the future maintenance of the cemetery.

26 214.365. Prior to any action as provided in subsection 2 of
27 section 214.205, and when the division has information that a
28 [public] cemetery is not providing maintenance and care, has been

1 abandoned, or has ceased operation, the division may investigate
2 the cemetery to determine the cemetery's current status. If the
3 division finds evidence that the cemetery is abandoned, is not
4 conducting business, or is not providing maintenance and care,
5 the division may apply to the circuit court for appointment as
6 receiver, trustee, or successor in trust.

7 214.367. 1. Prior to selling or otherwise disposing of a
8 majority of the business assets of a cemetery, or a majority of
9 its stock or other ownership interest, if a corporation or other
10 organized business entity, the cemetery operator shall provide
11 written notification to the division of its intent at least
12 thirty days prior to the date set for the transfer, or the
13 closing of the sale, or the date set for termination of its
14 business. Such notice is confidential and shall not be
15 considered a public record subject to the provisions of chapter
16 610 until the sale of the cemetery has been effectuated. Upon
17 receipt of the written notification, the division may take
18 reasonable and necessary action to determine that the cemetery
19 operator has made proper plans to assure that trust funds or
20 funds held in an escrow account for or on behalf of the cemetery
21 will be set aside and used as provided in sections 214.270 to
22 214.410, including, but not limited to, an audit or examination
23 of books and records. The division may waive the requirements of
24 this subsection or may shorten the period of notification for
25 good cause or if the division determines in its discretion that
26 compliance with its provisions are not necessary.

27 2. A cemetery operator may complete the sale, transfer, or
28 cessation if the division does not disapprove the transaction

1 within thirty days after receiving notice. Nothing in this
2 section shall be construed to restrict any other right or remedy
3 vested in the division or the attorney general.

4 3. A prospective purchaser or transferee of [any endowed
5 care] endowed or unendowed cemetery, with the written consent of
6 the cemetery operator, may obtain a copy of the cemetery's most
7 recent audit or inspection report from the division. The
8 division shall inform the prospective purchaser or transferee,
9 within thirty days, whether the cemetery may continue to operate
10 and be represented as [an endowed care] a cemetery.

11 214.387. 1. [Upon written instructions from the purchaser
12 of burial merchandise or burial services set forth in a cemetery
13 prearranged contract, a cemetery may defer delivery of such
14 burial merchandise or a warehouse receipt for the same under
15 section 214.385, or performance of services, to a date designated
16 by the purchaser, provided the cemetery operator, after deducting
17 sales and administrative costs not to exceed twenty percent of
18 the purchase price, deposits the remaining portion of the
19 purchase price into an escrow or trust account as herein
20 provided, within sixty days following receipt of payment from the
21 purchaser. Funds so deposited pursuant to this section shall be
22 maintained in such account until delivery of the property or the
23 performance of services is made or the contract for the purchase
24 of such property or services is canceled. The account is subject
25 to inspection, examination or audit by the division. No
26 withdrawals may be made from the escrow or trust account
27 established pursuant to this section except as herein provided.

28 2. Upon written instructions from the purchaser of an

1 interment, entombment, or inurnment cemetery service, a cemetery
2 may defer performance of such service to a date designated by the
3 purchaser, provided the cemetery operator, within forty-five days
4 of the date the agreement is paid in full, deposits from its own
5 funds an amount equal to eighty percent of the published retail
6 price into a trustee account. Funds deposited in a trustee
7 account pursuant to this section and section 214.385 shall be
8 maintained in such account until delivery of the service is made
9 or the agreement for the purchase of the service is canceled. No
10 withdrawals may be made from the trustee account established
11 pursuant to this section and section 214.385 except as provided
12 herein. Money in this account shall be invested utilizing the
13 prudent man theory and is subject to audit by the division.
14 Names and addresses of depositories of such money shall be
15 submitted with the annual report.

16 3. Upon the delivery of the interment, entombment, or
17 inurnment cemetery service agreed upon by the cemetery or its
18 agent, or the cancellation of the agreement for the purchase of
19 such service, the cemetery operator may withdraw from the
20 trustee account an amount equal to (i) the market value of the
21 trustee account based on the most recent account statement
22 issued to the cemetery operator, times (ii) the ratio the
23 service's deposit in the account bears to the aggregate deposit
24 of all services which are paid in full but not delivered. The
25 trustee account may be inspected or audited by the division.

26 4. The provisions of this section shall apply to all
27 agreements entered into after August 28, 2002.] With the
28 exception of sales made pursuant to section 214.385, all sales of

1 prearranged burial merchandise and services shall be made
2 pursuant to this section.

3 2. Upon written instructions from the purchaser of burial
4 merchandise or burial services set forth in a cemetery
5 prearranged contract, a cemetery may defer delivery of such
6 burial merchandise or a warehouse receipt for the same under
7 section 214.385, or performance of services, to a date designated
8 by the purchaser, provided the cemetery operator, after deducting
9 sales and administrative costs associated with the sale, not to
10 exceed twenty percent of the purchase price, deposits the
11 remaining portion of the purchase price into an escrow or trust
12 account as herein provided, within sixty days following receipt
13 of payment from the purchaser. Funds so deposited pursuant to
14 this section shall be maintained in such account until delivery
15 of the property or the performance of services is made or the
16 contract for the purchase of such property or services is
17 cancelled, and fees and costs associated with the maintenance of
18 the trust or escrow arrangement shall be charged to these funds.
19 The account is subject to inspection, examination or audit by the
20 division. No withdrawals may be made from the escrow or trust
21 account established pursuant to this section except as herein
22 provided.

23 3. Each escrow arrangement must comply with the following:

24 (1) The escrow agent shall be located in Missouri,
25 authorized to exercise escrow powers, and shall maintain the
26 escrow records so that they may be accessed and produced for
27 inspection within five business days of the agent's receipt of a
28 written request made by the office or its duly authorized

1 representative. A cemetery operator shall not serve as an escrow
2 agent for the cemetery operator's account nor shall the escrow
3 agent be employed by or under common ownership with the cemetery
4 operator. The cemetery operator shall maintain a current name
5 and address for the escrow agent with the office, and shall
6 obtain written approval from the office before making any change
7 in the name or address of the escrow agent. Notwithstanding any
8 other provision of law, information regarding the escrow agent
9 shall be deemed an open record;

10 (2) The escrow account funds shall be maintained in
11 depository accounts at a Missouri financial institution that
12 provides Federal Deposit Insurance Corporation or comparable
13 deposit insurance;

14 (3) The escrow arrangement shall be administered by the
15 escrow agent pursuant to an agreement approved by the office
16 under the same filing and approval procedure as that set forth
17 for endowed care trust fund agreements in section 214.330;

18 (4) The operator shall establish a separate depository
19 account for each cemetery prearranged contract administered
20 pursuant to this subsection;

21 (5) The division may promulgate by rule a form escrow
22 agreement to be used by a cemetery operator operating pursuant to
23 this section.

24 4. Each trust must comply with the following:

25 (1) The trustee shall be a state or federally chartered
26 financial institution authorized to exercise trust powers in
27 Missouri, provided that a foreign financial institution must be
28 approved by the office;

1 (2) The trust fund records, including all trust fund
2 accounting records, shall either be maintained in the state of
3 Missouri or shall be electronically stored so that the records
4 may be made available within fifteen business days of the
5 trustee's receipt of a written request made by the office or its
6 duly authorized representative. The cemetery operator shall
7 maintain a current name and address of the trustee and the
8 records custodian and shall supply such information to the office
9 or its representative upon request;

10 (3) The principal of such funds shall be appropriately
11 invested pursuant to the prudent investor rule under chapter 469,
12 provided that no trust funds shall be invested in any term
13 insurance product;

14 (4) Payments regarding two or more cemetery prearranged
15 contracts may be deposited into and commingled in the same trust,
16 so long as adequate records are made available to the trustee to
17 account for cemetery prearranged contracts on an individual basis
18 with regard to deposits, earnings, distributions, and any taxes;

19 (5) Trust instruments shall be subject to the same filing
20 and approval procedure as that set forth for endowed care trust
21 fund agreements under section 214.330;

22 (6) A trustee may commingle the funds from trusts of
23 unrelated cemetery operators for investment purposes if the
24 trustee has adequate accounting for the allocations,
25 disbursements, payments, and income among the participating
26 trusts.

27 5. The income from escrow accounts, after payment of
28 expenses associated with the arrangement, shall be distributed to

1 the cemetery operator. All other distributions from trusts and
2 escrow accounts shall be made pursuant to forms approved by the
3 office. For performance of a cemetery prearranged contract, a
4 certificate of performance form signed by the cemetery operator
5 shall be required for distribution. For cancellation of a
6 cemetery prearranged contract, a certificate of cancellation form
7 signed by the cemetery operator and the purchaser shall be
8 required for distribution.

9 6. A cemetery prearranged contract is subject to
10 cancellation as follows:

11 (1) At any time before the final disposition of the
12 deceased, or before the services or merchandise described in this
13 section are provided, the purchaser may cancel the contract
14 without cause by delivering written notice thereof to the
15 operator. Within fifteen days after its receipt of such notice,
16 the cemetery operator shall pay to the purchaser a net amount
17 equal to eighty percent of all payments made under the contract.
18 The cemetery operator shall be entitled to keep one-half of the
19 interest earned on trust funds. Upon delivery of the purchaser's
20 receipt for such payment to the escrow agent or trustee, the
21 escrow agent or trustee shall distribute to the cemetery operator
22 from the escrow account or trust an amount equal to all deposits
23 made into the escrow account or trust for the contract;

24 (2) Notwithstanding the provisions of subdivision (1) of
25 this subsection, if a purchaser is eligible, becomes eligible, or
26 desires to become eligible, to receive public assistance under
27 chapter 208 or any other applicable state or federal law, the
28 purchaser may irrevocably waive and renounce his right to cancel

1 the contract pursuant to the provisions of subdivision (1) of
2 this section, which waiver and renunciation shall be made in
3 writing and delivered to the cemetery operator;

4 (3) Notwithstanding the provisions of subdivision (1) of
5 this subsection, any purchaser, within thirty days of receipt of
6 the executed contract, may cancel the contract without cause by
7 delivering written notice thereof to the cemetery operator, and
8 receive a full refund of all payments made on the contract;

9 (4) Notwithstanding the provisions of subdivision (1) of
10 this subsection, once any purchase order is entered for the
11 production or manufacture of burial merchandise, per the
12 purchaser's written request, the purchaser's obligation to pay
13 for said burial merchandise shall be noncancellable;

14 (5) No funds subject to a purchaser's right of cancellation
15 hereunder shall be subject to the claims of the cemetery
16 operator's creditors.

17 7. Burial merchandise sold through a contract with a
18 cemetery or cemetery operator which is entered into after the
19 death of the individual for whom the burial merchandise is
20 intended shall not be subject to any trusting or escrow
21 requirement of this section.

22 8. This section shall apply to all agreements entered into
23 after August 28, 2010.

24 214.389. 1. The division may direct a trustee, financial
25 institution, or escrow agent to suspend distribution from an
26 endowed care trust fund or escrow account if the cemetery
27 operator does not have a current and active cemetery operator
28 license, has failed to file an annual report, or if, after an

1 audit or examination, the division determines there is a
2 deficiency in an endowed care trust fund or escrow account
3 maintained under section 214.330 and the cemetery operator has
4 failed to file a corrective action plan detailing how the
5 deficiency shall be remedied. For purposes of this section, a
6 deficiency shall only be deemed to exist if, after an audit or
7 examination, the division determines a cemetery operator has
8 failed to deposit the total aggregate of funds required to be
9 deposited in trust or an escrow account pursuant to section
10 214.320 or subsection 1 of section 214.335, or has received
11 disbursements from the trust or escrow account in excess of what
12 is permitted under section 214.330. No deficiency shall be
13 deemed to be created by fluctuations in the value of investments
14 held in trust or escrow.

15 2. The division shall provide written notification to the
16 cemetery operator and the trustee, financial institution, or
17 escrow agent within fourteen days of discovering a potential
18 violation as described in this section. Upon receipt of written
19 notification from the division, the cemetery operator shall have
20 sixty days to cure any alleged violations or deficiencies cited
21 in the notification without a suspension of distribution. If,
22 after the sixty-day time period, the division feels the cemetery
23 has not cured the alleged violations or deficiencies cited in the
24 notification, the division may send a notice of suspension to the
25 cemetery operator that the division is ordering a suspension of
26 distribution as described in this section. In the event of a
27 suspension of distribution, the amount of any distribution
28 suspended shall become principal, with credit against the

1 deficiency, unless the cemetery operator files an appeal with a
2 court of competent jurisdiction or with the administrative
3 hearing commission, as provided herein. In the event of an
4 appeal, a cemetery operator may request the court or
5 administrative hearing commission stay the suspension of
6 distribution after a showing of necessity and good cause or
7 authorize payment from the endowed care trust fund or escrow
8 account for necessary expenses from any amount subject to
9 distribution.

10 3. Upon receipt of an order from the division suspending
11 distribution pursuant to this section, a trustee, financial
12 institution, or escrow agent shall immediately suspend
13 distribution as required by the order. A trustee, financial
14 institution, or escrow agent shall be exempt from liability for
15 failure to distribute funds as ordered by the division.

16 4. A cemetery operator may appeal an order suspending
17 distribution pursuant to this section to the administrative
18 hearing commission. The administrative hearing commission shall
19 receive notice of such appeal within thirty days from the date
20 the notice of suspension was mailed by certified mail. Failure
21 of a person whose license was suspended to notify the
22 administrative hearing commission of his or her intent to appeal
23 waives all rights to appeal the suspension. Upon notice of such
24 person's intent to appeal, a hearing shall be held before the
25 administrative hearing commission pursuant to chapter 621.

26 5. A cemetery operator may apply for reinstatement of
27 distributions upon demonstration that the deficiencies or other
28 problems have been cured or that the operator has otherwise come

1 into compliance.

2 6. The division may promulgate rules to implement the
3 provisions of this section. Any rule or portion of a rule, as
4 that term is defined in section 536.010, that is created under
5 the authority delegated in this section shall become effective
6 only if it complies with and is subject to all of the provisions
7 of chapter 536, and, if applicable, section 536.028. This
8 section and chapter 536 are nonseverable and if any of the powers
9 vested with the general assembly pursuant to chapter 536, to
10 review, to delay the effective date, or to disapprove and annul a
11 rule are subsequently held unconstitutional, then the grant of
12 rulemaking authority and any rule proposed or adopted after
13 August 28, 2010, shall be invalid and void.

14 214.392. 1. The division shall:

15 (1) Recommend prosecution for violations of the provisions
16 of sections 214.270 to 214.410 to the appropriate prosecuting,
17 circuit attorney or to the attorney general;

18 (2) Employ, within limits of the funds appropriated, such
19 employees as are necessary to carry out the provisions of
20 sections 214.270 to 214.410;

21 (3) Be allowed to convey full authority to each city or
22 county governing body the use of inmates controlled by the
23 department of corrections and the board of probation and parole
24 to care for abandoned cemeteries located within the boundaries of
25 each city or county;

26 (4) Exercise all budgeting, purchasing, reporting and other
27 related management functions;

28 (5) Be authorized, within the limits of the funds

1 appropriated to conduct investigations, examinations, or audits
2 to determine compliance with sections 214.270 to 214.410;

3 (6) The division may promulgate rules necessary to
4 implement the provisions of sections 214.270 to 214.516,
5 including but not limited to:

6 (a) Rules setting the amount of fees authorized pursuant to
7 sections 214.270 to 214.516. The fees shall be set at a level to
8 produce revenue that shall not substantially exceed the cost and
9 expense of administering sections 214.270 to 214.516. All moneys
10 received by the division pursuant to sections 214.270 to 214.516
11 shall be collected by the director who shall transmit such moneys
12 to the department of revenue for deposit in the state treasury to
13 the credit of the endowed care cemetery audit fund created in
14 section 193.265, RSMo;

15 (b) Rules to administer the inspection and audit provisions
16 of the endowed care cemetery law;

17 (c) Rules for the establishment and maintenance of the
18 cemetery registry pursuant to section 214.283.

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

1 after August 28, 2001, shall be invalid and void.

2 214.400. Sections 214.270 to 214.410 shall be known as the
3 "Cemetery Endowed Care Trust Fund Law".

4 214.410. 1. Any cemetery operator who shall willfully
5 violate any provisions of sections 214.270 to 214.410 for which
6 no penalty is otherwise prescribed shall be deemed guilty of a
7 misdemeanor and upon conviction thereof shall be fined a sum not
8 to exceed five hundred dollars or shall be confined not more than
9 six months or both.

10 2. Any cemetery operator who shall willfully violate any
11 provision of ~~[section]~~ sections 214.320, 214.330, 214.335,
12 214.340, 214.360 ~~[or]~~, 214.385, or 214.387 shall be deemed guilty
13 of a class D felony and upon conviction thereof shall be fined a
14 sum not to exceed ten thousand dollars or shall be confined not
15 more than five years or both. This section shall not apply to
16 cemeteries or cemetery associations which do not sell lots in the
17 cemetery.

18 3. Any trustee who shall willfully violate any applicable
19 provisions of sections 214.270 to 214.410 shall have committed an
20 unsafe and unsound banking practice and shall be penalized as
21 authorized by chapters 361 and 362, RSMo. This subsection shall
22 be enforced exclusively by the Missouri division of finance for
23 state chartered institutions and the Missouri attorney general
24 for federally chartered institutions.

25 4. Any person who shall willfully violate any provision of
26 section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or
27 violates any rule, regulation or order of the division may, in
28 accordance with the regulations issued by the division, be

1 assessed an administrative penalty by the division. The penalty
2 shall not exceed five thousand dollars for each violation and
3 each day of the continuing violation shall be deemed a separate
4 violation for purposes of administrative penalty assessment.
5 However, no administrative penalty may be assessed until the
6 person charged with the violation has been given the opportunity
7 for a hearing on the violation. Penalty assessments received
8 shall be deposited in the endowed care cemetery audit fund
9 created in section 193.265, RSMo.

10 214.500. Any cemetery located in a city [not within a
11 county,] which has become the property of such city pursuant to
12 section 214.205 or a public tax sale may be sold to another
13 cemetery operator or a not-for-profit corporation which is
14 unrelated to the previous cemetery operator.

15 214.504. Any cemetery operator who purchases a cemetery
16 from a city [not within a county] pursuant to sections 214.500 to
17 214.516 shall not be liable for any wrongful interments or errors
18 made in the sale of plots prior to the cemetery operator's
19 purchase of the cemetery, nor shall such cemetery operator be
20 liable for multiple ownership of plots sold by such cemetery
21 operator due to a lack of adequate records in such cemetery
22 operator's possession at the time of such cemetery operator's
23 purchase of such cemetery from the city, provided the cemetery
24 operator offers a plot of equal value for the interment, if such
25 party can prove ownership of the right to bury a person by
26 presenting a contract for the right to burial.

27 214.508. Any cemetery operator who purchases a cemetery
28 from a city [not within a county] shall not be held liable or

1 responsible for any conditions existing or actions taken which
2 occurred prior to the cemetery operator's purchase from such
3 city; except that, the exemption provided in this section shall
4 not relieve any previous owner or wrongdoer for their actions
5 related to such cemetery.

6 214.512. Any subsequent cemetery owner after a city [not
7 within a county] shall be exempt from the provisions of section
8 214.325 and section 214.410 for any deficiency existing prior to
9 such city's ownership; except that, such exemption shall not
10 relieve any previous cemetery owners or wrongdoers from the
11 provisions of such sections.

12 214.516. Any cemetery owner subsequent to a city [not
13 within a county], regardless of whether such cemetery was
14 previously registered as an endowed care cemetery, held itself
15 out to be an endowed care cemetery or was a nonendowed care
16 cemetery, shall comply with section 214.310 and register such
17 cemetery as an endowed care cemetery as if it were a newly
18 created cemetery with no interments at the time of such
19 registration. Any contracts for the right of burial sold after
20 compliance with section 214.310 and all subsequent action of a
21 subsequent cemetery owner shall comply fully with the provisions
22 of sections 214.270 to 214.410.

23 214.550. 1. For purposes of this section, the following
24 terms mean:

25 (1) "Cremains", the [ashes that remain after cremation of a
26 human corpse] remains of a human corpse after cremation;

27 (2) "Operator", a church that owns and maintains a
28 religious cemetery;

1 (3) "Religious cemetery", a cemetery owned, operated,
2 controlled, or managed by any church that has or would qualify
3 for federal tax-exempt status as a nonprofit religious
4 organization pursuant to section 501(c) of the Internal Revenue
5 Code as amended;

6 (4) "Scatter garden", a location for the spreading of
7 cremains set aside within a cemetery.

8 2. It shall be lawful for any operator of a religious
9 cemetery adjacent to a church building or other building
10 regularly used as a place of worship to establish a scatter
11 garden for the purpose of scattering human cremains.

12 3. The operator of any religious cemetery containing a
13 scatter garden shall maintain, protect, and supervise the scatter
14 garden, and shall be responsible for all costs incurred for such
15 maintenance, protection, and supervision. Such operator shall
16 also maintain a record of all cremains scattered in the scatter
17 garden that shall include the name, date of death, and Social
18 Security number of each person whose cremains are scattered, and
19 the date the cremains were scattered.

20 4. A scatter garden established pursuant to this section
21 shall be maintained by the operator of the religious cemetery for
22 as long as such operator is in existence. Upon dissolution of
23 such operator, all records of cremains shall be transferred to
24 the clerk of the city, town, or village in which the scatter
25 garden is located, or if the scatter garden is located in any
26 unincorporated area, to the county recorder.

27 246.310. The provisions of section 262.802 shall not apply
28 to any drainage district or levee district formed under the laws

1 of this state.

2 288.034. 1. "Employment" means service, including service
3 in interstate commerce, performed for wages or under any contract
4 of hire, written or oral, express or implied, and notwithstanding
5 any other provisions of this section, service with respect to
6 which a tax is required to be paid under any federal unemployment
7 tax law imposing a tax against which credit may be taken for
8 contributions required to be paid into a state unemployment fund
9 or which, as a condition for full tax credit against the tax
10 imposed by the Federal Unemployment Tax Act, is required to be
11 covered under this law.

12 2. The term "employment" shall include an individual's
13 entire service, performed within or both within and without this
14 state if:

15 (1) The service is localized in this state; or

16 (2) The service is not localized in any state but some of
17 the service is performed in this state and the base of
18 operations, or, if there is no base of operations, then the place
19 from which such service is directed or controlled, is in this
20 state; or the base of operations or place from which such service
21 is directed or controlled is not in any state in which some part
22 of the service is performed but the individual's residence is in
23 this state.

24 3. Service performed by an individual for wages shall be
25 deemed to be employment subject to this law:

26 (1) If covered by an election filed and approved pursuant
27 to subdivision (2) of subsection 3 of section 288.080;

28 (2) If covered by an arrangement pursuant to section

1 288.340 between the division and the agency charged with the
2 administration of any other state or federal unemployment
3 insurance law, pursuant to which all services performed by an
4 individual for an employing unit are deemed to be performed
5 entirely within this state.

6 4. Service shall be deemed to be localized within a state
7 if the service is performed entirely within such state; or the
8 service is performed both within and without such state, but the
9 service performed without such state is incidental to the
10 individual's service within the state; for example, is temporary
11 or transitory in nature or consists of isolated transactions.

12 5. Service performed by an individual for remuneration
13 shall be deemed to be employment subject to this law unless it is
14 shown to the satisfaction of the division that such services were
15 performed by an independent contractor. In determining the
16 existence of the independent contractor relationship, the common
17 law of agency right to control shall be applied. The common law
18 of agency right to control test shall include but not be limited
19 to: if the alleged employer retains the right to control the
20 manner and means by which the results are to be accomplished, the
21 individual who performs the service is an employee. If only the
22 results are controlled, the individual performing the service is
23 an independent contractor.

24 6. The term "employment" shall include service performed
25 for wages as an agent-driver or commission-driver engaged in
26 distributing meat products, vegetable products, fruit products,
27 bakery products, beverages (other than milk), or laundry or
28 dry-cleaning services, for his or her principal; or as a

1 traveling or city salesman, other than as an agent-driver or
2 commission-driver, engaged upon a full-time basis in the
3 solicitation on behalf of, and the transmission to, his or her
4 principal (except for sideline sales activities on behalf of some
5 other person) of orders from wholesalers, retailers, contractors,
6 or operators of hotels, restaurants, or other similar
7 establishments for merchandise for resale or supplies for use in
8 their business operations, provided:

9 (1) The contract of service contemplates that substantially
10 all of the services are to be performed personally by such
11 individual; and

12 (2) The individual does not have a substantial investment
13 in facilities used in connection with the performance of the
14 services (other than in facilities for transportation); and

15 (3) The services are not in the nature of a single
16 transaction that is not part of a continuing relationship with
17 the person for whom the services are performed.

18 7. Service performed by an individual in the employ of this
19 state or any political subdivision thereof or any instrumentality
20 of any one or more of the foregoing which is wholly owned by this
21 state and one or more other states or political subdivisions, or
22 any service performed in the employ of any instrumentality of
23 this state or of any political subdivision thereof, and one or
24 more other states or political subdivisions, provided that such
25 service is excluded from "employment" as defined in the Federal
26 Unemployment Tax Act by Section 3306(c)(7) of that act and is not
27 excluded from "employment" pursuant to subsection 9 of this
28 section, shall be "employment" subject to this law.

1 8. Service performed by an individual in the employ of a
2 corporation or any community chest, fund, or foundation organized
3 and operated exclusively for religious, charitable, scientific,
4 testing for public safety, literary, or educational purposes, or
5 for the prevention of cruelty to children or animals, no part of
6 the net earnings of which inures to the benefit of any private
7 shareholder or individual, or other organization described in
8 Section 501(c)(3) of the Internal Revenue Code which is exempt
9 from income tax under Section 501(a) of that code if the
10 organization had four or more individuals in employment for some
11 portion of a day in each of twenty different weeks whether or not
12 such weeks were consecutive within a calendar year regardless of
13 whether they were employed at the same moment of time shall be
14 "employment" subject to this law.

15 9. For the purposes of subsections 7 and 8 of this section,
16 the term "employment" does not apply to service performed:

17 (1) In the employ of a church or convention or association
18 of churches, or an organization which is operated primarily for
19 religious purposes and which is operated, supervised, controlled,
20 or principally supported by a church or convention or association
21 of churches; or

22 (2) By a duly ordained, commissioned, or licensed minister
23 of a church in the exercise of such minister's ministry or by a
24 member of a religious order in the exercise of duties required by
25 such order; or

26 (3) In the employ of a governmental entity referred to in
27 subdivision (3) of subsection 1 of section 288.032 if such
28 service is performed by an individual in the exercise of duties:

- 1 (a) As an elected official;
- 2 (b) As a member of a legislative body, or a member of the
3 judiciary, of a state or political subdivision;
- 4 (c) As a member of the state national guard or air national
5 guard;
- 6 (d) As an employee serving on a temporary basis in case of
7 fire, storm, snow, earthquake, flood or similar emergency;
- 8 (e) In a position which, under or pursuant to the laws of
9 this state, is designated as (i) a major nontenured policy-making
10 or advisory position, or (ii) a policy-making or advisory
11 position the performance of the duties of which ordinarily does
12 not require more than eight hours per week; or
- 13 (4) In a facility conducted for the purpose of carrying out
14 a program of rehabilitation for individuals whose earning
15 capacity is impaired by age or physical or mental deficiency or
16 injury or providing remunerative work for individuals who because
17 of their impaired physical or mental capacity cannot be readily
18 absorbed in the competitive labor market, by an individual
19 receiving such rehabilitation or remunerative work; or
- 20 (5) As part of an unemployment work-relief or work-training
21 program assisted or financed in whole or in part by any federal
22 agency or an agency of a state or political subdivision thereof,
23 by an individual receiving such work relief or work training; or
- 24 (6) By an inmate of a custodial or penal institution; or
- 25 (7) In the employ of a school, college, or university, if
26 such service is performed (i) by a student who is enrolled and is
27 regularly attending classes at such school, college, or
28 university, or (ii) by the spouse of such a student, if such

1 spouse is advised, at the time such spouse commences to perform
2 such service, that (I) the employment of such spouse to perform
3 such service is provided under a program to provide financial
4 assistance to such student by such school, college, or
5 university, and (II) such employment will not be covered by any
6 program of unemployment insurance.

7 10. The term "employment" shall include the service of an
8 individual who is a citizen of the United States, performed
9 outside the United States (except in Canada), if:

10 (1) The employer's principal place of business in the
11 United States is located in this state; or

12 (2) The employer has no place of business in the United
13 States, but:

14 (a) The employer is an individual who is a resident of this
15 state; or

16 (b) The employer is a corporation which is organized under
17 the laws of this state; or

18 (c) The employer is a partnership or a trust and the number
19 of the partners or trustees who are residents of this state is
20 greater than the number who are residents of any one other state;
21 or

22 (3) None of the criteria of subdivisions (1) and (2) of
23 this subsection is met but the employer has elected coverage in
24 this state or, the employer having failed to elect coverage in
25 any state, the individual has filed a claim for benefits, based
26 on such service, under the law of this state;

27 (4) As used in this subsection and in subsection 11 of this
28 section, the term "United States" includes the states, the

1 District of Columbia and the Commonwealth of Puerto Rico.

2 11. An "American employer", for the purposes of subsection
3 10 of this section, means a person who is:

4 (1) An individual who is a resident of the United States;
5 or

6 (2) A partnership, if two-thirds or more of the partners
7 are residents of the United States; or

8 (3) A trust, if all of the trustees are residents of the
9 United States; or

10 (4) A corporation organized under the laws of the United
11 States or of any state.

12 12. The term "employment" shall not include:

13 (1) Service performed by an individual in agricultural
14 labor;

15 (a) For the purposes of this subdivision, the term
16 "agricultural labor" means remunerated service performed:

17 a. On a farm, in the employ of any person, in connection
18 with cultivating the soil, or in connection with raising or
19 harvesting any agricultural or horticultural commodity, including
20 the raising, shearing, feeding, caring for, training, and
21 management of livestock, bees, poultry, and furbearing animals
22 and wildlife;

23 b. In the employ of the owner or tenant or other operator
24 of a farm, in connection with the operation, management,
25 conservation, improvement, or maintenance of such farm and its
26 tools and equipment, or in salvaging timber or clearing land of
27 brush and other debris left by a hurricane, if the major part of
28 such service is performed on a farm;

1 c. In connection with the production or harvesting of any
2 commodity defined as an agricultural commodity in Section 15(g)
3 of the Federal Agricultural Marketing Act, as amended (46 Stat.
4 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the
5 ginning of cotton, or in connection with the operation or
6 maintenance of ditches, canals, reservoirs, or waterways, not
7 owned or operated for profit, used exclusively for supplying and
8 storing water for farming purposes;

9 d. i. In the employ of the operator of a farm in handling,
10 planting, drying, packing, packaging, processing, freezing,
11 grading, storing, or delivering to storage or to market or to a
12 carrier for transportation to market, in its unmanufactured
13 state, any agricultural or horticultural commodity; but only if
14 such operator produced more than one-half of the commodity with
15 respect to which such service is performed;

16 ii. In the employ of a group of operators of farms (or a
17 cooperative organization of which such operators are members) in
18 the performance of services described in item i of this
19 subparagraph, but only if such operators produced more than
20 one-half of the commodity with respect to which such service is
21 performed;

22 iii. The provisions of items i and ii of this subparagraph
23 shall not be deemed to be applicable with respect to service
24 performed in connection with commercial canning or commercial
25 freezing or in connection with any agricultural or horticultural
26 commodity after its delivery to a terminal market for
27 distribution for consumption; or

28 e. On a farm operated for profit if such service is not in

1 the course of the employer's trade or business. As used in this
2 paragraph, the term "farm" includes stock, dairy, poultry, fruit,
3 furbearing animals, and truck farms, plantations, ranches,
4 nurseries, ranges, greenhouses or other similar structures, used
5 primarily for the raising of agricultural or horticultural
6 commodities, and orchards;

7 (b) The term "employment" shall include service performed
8 after December 31, 1977, by an individual in agricultural labor
9 as defined in paragraph (a) of this subdivision when such service
10 is performed for a person who, during any calendar quarter, paid
11 remuneration in cash of twenty thousand dollars or more to
12 individuals employed in agricultural labor or for some portion of
13 a day in a calendar year in each of twenty different calendar
14 weeks, whether or not such weeks were consecutive, employed in
15 agricultural labor ten or more individuals, regardless of whether
16 they were employed at the same moment of time;

17 (c) For the purposes of this subsection any individual who
18 is a member of a crew furnished by a crew leader to perform
19 service in agricultural labor for any other person shall be
20 considered as employed by such crew leader:

21 a. If such crew leader holds a valid certificate of
22 registration under the Farm Labor Contractor Registration Act of
23 1963; or substantially all the members of such crew operate or
24 maintain tractors, mechanized harvesting or crop-dusting
25 equipment, or any other mechanized equipment, which is provided
26 by such crew leader; and

27 b. If such individual is not in employment by such other
28 person;

1 c. If any individual is furnished by a crew leader to
2 perform service in agricultural labor for any other person and
3 that individual is not in the employment of the crew leader:

4 i. Such other person and not the crew leader shall be
5 treated as the employer of such individual; and

6 ii. Such other person shall be treated as having paid cash
7 remuneration to such individual in an amount equal to the amount
8 of cash remuneration paid to such individual by the crew leader
9 (either on his or her own behalf or on behalf of such other
10 person) for the service in agricultural labor performed for such
11 other person;

12 d. For the purposes of this subsection, the term "crew
13 leader" means an individual who:

14 i. Furnishes individuals to perform service in agricultural
15 labor for any other person;

16 ii. Pays (either on his or her own behalf or on behalf of
17 such other person) the individuals so furnished by him or her for
18 the service in agricultural labor performed by them; and

19 iii. Has not entered into a written agreement with such
20 other person under which such individual is designated as in
21 employment by such other person;

22 (2) Domestic service in a private home except as provided
23 in subsection 13 of this section;

24 (3) Service performed by an individual under the age of
25 eighteen years in the delivery or distribution of newspapers or
26 shopping news but shall not include delivery or distribution to
27 any point for subsequent delivery or distribution;

28 (4) Service performed by an individual in, and at the time

1 of, the sale of newspapers or magazines to ultimate consumers
2 under an arrangement under which the newspapers or magazines are
3 to be sold by him or her at a fixed price, his or her
4 compensation being based on the retention of the excess of such
5 price over the amount at which the newspapers or magazines are
6 charged to him or her, whether or not he or she is guaranteed a
7 minimum amount of compensation for such service, or is entitled
8 to be credited with the unsold newspapers or magazines turned
9 back;

10 (5) Service performed by an individual in the employ of his
11 or her son, daughter, or spouse, and service performed by a child
12 under the age of twenty-one in the employ of his or her father or
13 mother;

14 (6) Except as otherwise provided in this law, service
15 performed in the employ of a corporation, community chest, fund
16 or foundation, organized and operated exclusively for religious,
17 charitable, scientific, literary, or educational purposes, or for
18 the prevention of cruelty to children or animals, no part of the
19 net earnings of which inures to the benefit of any private
20 shareholder or individual;

21 (7) Services with respect to which unemployment insurance
22 is payable under an unemployment insurance system established by
23 an act of Congress;

24 (8) Service performed in the employ of a foreign
25 government;

26 (9) Service performed in the employ of an instrumentality
27 wholly owned by a foreign government:

28 (a) If the service is of a character similar to that

1 performed in foreign countries by employees of the United States
2 government or of an instrumentality thereof; and

3 (b) If the division finds that the foreign government, with
4 respect to whose instrumentality exemption is claimed, grants an
5 equivalent exemption with respect to similar service performed in
6 the foreign country by employees of the United States government
7 and of instrumentalities thereof. The certification of the
8 United States Secretary of State to the United States Secretary
9 of Treasury shall constitute prima facie evidence of such
10 equivalent exemption;

11 (10) Service covered by an arrangement between the division
12 and the agency charged with the administration of any other state
13 or federal unemployment insurance law pursuant to which all
14 services performed by an individual for an employing unit during
15 the period covered by the employing unit's approved election are
16 deemed to be performed entirely within the jurisdiction of such
17 other state or federal agency;

18 (11) Service performed in any calendar quarter in the
19 employ of a school, college or university not otherwise excluded,
20 if such service is performed by a student who is enrolled and
21 regularly attending classes at such school, college, or
22 university, and the remuneration for such service does not exceed
23 fifty dollars (exclusive of board, room, and tuition);

24 (12) Service performed by an individual for a person as a
25 licensed insurance agent, a licensed insurance broker, or an
26 insurance solicitor, if all such service performed by such
27 individual for such person is performed for remuneration solely
28 by way of commissions;

1 (13) Domestic service performed in the employ of a local
2 college club or of a local chapter of a college fraternity or
3 sorority, except as provided in subsection 13 of this section;

4 (14) Services performed after March 31, 1982, in programs
5 authorized and funded by the Comprehensive Employment and
6 Training Act by participants of such programs, except those
7 programs with respect to which unemployment insurance coverage is
8 required by the Comprehensive Employment and Training Act or
9 regulations issued pursuant thereto;

10 (15) Service performed by an individual who is enrolled at
11 a nonprofit or public educational institution which normally
12 maintains a regular faculty and curriculum and normally has a
13 regularly organized body of students in attendance at the place
14 where its educational activities are carried on, as a student in
15 a full-time program, taken for credit at such institution, which
16 combines academic instruction with work experience, if such
17 service is an integral part of such program, and such institution
18 has so certified to the employer; except, that this subdivision
19 shall not apply to service performed in a program established for
20 or on behalf of an employer or group of employers;

21 (16) Services performed by a licensed real estate
22 salesperson or licensed real estate broker if [at least eighty
23 percent] substantially all of the remuneration, whether or not
24 paid in cash, for the services performed, rather than to the
25 number of hours worked, is directly related to sales or other
26 output, including the performance of services, performed pursuant
27 to a written contract between such individual and the person for
28 whom the services are performed and such contract provides that

1 the individual will not be treated as an employee with respect to
2 such services for federal tax purposes;

3 (17) Services performed as a direct seller who is engaged
4 in the trade or business of the delivering or distribution of
5 newspapers or shopping news, including any services directly
6 related to such trade or business, or services performed as a
7 direct seller who is engaged in the trade or business of selling,
8 or soliciting the sale of, consumer products in the home or
9 otherwise than in, or affiliated with, a permanent, fixed retail
10 establishment, if eighty percent or more of the remuneration,
11 whether or not paid in cash, for the services performed rather
12 than the number of hours worked is directly related to sales
13 performed pursuant to a written contract between such direct
14 seller and the person for whom the services are performed, and
15 such contract provides that the individual will not be treated as
16 an employee with respect to such services for federal tax
17 purposes;

18 (18) Services performed as a volunteer research subject who
19 is paid on a per study basis for scientific, medical or
20 drug-related testing for any organization other than one
21 described in Section 501(c)(3) of the Internal Revenue Code or
22 any governmental entity.

23 13. The term "employment" shall include domestic service as
24 defined in subdivisions (2) and (13) of subsection 12 of this
25 section performed after December 31, 1977, if the employing unit
26 for which such service is performed paid cash wages of one
27 thousand dollars or more for such services in any calendar
28 quarter after December 31, 1977.

1 14. The term "employment" shall include or exclude the
2 entire service of an individual for an employing unit during a
3 pay period in which such individual's services are not all
4 excluded under the foregoing provisions, on the following basis:
5 if the services performed during one-half or more of any pay
6 period constitute employment as otherwise defined in this law,
7 all the services performed during such period shall be deemed to
8 be employment; but if the services performed during more than
9 one-half of any such pay period do not constitute employment as
10 otherwise defined in this law, then none of the services for such
11 period shall be deemed to be employment. (As used in this
12 subsection, the term "pay period" means a period of not more than
13 thirty-one consecutive days for which a payment of remuneration
14 is ordinarily made to the individual by the employing unit
15 employing such individual.) This subsection shall not be
16 applicable with respect to service performed in a pay period
17 where any such service is excluded pursuant to subdivision (8) of
18 subsection 12 of this section.

19 15. The term "employment" shall not include the services of
20 a full-time student who performed such services in the employ of
21 an organized summer camp for less than thirteen calendar weeks in
22 such calendar year.

23 16. For the purpose of subsection 15 of this section, an
24 individual shall be treated as a full-time student for any
25 period:

26 (1) During which the individual is enrolled as a full-time
27 student at an educational institution; or

28 (2) Which is between academic years or terms if:

1 (a) The individual was enrolled as a full-time student at
2 an educational institution for the immediately preceding academic
3 year or term; and

4 (b) There is a reasonable assurance that the individual
5 will be so enrolled for the immediately succeeding academic year
6 or term after the period described in paragraph (a) of this
7 subdivision.

8 17. For the purpose of subsection 15 of this section, an
9 "organized summer camp" shall mean a summer camp which:

10 (1) Did not operate for more than seven months in the
11 calendar year and did not operate for more than seven months in
12 the preceding calendar year; or

13 (2) Had average gross receipts for any six months in the
14 preceding calendar year which were not more than thirty-three and
15 one-third percent of its average gross receipts for the other six
16 months in the preceding calendar year.

17 18. The term "employment" shall not mean service performed
18 by a remodeling salesperson acting as an independent contractor;
19 however, if the federal Internal Revenue Service determines that
20 a contractual relationship between a direct provider and an
21 individual acting as an independent contractor pursuant to the
22 provisions of this subsection is in fact an employer-employee
23 relationship for the purposes of federal law, then that
24 relationship shall be considered as an employer-employee
25 relationship for the purposes of this chapter.

26 306.532. Effective January 1, 2011, the certificate of
27 title for a new outboard motor shall designate the year the
28 outboard motor was manufactured as the "Year Manufactured" and

1 shall further designate the year the dealer received the new
2 outboard motor from the manufacturer as the "Model Year-NEW".

3 327.031. 1. The "Missouri Board for Architects,
4 Professional Engineers, Professional Land Surveyors and Landscape
5 Architects" is hereby established and shall consist of [fourteen]
6 fifteen members: a chairperson, who may be either an architect,
7 a professional engineer [or], a professional land surveyor, or a
8 landscape architect; three architects, who shall constitute the
9 architectural division of the board; [three] four professional
10 engineers, who shall constitute its professional engineering
11 division; three professional land surveyors, who shall constitute
12 its professional land surveying division; three landscape
13 architects, who shall constitute its landscape [architecture]
14 architectural division; and a voting public member.

15 2. After receiving his or her commission and before
16 entering upon the discharge of his or her official duties, each
17 member of the board shall take, subscribe to and file in the
18 office of the secretary of state the official oath required by
19 the constitution.

20 3. The chairperson shall be the administrative and
21 executive officer of the board, and it shall be his or her duty
22 to supervise and expedite the work of the board and its
23 divisions, and, at his or her election, when a tie exists between
24 the divisions of the board, to break the tie by recording his or
25 her vote for or against the action upon which the divisions are
26 in disagreement. Each member of the architectural division shall
27 have one vote when voting on an action pending before the board;
28 each member of the professional engineering division shall have

1 one vote when voting on an action pending before the board; [the
2 chairperson of the landscape architecture division or the
3 chairperson's designee] each member of the professional land
4 surveying division shall have one vote when voting on an action
5 pending before the board; and each member of the landscape
6 architectural division shall have one vote when voting on an
7 action pending before the board[; and each member of the
8 professional land surveying division shall have one vote when
9 voting on an action pending before the board]. Every motion or
10 proposed action upon which the divisions of the board are tied
11 shall be deemed lost, and the chairperson shall so declare,
12 unless the chairperson shall elect to break the tie as provided
13 in this section. [~~Seven~~ Eight voting members of the board [and
14 two members], including at least one member of each division,
15 shall constitute a quorum, respectively, for the transaction of
16 board business.

17 4. Each division of the board shall, at its first meeting
18 in each even-numbered year, elect one of its members as division
19 chairperson for a term of two years. Two voting members of each
20 division of the board shall constitute a quorum for the
21 transaction of division business. The chairpersons of the
22 architectural division, professional engineering division [and
23 the], professional land surveying division, and landscape
24 architectural division so elected shall be vice chairpersons of
25 the board, and when the chairperson of the board is an architect,
26 the chairperson of the architectural division shall be the
27 ranking vice chairperson, and when the chairperson of the board
28 is a professional engineer, the chairperson of the professional

1 engineering division shall be the ranking vice chairperson, [and]
2 when the chairperson of the board is a professional land
3 surveyor, the chairperson of the professional land surveying
4 division shall be the ranking vice chairperson, and when the
5 chairperson of the board is a landscape architect, the
6 chairperson of the landscape architectural division shall be the
7 ranking vice chairperson. The chairperson of each division shall
8 be the administrative and executive officer of his or her
9 division, and it shall be his or her duty to supervise and
10 expedite the work of the division, and, in case of a tie vote on
11 any matter, the chairperson shall, at his or her election, break
12 the tie by his or her vote. Every motion or question pending
13 before the division upon which a tie exists shall be deemed lost,
14 and so declared by the chairperson of the division, unless the
15 chairperson shall elect to break such tie by his or her vote.

16 5. Any person appointed to the board, except a public
17 member, shall be a currently licensed architect, licensed
18 professional engineer, licensed professional land surveyor or
19 registered or licensed landscape architect in Missouri, as the
20 vacancy on the board may require, who has been a resident of
21 Missouri for at least five years, who has been engaged in active
22 practice as an architect, professional engineer, professional
23 land surveyor or landscape architect, as the case may be, for at
24 least ten consecutive years immediately preceding such person's
25 appointment and who is and has been a citizen of the United
26 States for at least five years immediately preceding such
27 person's appointment. Active service as a faculty member while
28 holding the rank of assistant professor or higher in an

1 accredited school of engineering shall be regarded as active
2 practice of engineering, for the purposes of this chapter.
3 Active service as a faculty member, after meeting the
4 qualifications required by section 327.314, while holding the
5 rank of assistant professor or higher in an accredited school of
6 engineering and teaching land surveying courses shall be regarded
7 [an] as active practice of land surveying for the purposes of
8 this chapter. Active service as a faculty member while holding
9 the rank of assistant professor or higher in an accredited school
10 of landscape architecture shall be regarded as active practice of
11 landscape architecture, for the purposes of this chapter. Active
12 service as a faculty member while holding the rank of assistant
13 professor or higher in an accredited school of architecture shall
14 be regarded as active practice of architecture for the purposes
15 of this chapter; provided, however, that no faculty member of an
16 accredited school of architecture shall be eligible for
17 appointment to the board unless such person has had at least
18 three years' experience in the active practice of architecture
19 other than in teaching. The public member shall be, at the time
20 of appointment, a citizen of the United States; a resident of
21 this state for a period of one year and a registered voter; a
22 person who is not and never was a member of any profession
23 licensed or regulated pursuant to this chapter or the spouse of
24 such person; and a person who does not have and never has had a
25 material, financial interest in either the providing of the
26 professional services regulated by this chapter, or an activity
27 or organization directly related to any profession licensed or
28 regulated pursuant to this chapter. All members, including

1 public members, shall be chosen from lists submitted by the
2 director of the division of professional registration. The
3 duties of the public member shall not include the determination
4 of the technical requirements to be met for licensure or whether
5 any person meets such technical requirements or of the technical
6 competence or technical judgment of a licensee or a candidate for
7 licensure.

8 6. The governor shall appoint the chairperson and the other
9 members of the board when a vacancy occurs either by the
10 expiration of a term or otherwise, and each board member shall
11 serve until such member's successor is appointed and has
12 qualified. Beginning August 28, 2010, the position of
13 chairperson shall [alternate among an architect, a professional
14 engineer and a professional land surveyor] rotate sequentially
15 with an architect, then professional engineer, then professional
16 land surveyor, then landscape architect, and shall be a licensee
17 who has previously served as a member of the board. The
18 appointment of the chairperson shall be for a term of four years
19 which shall be deemed to have begun on the date of his or her
20 appointment and shall end upon the appointment of the
21 chairperson's successor. The chairperson shall not serve more
22 than one term. All other appointments, except to fill an
23 unexpired term, shall be for terms of four years; but no person
24 shall serve on the board for more than two consecutive four-year
25 terms, and each four-year term shall be deemed to have begun on
26 the date of the expiration of the term of the board member who is
27 being replaced or reappointed, as the case may be. Any
28 appointment to the board which is made when the senate is not in

1 session shall be submitted to the senate for its advice and
2 consent at its next session following the date of the
3 appointment.

4 7. In the event that a vacancy is to occur on the board
5 because of the expiration of a term, then ninety days prior to
6 the expiration, or as soon as feasible after a vacancy otherwise
7 occurs, the president of the American Institute of
8 Architects/Missouri if the vacancy to be filled requires the
9 appointment of an architect, [the president of the Missouri
10 Association of Landscape Architects if the vacancy to be filled
11 requires the appointment of a landscape architect,] the president
12 of the Missouri Society of Professional Engineers if the vacancy
13 to be filled requires the appointment of an engineer, [and] the
14 president of the Missouri Society of Professional Surveyors if
15 the vacancy to be filled requires the appointment of a land
16 surveyor, and the president of the Missouri Association of
17 Landscape Architects if the vacancy to be filled requires the
18 appointment of a landscape architect, shall submit to the
19 director of the division of professional registration a list of
20 five architects or five professional engineers, [five landscape
21 architects] or five professional land surveyors, or five
22 landscape architects as the case may require, qualified and
23 willing to fill the vacancy in question, with the recommendation
24 that the governor appoint one of the five persons so listed; and
25 with the list of names so submitted, the president of the
26 appropriate organization shall include in a letter of transmittal
27 a description of the method by which the names were chosen. This
28 subsection shall not apply to public member vacancies.

1 8. The board may sue and be sued as the Missouri board for
2 architects, professional engineers, professional land surveyors
3 and landscape architects, and its members need not be named as
4 parties. Members of the board shall not be personally liable
5 either jointly or severally for any act or acts committed in the
6 performance of their official duties as board members, nor shall
7 any board member be personally liable for any court costs which
8 accrue in any action by or against the board.

9 9. Upon appointment by the governor and confirmation by the
10 senate of the landscape [architecture] architectural division,
11 the landscape architectural council is hereby abolished and all
12 of its powers, duties and responsibilities are transferred to and
13 imposed upon the Missouri board for architects, professional
14 engineers, professional land surveyors and landscape architects
15 established pursuant to this section. Every act performed by or
16 under the authority of the Missouri board for architects,
17 professional engineers, professional land surveyors and landscape
18 architects shall be deemed to have the same force and effect as
19 if performed by the landscape architectural council pursuant to
20 sections 327.600 to 327.635. All rules and regulations of the
21 landscape architectural council shall continue in effect and
22 shall be deemed to be duly adopted rules and regulations of the
23 Missouri board [of] for architects, professional engineers,
24 professional [landscape architects and land surveyors] land
25 surveyors and landscape architects until such rules and
26 regulations are revised, amended or repealed by the board as
27 provided by law, such action to be taken by the board on or
28 before January 1, 2002.

1 10. Upon appointment by the governor and confirmation by
2 the senate of the landscape [architecture] architectural
3 division, all moneys deposited in the landscape architectural
4 council fund created in section 327.625 shall be transferred to
5 the state board for architects, professional engineers,
6 professional land surveyors and landscape architects fund created
7 in section 327.081. The landscape architectural council fund
8 shall be abolished upon the transfer of all moneys in it to the
9 state board [of] for architects, professional engineers,
10 professional land surveyors and landscape architects.

11 327.041. 1. The board shall have the duty and the power to
12 carry out the purposes and to enforce and administer the
13 provisions of this chapter, to require, by summons or subpoena,
14 with [the advice of the attorney general and upon] the vote of
15 two-thirds of the voting board members, the attendance and
16 testimony of witnesses, and the production of drawings, plans,
17 plats, specifications, books, papers or any document representing
18 any matter under hearing or investigation, pertaining to the
19 issuance, probation, suspension or revocation of certificates of
20 registration or certificates of authority provided for in this
21 chapter, or pertaining to the unlawful practice of architecture,
22 professional engineering, professional land surveying or
23 landscape architecture.

24 2. The board shall, within the scope and purview of the
25 provisions of this chapter, prescribe the duties of its officers
26 and employees and adopt, publish and enforce the rules and
27 regulations of professional conduct which shall establish and
28 maintain appropriate standards of competence and integrity in the

1 professions of architecture, professional engineering,
2 professional land surveying and landscape architecture, and
3 adopt, publish and enforce procedural rules and regulations as
4 may be considered by the board to be necessary or proper for the
5 conduct of the board's business and the management of its
6 affairs, and for the effective administration and interpretation
7 of the provisions of this chapter. Any rule or portion of a
8 rule, as that term is defined in section 536.010, RSMo, that is
9 created under the authority delegated in this chapter shall
10 become effective only if it complies with and is subject to all
11 of the provisions of chapter 536, RSMo, and, if applicable,
12 section 536.028, RSMo. This section and chapter 536, RSMo, are
13 nonseverable and if any of the powers vested with the general
14 assembly pursuant to chapter 536, RSMo, to review, to delay the
15 effective date or to disapprove and annul a rule are subsequently
16 held unconstitutional, then the grant of rulemaking authority and
17 any rule proposed or adopted after August 28, 2001, shall be
18 invalid and void.

19 3. Rules promulgated by the board pursuant to sections
20 327.272 to 327.635 shall be consistent with and shall not
21 supersede the rules promulgated by the department of natural
22 resources pursuant to chapter 60, RSMo.

23 327.351. 1. The professional license issued to every
24 professional land surveyor in Missouri, including certificates of
25 authority issued to corporations as provided in section 327.401,
26 shall be renewed on or before the license or certificate renewal
27 date provided that the required fee is paid. The license of any
28 professional land surveyor or the certificate of authority of any

1 such corporation which is not renewed within three months of the
2 renewal date shall be suspended automatically, subject to the
3 right of the holder of such suspended license or certificate to
4 have it reinstated within nine months of the date of suspension,
5 if the reinstatement fee is paid. Any license or certificate of
6 authority suspended and not reinstated within nine months of the
7 suspension date shall expire and be void and the holder of such
8 expired license or certificate shall have no rights or privileges
9 thereunder, but any person or corporation whose license or
10 certificate has expired may, within the discretion of the board
11 and upon payment of the required fee, be reregistered or
12 relicensed under such person's or corporation's original license
13 number.

14 2. Each application for the renewal of a license or of a
15 certificate of authority shall be on a form furnished to the
16 applicant and shall be accompanied by the required fee; but no
17 renewal fee need be paid by any professional land surveyor over
18 the age of seventy-five.

19 3. Beginning January 1, 1996, as a condition for renewal of
20 a license issued pursuant to section 327.314, a license holder
21 shall be required to successfully complete twenty units of
22 professional development that meet the standards established by
23 the board regulations within the preceding two calendar years.
24 Any license holder who completes more than twenty units of
25 professional development within the preceding two calendar years
26 may have the excess, not to exceed ten units, applied to the
27 requirement for the next two-year period.

28 4. The board shall not renew the license of any license

1 holder who has failed to complete the professional development
2 requirements pursuant to subsection 3 of this section, unless
3 such license holder can show good cause why he or she was unable
4 to comply with such requirements. If the board determines that
5 good cause was shown, the board shall permit the license holder
6 to make up all outstanding required units of professional
7 development.

8 5. A license holder may at any time prior to the
9 termination of his or her license request to be classified as
10 inactive. Inactive licenses may be maintained by payment of an
11 annual fee determined by the board. Holders of inactive licenses
12 shall not be required to complete professional development as
13 required in subsection 3 of this section. Holders of inactive
14 licenses shall not practice as professional land surveyors within
15 this state, but may continue to use the title "professional land
16 surveyor" or the initials "PLS" after such person's name. If the
17 board determines that good cause was shown, the board shall
18 permit the professional land surveyor to make up all outstanding
19 required units of professional development.

20 6. A holder of an inactive license may return such license
21 to an active license to practice professional land surveying by
22 paying the required fee, and either:

23 (1) Completing one-half of the two-year requirement for
24 professional development multiplied by the number of years of
25 lapsed or inactive status. The maximum requirement for
26 professional development units shall be two and one-half times
27 the two-year requirement. The minimum requirement for
28 professional development units shall be no less than the two-year

1 requirement. Such requirement shall be satisfied within the two
2 years prior to the date of reinstatement; or

3 (2) Taking such examination as the board deems necessary to
4 determine such person's qualifications. Such examination shall
5 cover areas designed to demonstrate the applicant's proficiency
6 in current methods of land surveying practice.

7 7. Exemption to the required professional development units
8 shall be granted to registrants during periods of serving
9 honorably on full-time active duty in the military service.

10 8. At the time of application for license renewal, each
11 licensee shall report, on a form provided by the board, the
12 professional development activities undertaken during the
13 preceding renewal period to satisfy the requirements pursuant to
14 subsection 3 of this section. The licensee shall maintain a file
15 in which records of activities are kept, including dates,
16 subjects, duration of program, and any other appropriate
17 documentation, for a period of four years after the program date.

18 327.411. 1. Each architect and each professional engineer
19 and each professional land surveyor and each landscape architect
20 shall have a personal seal in a form prescribed by the board, and
21 he or she shall affix the seal to all final documents including,
22 but not limited to, plans, specifications, estimates, plats,
23 reports, surveys, proposals and other documents or instruments
24 prepared by the licensee, or under such licensee's immediate
25 personal supervision. Such licensee shall either prepare or
26 personally supervise the preparation of all documents sealed by
27 the licensee, and such licensee shall be held personally
28 responsible for the contents of all such documents sealed by such

1 licensee, whether prepared or drafted by another licensee or not.

2 2. The personal seal of an architect or professional
3 engineer or professional land surveyor or landscape architect
4 shall be the legal equivalent of the licensee's signature
5 whenever and wherever used, and the owner of the seal shall be
6 responsible for the architectural, engineering, surveying, or
7 landscape architectural documents, as the case may be, when the
8 licensee places his or her personal seal on such plans,
9 specifications, estimates, plats, reports, surveys or other
10 documents or instruments for, or to be used in connection with,
11 any architectural or engineering project, survey, or landscape
12 architectural project. Licensees shall undertake to perform
13 architectural, professional engineering, professional land
14 surveying and landscape architectural services only when they are
15 qualified by education, training, and experience in the specific
16 technical areas involved.

17 3. Notwithstanding any provision of this section, any
18 architect, professional engineer, professional land surveyor, or
19 landscape architect may, but is not required to, attach a
20 statement over his or her signature, authenticated by his or her
21 personal seal, specifying the particular plans, specifications,
22 plats, reports, surveys or other documents or instruments, or
23 portions thereof, intended to be authenticated by the seal, and
24 disclaiming any responsibility for all other plans,
25 specifications, estimates, reports, or other documents or
26 instruments relating to or intended to be used for any part or
27 parts of the architectural or engineering project or survey or
28 landscape architectural project.

1 4. Nothing in this section, or any rule or regulation of
2 the board shall require any professional to seal preliminary or
3 incomplete documents.

4 339.010. 1. A "real estate broker" is any person,
5 partnership, limited partnership, limited liability company,
6 association, professional corporation, or corporation, foreign or
7 domestic who, for another, and for a compensation or valuable
8 consideration, does, or attempts to do, any or all of the
9 following:

10 (1) Sells, exchanges, purchases, rents, or leases real
11 estate;

12 (2) Offers to sell, exchange, purchase, rent or lease real
13 estate;

14 (3) Negotiates or offers or agrees to negotiate the sale,
15 exchange, purchase, rental or leasing of real estate;

16 (4) Lists or offers or agrees to list real estate for sale,
17 lease, rental or exchange;

18 (5) Buys, sells, offers to buy or sell or otherwise deals
19 in options on real estate or improvements thereon;

20 (6) Advertises or holds himself or herself out as a
21 licensed real estate broker while engaged in the business of
22 buying, selling, exchanging, renting, or leasing real estate;

23 (7) Assists or directs in the procuring of prospects,
24 calculated to result in the sale, exchange, leasing or rental of
25 real estate;

26 (8) Assists or directs in the negotiation of any
27 transaction calculated or intended to result in the sale,
28 exchange, leasing or rental of real estate;

1 (9) Engages in the business of charging to an unlicensed
2 person an advance fee in connection with any contract whereby the
3 real estate broker undertakes to promote the sale of that
4 person's real estate through its listing in a publication issued
5 for such purpose intended to be circulated to the general public;

6 (10) Performs any of the foregoing acts on behalf of the
7 owner of real estate, or interest therein, or improvements
8 affixed thereon, for compensation.

9 2. A "real estate salesperson" is any person, partnership,
10 limited partnership, limited liability company, association,
11 professional corporation, or corporation, domestic or foreign who
12 for a compensation or valuable consideration becomes associated,
13 either as an independent contractor or employee, either directly
14 or indirectly, with a real estate broker to do any of the things
15 above mentioned. The provisions of sections 339.010 to 339.180
16 and sections 339.710 to 339.860 shall not be construed to deny a
17 real estate salesperson who is compensated solely by commission
18 the right to be associated with a broker as an independent
19 contractor.

20 3. A "real estate broker-salesperson" is any person,
21 partnership, limited partnership, limited liability company,
22 association, professional corporation, or corporation, domestic
23 or foreign, who has a real estate broker license in good
24 standing, who for a compensation or valuable consideration
25 becomes associated, either as an independent contractor or
26 employee, either directly or indirectly, with a real estate
27 broker to do any of the things above mentioned. A real estate
28 broker-salesperson shall not also operate as a real estate

1 broker. The provisions of sections 339.010 to 339.180 and
2 sections 339.710 to 339.860 shall not be construed to deny a real
3 estate salesperson who is compensated solely by commission the
4 right to be associated with a broker as an independent
5 contractor.

6 [3.] 4. The term "commission" as used in sections 339.010
7 to 339.180 and sections 339.710 to 339.860 means the Missouri
8 real estate commission.

9 [4.] 5. "Real estate" for the purposes of sections 339.010
10 to 339.180 and sections 339.710 to 339.860 shall mean, and
11 include, leaseholds, as well as any other interest or estate in
12 land, whether corporeal, incorporeal, freehold or nonfreehold,
13 and the real estate is situated in this state.

14 [5.] 6. "Advertising" shall mean any communication, whether
15 oral or written, between a licensee or other entity acting on
16 behalf of one or more licensees and the public, and shall
17 include, but not be limited to, business cards, signs, insignias,
18 letterheads, radio, television, newspaper and magazine ads,
19 Internet advertising, websites, display or group ads in telephone
20 directories, and billboards.

21 [6.] 7. The provisions of sections 339.010 to 339.180 and
22 sections 339.710 to 339.860 shall not apply to:

23 (1) Any person, partnership, limited partnership, limited
24 liability company, association, professional corporation, or
25 corporation who as owner, lessor, or lessee shall perform any of
26 the acts described in subsection 1 of this section with reference
27 to property owned or leased by them, or to the regular employees
28 thereof;

- 1 (2) Any licensed attorney-at-law;
- 2 (3) An auctioneer employed by the owner of the property;
- 3 (4) Any person acting as receiver, trustee in bankruptcy,
4 administrator, executor, or guardian or while acting under a
5 court order or under the authority of a will, trust instrument or
6 deed of trust or as a witness in any judicial proceeding or other
7 proceeding conducted by the state or any governmental subdivision
8 or agency;
- 9 (5) Any person employed or retained to manage real property
10 by, for, or on behalf of the agent or the owner of any real
11 estate shall be exempt from holding a license, if the person is
12 limited to one or more of the following activities:
- 13 (a) Delivery of a lease application, a lease, or any
14 amendment thereof, to any person;
- 15 (b) Receiving a lease application, lease, or amendment
16 thereof, a security deposit, rental payment, or any related
17 payment, for delivery to, and made payable to, a broker or owner;
- 18 (c) Showing a rental unit to any person, as long as the
19 employee is acting under the direct instructions of the broker or
20 owner, including the execution of leases or rental agreements;
- 21 (d) Conveying information prepared by a broker or owner
22 about a rental unit, a lease, an application for lease, or the
23 status of a security deposit, or the payment of rent, by any
24 person;
- 25 (e) Assisting in the performance of brokers' or owners'
26 functions, administrative, clerical or maintenance tasks;
- 27 (f) If the person described in this section is employed or
28 retained by, for, or on behalf of a real estate broker, the real

1 estate broker shall be subject to discipline under this chapter
2 for any conduct of the person that violates this chapter or the
3 regulations promulgated thereunder;

4 (6) Any officer or employee of a federal agency or the
5 state government or any political subdivision thereof performing
6 official duties;

7 (7) Railroads and other public utilities regulated by the
8 state of Missouri, or their subsidiaries or affiliated
9 corporations, or to the officers or regular employees thereof,
10 unless performance of any of the acts described in subsection 1
11 of this section is in connection with the sale, purchase, lease
12 or other disposition of real estate or investment therein
13 unrelated to the principal business activity of such railroad or
14 other public utility or affiliated or subsidiary corporation
15 thereof;

16 (8) Any bank, trust company, savings and loan association,
17 credit union, insurance company, mortgage banker, or farm loan
18 association organized under the laws of this state or of the
19 United States when engaged in the transaction of business on its
20 own behalf and not for others;

21 (9) Any newspaper, magazine, periodical, Internet site,
22 Internet communications, or any form of communications regulated
23 or licensed by the Federal Communications Commission or any
24 successor agency or commission whereby the advertising of real
25 estate is incidental to its operation;

26 (10) Any developer selling Missouri land owned by the
27 developer;

28 (11) Any employee acting on behalf of a nonprofit

1 community, or regional economic development association, agency
2 or corporation which has as its principal purpose the general
3 promotion and economic advancement of the community at large,
4 provided that such entity:

5 (a) Does not offer such property for sale, lease, rental or
6 exchange on behalf of another person or entity;

7 (b) Does not list or offer or agree to list such property
8 for sale, lease, rental or exchange; or

9 (c) Receives no fee, commission or compensation, either
10 monetary or in kind, that is directly related to sale or disposal
11 of such properties. An economic developer's normal annual
12 compensation shall be excluded from consideration as commission
13 or compensation related to sale or disposal of such properties;
14 or

15 (12) Any neighborhood association, as that term is defined
16 in section 441.500, RSMo, that without compensation, either
17 monetary or in kind, provides to prospective purchasers or
18 lessors of property the asking price, location, and contact
19 information regarding properties in and near the association's
20 neighborhood, including any publication of such information in a
21 newsletter, Internet site, or other medium.

22 339.020. It shall be unlawful for any person, partnership,
23 limited partnership, limited liability company, association,
24 professional corporation, or corporation, foreign or domestic, to
25 act as a real estate broker, real estate broker-salesperson, or
26 real estate salesperson, or to advertise or assume to act as such
27 without a license first procured from the commission.

28 339.030. A corporation, partnership, limited partnership,

1 limited liability company, professional corporation, or
2 association shall be granted a broker's, broker-salesperson's, or
3 salesperson's license when the required fee is paid and:

4 (1) For a real estate broker individual licenses have been
5 issued to every member, general partner, associate, manager,
6 member, or officer of such partnership, limited partnership,
7 limited liability company, association, professional corporation,
8 or corporation who actively participates in its brokerage
9 business and to every person, partnership, limited partnership,
10 limited liability company, professional corporation, or
11 corporation who acts as a salesperson for such partnership,
12 limited partnership, limited liability company, association,
13 professional corporation, or corporation [and when the required
14 fee is paid.], or

15 (2) For a real estate broker-salesperson when an individual
16 broker-salesperson license has been issued to every general
17 partner, associate, manager, member, or officer of such
18 partnership, limited partnership, limited liability company,
19 association, professional corporation, or corporation who acts as
20 a broker-salesperson, and individual salesperson licenses have
21 been issued to all general partners, associates, managers,
22 members, or officers of such partnership, limited partnership,
23 limited liability company, association, professional corporation,
24 or corporation who act as a salesperson, or

25 (3) For a real estate salesperson when individual
26 salesperson licenses have been issued to all general partners,
27 associates, managers, members, or officers of such partnership,
28 limited partnership, limited liability company, association,

1 professional corporation, or corporation who act as a
2 salesperson.

3 339.040. 1. Licenses shall be granted only to persons who
4 present, and corporations, associations, [or] partnerships,
5 limited partnerships, limited liability companies, and
6 professional corporations whose officers, managers, associates,
7 [or] general partners, or members who actively participate in
8 such entity's brokerage, broker-salesperson, or salesperson
9 business present, satisfactory proof to the commission that they:

10 (1) Are persons of good moral character; and

11 (2) Bear a good reputation for honesty, integrity, and fair
12 dealing; and

13 (3) Are competent to transact the business of a broker or
14 salesperson in such a manner as to safeguard the interest of the
15 public.

16 2. In order to determine an applicant's qualifications to
17 receive a license under sections 339.010 to 339.180 and sections
18 339.710 to 339.860, the commission shall hold oral or written
19 examinations at such times and places as the commission may
20 determine.

21 3. Each applicant for a broker or salesperson license shall
22 be at least eighteen years of age and shall pay the broker
23 examination fee or the salesperson examination fee.

24 4. Each applicant for a broker license shall be required to
25 have satisfactorily completed the salesperson license examination
26 prescribed by the commission. For the purposes of this section
27 only, the commission may permit a person who is not associated
28 with a licensed broker to take the salesperson examination.

1 5. Each application for a broker license shall include a
2 certificate from the applicant's broker or brokers that the
3 applicant has been actively engaged in the real estate business
4 as a licensed salesperson for at least two years immediately
5 preceding the date of application, and shall include a
6 certificate from a school accredited by the commission under the
7 provisions of section 339.045 that the applicant has, within six
8 months prior to the date of application, successfully completed
9 the prescribed broker curriculum or broker correspondence course
10 offered by such school, except that the commission may waive all
11 or part of the requirements set forth in this subsection when an
12 applicant presents proof of other educational background or
13 experience acceptable to the commission. Each application for a
14 broker-salesperson license shall include evidence of the current
15 broker license held by the applicant.

16 6. Each application for a salesperson license shall include
17 a certificate from a school accredited by the commission under
18 the provisions of section 339.045 that the applicant has, within
19 six months prior to the date of application, successfully
20 completed the prescribed salesperson curriculum or salesperson
21 correspondence course offered by such school, except that the
22 commission may waive all or part of the educational requirements
23 set forth in this subsection when an applicant presents proof of
24 other educational background or experience acceptable to the
25 commission.

26 7. The commission may issue a temporary work permit pending
27 final review and printing of the license to an applicant who
28 appears to have satisfied the requirements for licenses. The

1 commission may, at its discretion, withdraw the work permit at
2 any time.

3 8. Every active broker, broker-salesperson, salesperson,
4 officer, manager, general partner, member or associate shall
5 provide upon request to the commission evidence that during the
6 two years preceding he or she has completed twelve hours of real
7 estate instruction in courses approved by the commission. The
8 commission may, by rule and regulation, provide for individual
9 waiver of this requirement.

10 9. Each entity that provides continuing education required
11 under the provisions of subsection 8 of this section may make
12 available instruction courses that the entity conducts through
13 means of distance delivery. The commission shall by rule set
14 standards for such courses. The commission may by regulation
15 require the individual completing such distance-delivered course
16 to complete an examination on the contents of the course. Such
17 examination shall be designed to ensure that the licensee
18 displays adequate knowledge of the subject matter of the course,
19 and shall be designed by the entity producing the course and
20 approved by the commission.

21 10. In the event of the death or incapacity of a licensed
22 broker, or of one or more of the licensed general partners,
23 officers, managers, members or associates of a real estate
24 partnership, limited partnership, limited liability company,
25 professional corporation, corporation, or association whereby the
26 affairs of the broker, partnership, [or] limited partnership,
27 limited liability company, professional corporation, corporation,
28 or association cannot be carried on, the commission may issue,

1 without examination or fee, to the legal representative or
2 representatives of the deceased or incapacitated individual, or
3 to another individual approved by the commission, a temporary
4 broker license which shall authorize such individual to continue
5 for a period to be designated by the commission to transact
6 business for the sole purpose of winding up the affairs of the
7 broker, partnership [or], limited partnership, limited liability
8 company, professional corporation, corporation, or association
9 under the supervision of the commission.

10 339.080. 1. The commission may refuse to examine or issue
11 a license to any person known by it to be guilty of any of the
12 acts or practices specified in subsection 2 of section 339.100,
13 or to any person previously licensed whose license has been
14 revoked, or may refuse to issue a license to any association
15 [or], partnership, corporation, professional corporation, limited
16 partnership, or limited liability company of which such person is
17 a [member] manager, officer or general partner, or in which as a
18 member, partner or associate such person has or exercises a
19 controlling interest either directly or indirectly, or to any
20 corporation of which such person is an officer or in which as a
21 stockholder such person has or exercises a controlling interest
22 either directly or indirectly.

23 2. Any person denied a license or the right to be examined
24 shall be so notified by the commission in writing stating the
25 reasons for denial or refusal to examine and informing the person
26 so denied of his right to file a complaint with the
27 administrative hearing commission in accordance with the
28 applicable provisions of sections 621.015 to 621.198, RSMo, and

1 the rules promulgated thereunder. All notices hereunder shall be
2 sent by registered or certified mail to the last known address of
3 the applicant.

4 339.110. The commission may refuse to issue a license to
5 any person who is known by it to have been found guilty of
6 forgery, embezzlement, obtaining money under false pretenses,
7 extortion, criminal conspiracy to defraud, or other like offense,
8 or to any association [or], partnership, corporation,
9 professional corporation, limited partnership, or limited
10 liability company of which [the person is a member] such person
11 is a manager, officer or general partner, or in which as a
12 member, partner or associate such person has or exercises a
13 controlling interest either directly or indirectly, or to any
14 corporation of which [the] such person is an officer or in which
15 as a stockholder [the] such person has or exercises a controlling
16 interest either directly or indirectly.

17 339.160. No person, partnership, limited partnership,
18 limited liability company, professional corporations,
19 corporation~~[,]~~ or association engaged within this state in the
20 business or acting in the capacity of a real estate broker, real
21 estate broker-salesperson or real estate salesperson shall bring
22 or maintain an action in any court in this state for the recovery
23 of compensation for services rendered in the buying, selling,
24 exchanging, leasing, renting or negotiating a loan upon any real
25 estate without alleging and proving that such person,
26 partnership, limited partnership, limited liability company,
27 professional corporation, corporation[,] or association, or its
28 member, manager, officer, general partner or associate, as

1 applicable, was a licensed real estate broker, broker-salesperson
2 or salesperson at the time when the alleged cause of action
3 arose.

4 339.170. Any person or corporation, professional
5 corporation, partnership, limited partnership, limited liability
6 company or association knowingly violating any provision of
7 sections 339.010 to 339.180 and sections 339.710 to 339.860 shall
8 be guilty of a class B misdemeanor. Any officer or agent of a
9 corporation, or any member, manager, officer, associate, general
10 partner or agent of a partnership [or], association, corporation,
11 professional corporation, limited partnership, or limited
12 liability company who actively participate in such entity's
13 brokerage business, who shall knowingly and personally
14 participate in or be an accessory to any violation of sections
15 339.010 to 339.180 and sections 339.710 to 339.860, shall be
16 guilty of a class B misdemeanor. This section shall not be
17 construed to release any person from civil liability or criminal
18 prosecution under any other law of this state. The commission
19 may cause complaint to be filed for violation of section 339.020
20 in any court of competent jurisdiction, and perform such other
21 acts as may be necessary to enforce the provisions hereof.

22 339.503. As used in sections 339.500 to 339.549, the
23 following words and phrases mean, unless the context clearly
24 indicates otherwise:

25 (1) "Appraisal" or "real estate appraisal", an objective
26 analysis, evaluation, opinion, or conclusion relating to the
27 nature, quality, value or utility of specified interests in, or
28 aspects of, identified real estate. An appraisal may be

1 classified by subject matter into either a valuation or an
2 analysis;

3 (2) "Appraisal assignment", an engagement for which a
4 person is employed or retained to act as a disinterested third
5 party in rendering an objective appraisal;

6 (3) "Appraisal foundation", the organization of the same
7 name that was incorporated as an Illinois not-for-profit
8 corporation on November 20, 1987, whose operative boards are the
9 appraisal standards board and the appraiser qualifications board;

10 (4) "Appraisal report", any communication, written or oral,
11 of an appraisal. The purpose of an appraisal is immaterial,
12 therefore valuation reports, real estate counseling reports, real
13 estate tax counseling reports, real estate offering memoranda,
14 mortgage banking offers, highest and best use studies, market
15 demand and economic feasibility studies and all other reports
16 communicating an appraisal analysis, opinion or conclusion are
17 appraisal reports, regardless of title;

18 (5) "Appraisal standards board (ASB)", the independent
19 board of the appraisal foundation which promulgates the generally
20 accepted standards of the appraisal profession and the uniform
21 standards of professional appraisal practices;

22 (6) "Appraiser qualifications board (AQB)", the independent
23 board of the appraisal foundation which establishes minimum
24 experience, education and examination criteria for state
25 licensing of appraisers;

26 (7) "Boat dock", a structure for loading and unloading
27 boats and connecting real property to water, public or private.
28 A boat dock is real property and has riparian rights, provided:

1 (a) The lender includes the boat dock as a fixture both in
2 the lender's deed of trust and a uniform commercial code fixture
3 filing under section 400.9-502, RSMo;

4 (b) The boat dock is attached to the real property by steel
5 cable, bar, or chain that is permanently imbedded in concrete or
6 rock, and otherwise securely attached to the dock; and

7 (c) The owner of the dock has riparian rights by means of
8 real estate rights bordering the body of water, including such
9 rights by license, grant, or other means allowing access to the
10 body of water, which access may be seasonal because the water may
11 be reduced for electric power production or flood control;

12 (8) "Boat slip" or "watercraft slip", a defined area of
13 water, including the riparian rights to use such area, whether by
14 grant, lease, or license, in accordance with all applicable laws
15 and regulations, which is a part of a boat dock serving a common
16 interest community, including by way of example and not of
17 limitation condominiums and villas; and the exclusive right to
18 such use being allocated as a limited common element or being
19 assigned to an owner of real estate in the common interest
20 community in which the boat dock is located, whether by grant,
21 lease, or otherwise. The rights of the real estate owner in such
22 slip are included as collateral in any deed of trust and uniform
23 commercial code filings of a lender, if any, taking a security
24 interest in the owner's real estate;

25 (9) "Broker price opinion", an opinion of value, prepared
26 by a real estate licensee for a fee, that includes, but is not
27 limited to, analysis of competing properties, comparable sold
28 properties, recommended repairs and costs or suggested marketing

1 techniques. A broker price opinion is not an appraisal and shall
2 specifically state it is not an appraisal;

3 [(9)] (10) "Certificate", the document issued by the
4 Missouri real estate appraisers commission evidencing that the
5 person named therein has satisfied the requirements for
6 certification as a state-certified real estate appraiser and
7 bearing a certificate number assigned by the commission;

8 [(10)] (11) "Certificate holder", a person certified by the
9 commission pursuant to the provisions of sections 339.500 to
10 339.549;

11 [(11)] (12) "Certified appraisal report", an appraisal
12 prepared or signed by a state-certified real estate appraiser. A
13 certified appraisal report represents to the public that it meets
14 the appraisal standards defined in sections 339.500 to 339.549;

15 [(12)] (13) "Commission", the Missouri real estate
16 appraisers commission, created in section 339.507;

17 [(13)] (14) "Comparative market analysis", the analysis of
18 sales of similar recently sold properties in order to derive an
19 indication of the probable sales price of a particular property
20 undertaken by a licensed real estate broker or agent, for his or
21 her principal. A comparative market analysis is not an appraisal
22 and shall specifically state it is not an appraisal;

23 [(14)] (15) "Disinterested third party" shall not exclude
24 any state-certified real estate appraiser or state-licensed real
25 estate appraiser employed or retained by any bank, savings
26 association, credit union, mortgage banker or other lender to
27 perform appraisal assignments, provided that the appraisal
28 assignments are rendered with respect to loans to be extended by

1 the bank, savings association, credit union, mortgage banker or
2 other lender, and provided further that the state-certified real
3 estate appraiser or state-licensed real estate appraiser is not
4 requested or required to report a predetermined analysis or
5 opinion of value;

6 [(15)] (16) "License" or "licensure", a license or
7 licensure issued pursuant to the provisions of sections 339.500
8 to 339.549 evidencing that the person named therein has satisfied
9 the requirements for licensure as a state-licensed real estate
10 appraiser and bearing a license number assigned by the
11 commission;

12 [(16)] (17) "Real estate", an identified parcel or tract of
13 land, including improvements, if any;

14 [(17)] (18) "Real estate appraiser" or "appraiser", a
15 person who for a fee or valuable consideration develops and
16 communicates real estate appraisals or otherwise gives an opinion
17 of the value of real estate or any interest therein;

18 [(18)] (19) "Real estate appraising", the practice of
19 developing and communicating real estate appraisals;

20 [(19)] (20) "Real property", the interests, benefits and
21 rights inherent in the ownership of real estate;

22 [(20)] (21) "Residential real estate", any parcel of real
23 estate, improved or unimproved, that is primarily residential in
24 nature and that includes or is intended to include a residential
25 structure containing not more than four dwelling units and no
26 other improvements except those which are typical residential
27 improvements that support the residential use for the location
28 and property type. A residential unit is a condominium, town

1 house or cooperative complex, or a planned unit development is
2 considered to be residential real estate. Subdivisions are not
3 considered residential real estate. Individual parcels of
4 property located within a residential subdivision shall be
5 considered residential property;

6 [(21)] (22) "Specialized appraisal services", appraisal
7 services which do not fall within the definition of appraisal
8 assignment. The term "specialized services" may include
9 valuation work and analysis work. Regardless of the intention of
10 the client or employer, if the appraiser is acting as a
11 disinterested third party in rendering an unbiased analysis,
12 opinion or conclusion, the work is classified as an appraisal
13 assignment and not specialized services;

14 [(22)] (23) "State-certified general real estate
15 appraiser", a person who holds a current, valid certificate as a
16 state-certified general real estate appraiser issued pursuant to
17 the provisions of sections 339.500 to 339.549;

18 [(23)] (24) "State-certified residential real estate
19 appraiser", a person who holds a current, valid certificate as a
20 state-certified residential real estate appraiser issued pursuant
21 to the provisions of sections 339.500 to 339.549;

22 [(24)] (25) "State-licensed real estate appraiser", a
23 person who holds a current, valid license as a state-licensed
24 real estate appraiser pursuant to the provisions of sections
25 339.500 to 339.549;

26 [(25)] (26) "Subdivision", a tract of land that has been
27 divided into blocks or plots with streets, roadways, open areas
28 and other facilities appropriate to its development as

1 residential, commercial or industrial sites;

2 [(26)] (27) "Temporary appraiser licensure or
3 certification", the issuance of a temporary license or
4 certificate by the commission to a person licensed or certified
5 in another state who enters this state for the purpose of
6 completing a particular appraisal assignment.

7 339.710. For purposes of sections 339.010 to 339.180, and
8 sections 339.710 to 339.860, the following terms mean:

9 (1) "Adverse material fact", a fact related to the property
10 not reasonably ascertainable or known to a party which negatively
11 affects the value of the property. Adverse material facts may
12 include matters pertaining to:

13 (a) Environmental hazards affecting the property;

14 (b) Physical condition of the property which adversely
15 affects the value of the property;

16 (c) Material defects in the property;

17 (d) Material defects in the title to the property;

18 (e) Material limitation of the party's ability to perform
19 under the terms of the contract;

20 (2) "Affiliated licensee", any broker or salesperson who
21 works under the supervision of a designated broker;

22 (3) "Agent", a person or entity acting pursuant to the
23 provisions of this chapter;

24 (4) "Broker disclosure form", the current form prescribed
25 by the commission for presentation to a seller, landlord, buyer
26 or tenant who has not entered into a written agreement for
27 brokerage services;

28 (5) "Brokerage relationship", the relationship created

1 between a designated broker, the broker's affiliated licensees,
2 and a client relating to the performance of services of a broker
3 as defined in section 339.010, and sections 339.710 to 339.860.

4 If a designated broker makes an appointment of an affiliated
5 licensee or affiliated licensees pursuant to section 339.820,
6 such brokerage relationships are created between the appointed
7 licensee or licensees and the client. Nothing in this
8 subdivision shall:

9 (a) Alleviate the designated broker from duties of
10 supervision of the appointed licensee or licensees; or

11 (b) Alter the designated broker's underlying contractual
12 agreement with the client;

13 (6) "Client", a seller, landlord, buyer, or tenant who has
14 entered into a brokerage relationship with a licensee pursuant to
15 sections 339.710 to 339.860;

16 (7) "Commercial real estate", any real estate other than
17 real estate containing one to four residential units or real
18 estate classified as agricultural and horticultural property for
19 assessment purposes pursuant to section 137.016, RSMo.
20 Commercial real estate does not include single family residential
21 units including condominiums, townhouses, or homes in a
22 subdivision when that real estate is sold, leased, or otherwise
23 conveyed on a unit-by-unit basis even though the units may be
24 part of a larger building or parcel of real estate containing
25 more than four units;

26 (8) "Commission", the Missouri real estate commission;

27 (9) "Confidential information", information obtained by the
28 licensee from the client and designated as confidential by the

1 client, information made confidential by sections 339.710 to
2 339.860 or any other statute or regulation, or written
3 instructions from the client unless the information is made
4 public or becomes public by the words or conduct of the client to
5 whom the information pertains or by a source other than the
6 licensee;

7 (10) "Customer", an actual or potential seller, landlord,
8 buyer, or tenant in a real estate transaction in which a licensee
9 is involved but who has not entered into a brokerage relationship
10 with the licensee;

11 (11) "Designated agent", a licensee named by a designated
12 broker as the limited agent of a client as provided for in
13 section 339.820;

14 (12) "Designated broker", any individual licensed as a
15 broker who is operating pursuant to the definition of real estate
16 broker as defined in section 339.010, or any individual licensed
17 as a broker who is appointed by a partnership, limited
18 partnership, association, limited liability corporation,
19 professional corporation, or a corporation engaged in the real
20 estate brokerage business to be responsible for the acts of the
21 partnership, limited partnership, association, limited liability
22 [corporation,] company, professional corporation or corporation.
23 Every real estate broker partnership, limited partnership,
24 association, [or] limited liability [corporation] company,
25 professional corporation or corporation shall appoint a
26 designated broker;

27 (13) "Designated transaction broker", a licensee named by a
28 designated broker or deemed appointed by a designated broker as

1 the transaction broker for a client pursuant to section 339.820;

2 (14) "Dual agency", a form of agency which may result when
3 an agent licensee or someone affiliated with the agent licensee
4 represents another party to the same transaction;

5 (15) "Dual agent", a limited agent who, with the written
6 consent of all parties to a contemplated real estate transaction,
7 has entered into an agency brokerage relationship, and not a
8 transaction brokerage relationship, with and therefore represents
9 both the seller and buyer or both the landlord and tenant;

10 (16) "Exclusive brokerage agreement", means a written
11 brokerage agreement which provides that the broker has the sole
12 right, through the broker or through one or more affiliated
13 licensees, to act as the exclusive limited agent, representative,
14 or transaction broker of the client or customer that meets the
15 requirements of section 339.780;

16 (17) "Licensee", a real estate broker or salesperson as
17 defined in section 339.010;

18 (18) "Limited agent", a licensee whose duties and
19 obligations to a client are those set forth in sections 339.730
20 to 339.750;

21 (19) "Ministerial acts", those acts that a licensee may
22 perform for a person or entity that are informative in nature and
23 do not rise to the level which requires the creation of a
24 brokerage relationship. Examples of these acts include, but are
25 not limited to:

26 (a) Responding to telephone inquiries by consumers as to
27 the availability and pricing of brokerage services;

28 (b) Responding to telephone inquiries from a person

1 concerning the price or location of property;

2 (c) Attending an open house and responding to questions
3 about the property from a consumer;

4 (d) Setting an appointment to view property;

5 (e) Responding to questions of consumers walking into a
6 licensee's office concerning brokerage services offered on
7 particular properties;

8 (f) Accompanying an appraiser, inspector, contractor, or
9 similar third party on a visit to a property;

10 (g) Describing a property or the property's condition in
11 response to a person's inquiry;

12 (h) Showing a customer through a property being sold by an
13 owner on his or her own behalf; or

14 (i) Referral to another broker or service provider;

15 (20) "Residential real estate", all real property improved
16 by a structure that is used or intended to be used primarily for
17 residential living by human occupants and that contains not more
18 than four dwelling units or that contains single dwelling units
19 owned as a condominium or in a cooperative housing association,
20 and vacant land classified as residential property. The term
21 "cooperative housing association" means an association, whether
22 incorporated or unincorporated, organized for the purpose of
23 owning and operating residential real property in Missouri, the
24 shareholders or members of which, by reason of their ownership of
25 a stock or membership certificate, a proprietary lease, or other
26 evidence of membership, are entitled to occupy a dwelling unit
27 pursuant to the terms of a proprietary lease or occupancy
28 agreement;

1 (21) "Single agent", a licensee who has entered into a
2 brokerage relationship with and therefore represents only one
3 party in a real estate transaction. A single agent may be one of
4 the following:

5 (a) "Buyer's agent", which shall mean a licensee who
6 represents the buyer in a real estate transaction;

7 (b) "Landlord's agent", which shall mean a licensee who
8 represents a landlord in a leasing transaction;

9 (c) "Seller's agent", which shall mean a licensee who
10 represents the seller in a real estate transaction; and

11 (d) "Tenant's agent", which shall mean a licensee who
12 represents the tenant in a leasing transaction;

13 (22) "Subagent", a designated broker, together with the
14 broker's affiliated licensees, engaged by another designated
15 broker, together with the broker's affiliated or appointed
16 affiliated licensees, to act as a limited agent for a client, or
17 a designated broker's unappointed affiliated licensees engaged by
18 the designated broker, together with the broker's appointed
19 affiliated licensees, to act as a limited agent for a client. A
20 subagent owes the same obligations and responsibilities to the
21 client pursuant to sections 339.730 to 339.740 as does the
22 client's designated broker;

23 (23) "Transaction broker", any licensee acting pursuant to
24 sections 339.710 to 339.860, who:

25 (a) Assists the parties to a transaction without an agency
26 or fiduciary relationship to either party and is, therefore,
27 neutral, serving neither as an advocate or advisor for either
28 party to the transaction;

1 (b) Assists one or more parties to a transaction and who
2 has not entered into a specific written agency agreement to
3 represent one or more of the parties; or

4 (c) Assists another party to the same transaction either
5 solely or through licensee affiliates. Such licensee shall be
6 deemed to be a transaction broker and not a dual agent, provided
7 that, notice of assumption of transaction broker status is
8 provided to the buyer and seller immediately upon such default to
9 transaction broker status, to be confirmed in writing prior to
10 execution of the contract.

11 339.845. If the commission receives a notice of delinquent
12 taxes from the director of revenue under the provisions of
13 section 324.010 regarding a real estate broker or salesperson,
14 the commission shall immediately send a copy of such notice to
15 the real estate broker with which the real estate broker or
16 salesperson is associated.

17 339.1100. Sections 339.1100 to 339.1240 shall be known and
18 may be cited as the "Missouri Appraisal Management Company
19 Registration and Regulation Act".

20 339.1105. As used in sections 339.1100 to 339.1240, unless
21 the context otherwise requires, the following terms shall mean:

22 (1) "Appraisal" or "real estate appraisal", an objective
23 analysis, evaluation, opinion, or conclusion relating to the
24 nature, quality, value or utility of specified interests in, or
25 aspects of, identified real estate. An appraisal may be
26 classified by subject matter into either a valuation or an
27 analysis;

28 (2) "Appraisal firm", a person, limited liability company,

1 partnership, association, or corporation whose principal is an
2 appraiser licensed under sections 339.500 to 339.549 which for
3 compensation prepares and communicates appraisals, reviews
4 appraisals prepared by others, provides appraisal consultation
5 services, and supervises, trains, and reviews work produced or
6 certified by persons licensed under sections 339.500 to 339.549
7 who produces appraisals;

8 (3) "Appraisal management company", an individual or
9 business entity that utilizes an appraisal panel and performs,
10 directly or indirectly, appraisal management services;

11 (4) "Appraisal management services", to directly or
12 indirectly perform any of the following functions on behalf of a
13 lender, financial institution, client, or any other person:

14 (a) Administer an appraiser panel;

15 (b) Recruit, qualify, verify licensing or certification,
16 and negotiate fees and service level expectations with persons
17 who are part of an appraiser panel;

18 (c) Receive an order for an appraisal from one person and
19 deliver the order for the appraisal to an appraiser that is part
20 of an appraiser panel for completion;

21 (d) Track and determine the status of orders for
22 appraisals;

23 (e) Conduct quality control of a completed appraisal prior
24 to the delivery of the appraisal to the person that ordered the
25 appraisal; and

26 (f) Provide a completed appraisal performed by an appraiser
27 to one or more persons who have ordered an appraisal;

28 (5) "Appraisal review", the act or process of developing

1 and communicating an opinion about the quality of another
2 appraiser's work that was performed as part of an appraisal
3 assignment, except that an examination of an appraisal for
4 grammatical, typographical, or other similar errors shall not be
5 an appraisal review;

6 (6) "Appraiser", an individual who holds a license as a
7 state licensed real estate appraiser or certification as a state
8 certified real estate appraiser under this chapter;

9 (7) "Appraiser panel", a network of licensed or certified
10 appraisers that have:

11 (a) Responded to an invitation, request, or solicitation
12 from an appraisal management company, in any form, to perform
13 appraisals for persons that have ordered appraisals through the
14 appraisal management company or to perform appraisals for the
15 appraisal management company directly; and

16 (b) Been selected and approved by an appraisal management
17 company to perform appraisals for any client of the appraisal
18 management company that has ordered an appraisal through the
19 appraisal management company or to perform appraisals for the
20 appraisal management company directly;

21 (8) "Commission", the Missouri real estate appraisers
22 commission created in section 339.507;

23 (9) "Controlling person":

24 (a) An owner, officer or director of a corporation,
25 partnership, or other business entity seeking to offer appraisal
26 management services in this state;

27 (b) An individual employed, appointed, or authorized by an
28 appraisal management company that has the authority to enter into

1 a contractual relationship with other persons for the performance
2 of appraisal management services and has the authority to enter
3 into agreements with appraisers for the performance of
4 appraisals; or

5 (c) An individual who possesses, directly or indirectly,
6 the power to direct or cause the direction of the management or
7 policies of an appraisal management company;

8 (10) "State certified real estate appraiser", a person who
9 develops and communicates real estate appraisals and who holds a
10 current valid certificate issued to the person for either general
11 or residential real estate under this chapter;

12 (11) "State licensed real estate appraiser", a person who
13 holds a current valid real estate appraiser license issued under
14 this chapter.

15 339.1110. 1. No person shall directly or indirectly engage
16 or attempt to engage in business as an appraisal management
17 company, to directly or indirectly engage or attempt to perform
18 appraisal management services, or to advertise or hold itself out
19 as engaging in or conducting business as an appraisal management
20 company without first obtaining a registration issued by the
21 commission under sections 339.1100 to 339.1240.

22 2. The registration required by subsection 1 of this
23 section shall, at a minimum, include the following:

24 (1) Name of the entity seeking registration;

25 (2) Business address of the entity seeking registration,
26 which shall be located and maintained within this state;

27 (3) Phone contact information of the entity seeking
28 registration;

1 (4) If the entity is not a corporation that is domiciled in
2 this state, the name and contact information for the company's
3 agent for service of process in this state;

4 (5) The name, address, and contact information for any
5 individual or any corporation, partnership, or other business
6 entity that owns ten percent or more of the appraisal management
7 company;

8 (6) The name, address, and contact information for a
9 designated controlling person to be the primary communication
10 source for the commission;

11 (7) A certification that the entity has a system and
12 process in place to verify that a person being added to the
13 appraiser panel of the appraisal management company for appraisal
14 services to be performed in Missouri holds a license in good
15 standing in Missouri, if a license or certification is required
16 to perform appraisals under section 339.1180;

17 (8) A certification that the entity has a system in place
18 to review the work of all appraisers who are performing real
19 estate appraisal services for the appraisal management company on
20 a periodic basis to validate that the real estate appraisal
21 services are being conducted in accordance with Uniform Standards
22 of Professional Appraisal Practice (USPAP) under section
23 339.1185;

24 (9) A certification that the entity maintains a detailed
25 record of each service request that it receives for appraisal
26 services within the state of Missouri and the appraiser who
27 performs the real estate appraisal services for the appraisal
28 management company under section 339.1190;

1 (10) An irrevocable Uniform Consent to Service of Process
2 under section 339.1130; and

3 (11) Any other reasonable information required by the
4 commission to complete the registration process.

5 339.1115. Sections 339.1100 to 339.1240 shall not apply to:

6 (1) The performance of services as an appraisal firm;

7 (2) A national or state bank, federal or state savings
8 institution, or credit union that is subject to direct regulation
9 or supervision by an agency of the United States government, or
10 by the department of insurance, financial institutions or
11 professional registration, that receives a request for the
12 performance of an appraisal from one employee of the financial
13 institution, and another employee of the same financial
14 institution assigns the request for the appraisal to an appraiser
15 who is an independent contractor to the institution. An entity
16 exempt as provided in this subdivision shall file a notice with
17 the commission containing the information required in section
18 339.1110;

19 (3) An appraiser that enters into an agreement, whether
20 written or otherwise, with an appraiser for the performance of an
21 appraisal, and upon the completion of the appraisal, the report
22 of the appraiser performing the appraisal is signed by both the
23 appraiser who completed the appraisal and the appraiser who
24 requested the completion of the appraisal;

25 (4) A state agency or local municipality that orders
26 appraisals for ad valorem tax purposes or any other business on
27 behalf of the state of Missouri;

28 (5) Any person licensed to practice law in this state, a

1 court-appointed personal representative, or a trustee who orders
2 an appraisal in connection with a bona fide client relationship
3 when such person directly contracts with an independent
4 appraiser.

5 339.1120. An applicant for a registration as an appraisal
6 management company shall submit to the commission an application
7 containing the information required in subsection 2 of section
8 339.1110 on a form prescribed by the commission.

9 339.1125. Registration shall be valid for two years from
10 its issuance.

11 339.1130. Each entity applying for a registration as an
12 appraisal management company in Missouri shall complete an
13 irrevocable Uniform Consent to Service of Process, as prescribed
14 by the commission.

15 339.1135. 1. The commission shall establish by rule the
16 fee to be paid by each appraisal management company seeking
17 registration under sections 339.1100 to 339.1240, such that the
18 sum of the fees paid by all appraisal management companies
19 seeking registration under this section shall be sufficient for
20 the administration of sections 339.1100 to 339.1240. The
21 commission shall charge and collect fees to be utilized to fund
22 activities that may be necessary to carry out the provisions of
23 this chapter.

24 2. Each applicant for registration shall post with the
25 commission and maintain on renewal a surety bond in the amount of
26 twenty thousand dollars. The details of the bond shall be
27 prescribed by rule of the commission, however, the bond shall not
28 be used to assist appraisers in collection efforts of credit

1 extended by the appraiser.

2 3. Any rule or portion of a rule, as that term is defined
3 in section 536.010, that is created under the authority delegated
4 in sections 339.1100 to 339.1240 shall become effective only if
5 it complies with and is subject to all of the provisions of
6 chapter 536 and, if applicable, section 536.028. Sections
7 339.1100 to 339.1240 and chapter 536 are nonseverable and if any
8 of the powers vested with the general assembly pursuant to
9 chapter 536 to review, to delay the effective date, or to
10 disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any
12 rule proposed or adopted after August 28, 2010, shall be invalid
13 and void.

14 339.1140. 1. An appraisal management company applying for
15 a registration in Missouri shall not be more than ten percent
16 owned by:

17 (1) A person who has had a license or certificate to act as
18 an appraiser refused, denied, canceled, revoked, or surrendered
19 in lieu of a pending revocation in any state;

20 (2) An entity that is more than ten percent owned by any
21 person who has had a license or certificate to act as an
22 appraiser refused, denied, canceled, revoked, or surrendered in
23 lieu of a pending revocation in any state.

24 2. Each person who owns more than ten percent of an
25 appraisal management company in this state shall:

26 (1) Be of good moral character, as determined by the
27 commission; and

28 (2) Submit to a background investigation, as determined by

1 the commission.

2 3. Each appraisal management company applying for
3 registration shall certify to the commission that it has reviewed
4 each entity that owns more than ten percent of the appraisal
5 management company and that no entity that owns more than ten
6 percent of the appraisal management company is more than ten
7 percent owned by any person who has had a license or certificate
8 to act as an appraiser refused, denied, cancelled, revoked, or
9 surrendered in lieu of a pending revocation.

10 4. Each appraisal management company shall notify the
11 commission within thirty days of a change in its controlling
12 principal, agent of record, or ownership composition.

13 339.1145. 1. Each appraisal management company applying to
14 the commission for a registration in this state shall designate
15 one compliance manager who will be the main contact for all
16 communication between the commission and the appraisal management
17 company.

18 2. The designated controlling person under subsection 1 of
19 this section shall:

20 (1) Have never had a license or certificate to act as an
21 appraiser refused, denied, canceled, revoked, or surrendered in
22 lieu of a pending revocation in any state;

23 (2) Be of good moral character, as determined by the
24 commission; and

25 (3) Submit to a background investigation, as determined by
26 the commission.

27 339.1150. 1. An appraisal management company that applies
28 to the commission for registration to do business in this state

1 as an appraisal management company under subdivision (1) of
2 section 339.1115 shall not:

3 (1) Employ any person directly involved in appraisal
4 management services who has had a license or certificate to act
5 as an appraiser in Missouri or in any other state refused,
6 denied, cancelled, revoked, or surrendered in lieu of a pending
7 revocation;

8 (2) Knowingly enter into any independent contractor
9 arrangement, whether in verbal, written, or other form, with any
10 person who has had a license or certificate to act as an
11 appraiser in Missouri or in any other state refused, denied,
12 cancelled, revoked, or surrendered in lieu of a pending
13 revocation;

14 (3) Knowingly enter into any contract, agreement, or other
15 business relationship directly involved with the performance of
16 real estate appraisal or appraisal management services, whether
17 in verbal, written, or any other form, with any entity that
18 employs, has entered into an independent contract arrangement, or
19 has entered into any contract, agreement, or other business
20 relationship, whether in verbal, written, or any other form, with
21 any person who has ever had a license or certificate to act as an
22 appraiser in Missouri or in any other state, refused, denied,
23 cancelled, revoked, or surrendered in lieu of a pending
24 revocation.

25 339.1155. Prior to placing an assignment for real estate
26 appraisal services within the state of Missouri with an appraiser
27 on the appraiser panel of an appraisal management company, the
28 appraisal management company shall have a system in place to

1 verify that the appraiser receiving the assignment holds a
2 credential in good standing in the state of Missouri. Letters of
3 engagement shall include instructions to the appraiser to decline
4 the assignment in the event the appraiser is not geographically
5 competent or the assignment falls outside the appraiser's scope
6 of practice restrictions.

7 339.1160. Any employee or independent contractor of the
8 appraisal management company who performs an appraisal review
9 shall be an individual who holds a license as a state licensed
10 real estate appraiser or certification as a state certified real
11 estate appraiser under this chapter. Letters of engagement shall
12 include instructions to the appraiser to decline the appraisal
13 review assignment in the event the appraiser is not
14 geographically competent or the assignment falls outside the
15 appraiser's scope of practice restrictions.

16 339.1170. Each appraisal management company seeking to be
17 registered shall certify to the commission on a biannual basis on
18 a form prescribed by the commission that the appraisal management
19 company has a system and process in place to verify that an
20 individual being added to the appraiser panel of the appraisal
21 management company holds a license in good standing in this state
22 under this chapter.

23 339.1175. Each appraisal management company seeking to be
24 registered shall certify to the commission on a biannual basis on
25 a form prescribed by the commission that the appraisal management
26 company has a system in place to verify that an individual to
27 whom the appraisal management company is making an assignment for
28 the completion of an appraisal has not had a license or

1 certification as an appraiser refused, denied, cancelled,
2 revoked, or surrendered in lieu of a pending revocation on a
3 regular basis.

4 339.1180. Each registered appraisal management company
5 shall certify to the commission on a biannual basis that it has a
6 system in place to perform an appraisal review on a periodic
7 basis of the work of all appraisers who are performing appraisals
8 for the appraisal management company to validate that the
9 appraisals are being conducted in accordance with Uniform
10 Standards of Professional Appraisal Practice (USPAP). An
11 appraisal management company shall report to the commission the
12 results of any appraisal reviews in which an appraisal is found
13 to be substantially noncompliant with USPAP or state or federal
14 laws pertaining to appraisals.

15 339.1185. 1. Each appraisal management company seeking to
16 be registered shall certify to the commission biannually that it
17 maintains a detailed record of each service request for appraisal
18 services within the state of Missouri and that it receives of
19 each appraiser who performs an appraisal for the appraisal
20 management company in the state of Missouri.

21 2. All appraisal management company records shall be
22 retained for five years.

23 339.1190. 1. An appraisal management company shall not
24 prohibit its appraiser who is part of an appraiser panel from
25 recording the fee that the appraiser was paid by the appraisal
26 management company for the performance of the appraisal within
27 the appraisal report that is submitted by the appraiser to the
28 appraisal management company.

1 2. An appraisal management company shall separately state
2 to the client the fees paid to an appraiser for appraisal
3 services and the fees charged by the appraisal management company
4 for services associated with the management of the appraisal
5 process, including procurement of the appraiser's services.

6 339.1200. 1. No employee, director, officer, or agent of
7 an appraisal management company shall influence or attempt to
8 influence the development, reporting, or review of an appraisal
9 through coercion, extortion, collusion, compensation,
10 instruction, inducement, intimidation, bribery or in any other
11 manner, including but not limited to:

12 (1) Withholding or threatening to withhold timely payment
13 for an appraisal, except in cases of substandard performance or
14 noncompliance with conditions of engagement;

15 (2) Withholding or threatening to withhold future business,
16 or demoting, terminating, or threatening to demote or terminate
17 an appraiser;

18 (3) Expressly or impliedly promising future business,
19 promotions, or increased compensation for an appraiser;

20 (4) Conditioning the request for an appraisal or the
21 payment of an appraisal fee or salary or bonus on the opinion,
22 conclusion, or valuation to be reached, or on a preliminary
23 estimate or opinion requested from an appraiser;

24 (5) Requesting that an appraiser provide an estimated,
25 predetermined, or desired valuation in an appraisal report, or
26 provide estimated values or comparable sales at any time prior to
27 the appraiser's completion of an appraisal;

28 (6) Providing to an appraiser an anticipated, estimated,

1 encouraged, or desired value for a subject property or a proposed
2 or target amount to be loaned to the borrower, except that a copy
3 of the sales contract for purchase transactions may be provided;

4 (7) Providing to an appraiser, or any entity or person
5 related to the appraiser, stock or other financial or
6 nonfinancial benefits;

7 (8) Allowing the removal of an appraiser from an appraiser
8 panel without prior written notice to such appraiser;

9 (9) Any other act or practice that knowingly impairs or
10 attempts to impair an appraiser's independence, objectivity, or
11 impartiality;

12 (10) Requiring an appraiser to collect an appraisal fee on
13 behalf of the appraisal management company from the borrower,
14 homeowner, or other third party; or

15 (11) Requiring an appraiser to indemnify an appraisal
16 management company or hold an appraisal management company
17 harmless for any liability, damage, losses, or claims arising out
18 of the services performed by the appraisal management company,
19 and not the services performed by the appraiser.

20 2. Nothing in subsection 1 of this section shall prohibit
21 the appraisal management company from requesting that an
22 appraiser:

23 (1) Provide additional information about the basis for a
24 valuation; or

25 (2) Correct objective factual errors in an appraisal
26 report; or

27 (3) Provide additional information with the appraisal
28 regarding additional sales provided through an established

1 dispute process.

2 339.1205. An appraisal management company shall not:

3 (1) Require an appraiser to modify any aspect of an
4 appraisal report unless the modification complies with section
5 339.1200;

6 (2) Require an appraiser to prepare an appraisal report if
7 the appraiser, in the appraiser's own professional judgment,
8 believes the appraiser does not have the necessary expertise for
9 the assignment or for the specific geographic area, and has
10 notified the appraisal management company and declined the
11 assignment;

12 (3) Require an appraiser to prepare an appraisal under a
13 time frame that the appraiser, in the appraiser's own
14 professional judgment, believes does not afford the appraiser the
15 ability to meet all the relevant legal and professional
16 obligations, and has notified the appraisal management company
17 and declined the assignment;

18 (4) Prohibit or inhibit legal or other allowable
19 communication between the appraiser and:

20 (a) The lender;

21 (b) A real estate licensee; or

22 (c) Any other person from whom the appraiser, in the
23 appraiser's own professional judgment, believes information would
24 be relevant;

25 (5) Knowingly require the appraiser to do anything that
26 does not comply with:

27 (a) Uniformed Standards of Professional Appraisal Practice
28 (USPAP);

1 (b) The Missouri certified and licensed real estate
2 appraisers act established under this chapter; or

3 (c) Any assignment conditions and certifications required
4 by the client;

5 (6) Make any portion of the appraiser's fee or the
6 appraisal management company's fee contingent on a predetermined
7 or favorable outcome, including but not limited to:

8 (a) A loan closing; or

9 (b) Specific dollar amount being achieved by the appraiser
10 in the appraisal report.

11 339.1210. Each appraisal management company shall, except
12 in cases of breach of contract or substandard performance of
13 services, make payment to an appraiser for the completion of an
14 appraisal or valuation assignment within thirty days, unless a
15 mutually agreed upon alternate payment schedule exists, from when
16 the appraiser transmits or otherwise provides the completed
17 appraisal or valuation study to the appraisal management company
18 or its assignee.

19 339.1215. 1. An appraisal management company shall not
20 alter, modify, or otherwise change a completed appraisal report
21 submitted by an appraiser by:

22 (1) Permanently removing the appraiser's signature or seal;
23 or

24 (2) Adding information to, or removing information from,
25 the appraisal report with an intent to change the valuation
26 conclusion.

27 2. No registered appraisal management company shall require
28 an appraiser to provide the appraisal management company with the

1 appraiser's digital signature or seal.

2 339.1220. 1. The commission shall issue a unique
3 registration number to each appraisal management company.

4 2. The commission shall publish a list of the appraisal
5 management companies that have registered under sections 339.1100
6 to 339.1240 and have been issued a registration number.

7 3. An appraisal management company shall be required to
8 disclose the registration number on each engagement letter
9 utilized in assigning an appraisal request for real estate
10 appraisal assignments within the state of Missouri.

11 339.1230. 1. Except within the first thirty days after an
12 appraiser is first added to the appraiser panel of an appraisal
13 management company, an appraisal management company shall not
14 remove an appraiser from its appraiser panel or otherwise refuse
15 to assign requests for real estate appraisal services to an
16 appraiser without:

17 (1) Notifying the appraiser in writing of the reasons why
18 the appraiser is being removed from the appraiser panel of the
19 appraisal management company;

20 (2) If the appraiser is being removed from the panel for
21 illegal conduct, violation of the Uniform Standards of
22 Professional Appraisal Practice (USPAP), or a violation of state
23 licensing standards, describing the nature of the alleged conduct
24 or violation; and

25 (3) Providing an opportunity for the appraiser to respond
26 to the notification of the appraisal management company.

27 2. An appraiser who is removed from the appraiser panel of
28 an appraisal management company for alleged illegal conduct,

1 violation of the Uniform Standards of Professional Appraisal
2 Practice (USPAP), or violation of state licensing standards may
3 file a complaint with the commission for a review of the decision
4 of the appraisal management company; except that, in no case
5 shall the commission make any determination regarding the nature
6 of the business relationship between the appraiser and the
7 appraisal management company which is unrelated to the actions
8 specified in subsection 1 of this section.

9 3. If after notice and an opportunity for hearing and
10 review, the commission determines that an appraiser did not
11 commit a violation of law, a violation of the Uniform Standards
12 of Professional Appraisal Practice (USPAP), or a violation of
13 state licensing standards, the commission shall order that such
14 appraiser be added to the appraiser panel of the appraisal
15 management company.

16 4. If the commission has found that the appraisal
17 management company acted improperly in removing the appraiser
18 from the appraiser panel, an appraisal management company shall
19 not refuse to make assignments for real estate appraisal services
20 to an appraiser, or reduce the number of assignments, or
21 otherwise penalize the appraiser.

22 339.1235. 1. The commission may censure an appraisal
23 management company, conditionally or unconditionally suspend or
24 revoke any registration issued under sections 339.1100 to
25 339.1240, or impose civil penalties not to exceed one thousand
26 dollars for each offense. Each day of a continued violation
27 constitutes a separate offense, with a maximum penalty of ten
28 thousand dollars. In determining the amount of penalty to be

1 imposed, the commission may consider if an appraisal management
2 company is:

3 (1) Knowingly committing any act in violation of sections
4 339.1100 to 339.1240;

5 (2) Violating any rule adopted by the commission; or

6 (3) Procuring a license by fraud, misrepresentation, or
7 deceit.

8 339.1240. The conduct of adjudicatory proceedings for
9 violations of this section is vested in the commission, provided:

10 (1) Before censuring any registrant, or suspending or
11 revoking any registration, the commission shall notify the
12 registrant in writing of any charges made at least twenty days
13 before the hearing and shall afford the registrant an opportunity
14 to be heard in person or by counsel; and

15 (2) Written notice shall be satisfied by personal service
16 on the controlling person of the registrant, or the registrant's
17 agent for service of process in this state, or by sending the
18 notice by certified mail, return receipt requested to the
19 controlling person of the registrant to the registrant's address
20 on file with the commission.

21 441.645. If a residence is destroyed by an act of God,
22 including but not limited to fire or a tornado, or other natural
23 disaster or man-made disaster, so long as the tenant was not the
24 person who caused the disaster, the tenant shall not be liable to
25 the landlord for rent during the remainder of the term of the
26 lease agreement.

27 452.430. All pleadings and filings in a dissolution of
28 marriage, legal separation, or modification proceeding, filed

1 more than seventy-two years prior to the time a request for
2 inspection is made may be made available to the public. Any
3 pleadings, other than the interlocutory or final judgment or any
4 modification thereof, in a dissolution of marriage [or], legal
5 separation, or modification proceeding filed prior to August 28,
6 2009, but less than seventy-two years prior to the time a request
7 for inspection is made, shall be subject to inspection only by
8 the parties [or], an attorney of record [or upon order of the
9 court for good cause shown, or by], the family support division
10 within the department of social services when services are being
11 provided under section 454.400, [RSMo.] the attorney general or
12 his or her designee, a person or designee of a person licensed
13 and acting under chapter 381 who shall keep any information
14 obtained confidential, except as necessary to the performance of
15 functions required by chapter 381, or upon order of the court for
16 good cause shown. Such persons may receive or make copies of
17 documents without the clerk being required to redact the Social
18 Security number, unless the court specifically orders the clerk
19 to do otherwise. The clerk shall redact the Social Security
20 number from any copy of a judgment [or pleading] or satisfaction
21 of judgment before releasing the copy of the interlocutory or
22 final judgment or satisfaction of judgment to the public.

23 493.055. All public advertisements and orders of
24 publication required by law to be made, including but not limited
25 to amendments to the Missouri Constitution, legal publications
26 affecting all sales of real estate under a power of sale
27 contained in any mortgage or deed of trust, and other legal
28 publications affecting the title to real estate, shall be

1 published in a newspaper of general circulation, qualified under
2 the provisions of section 493.050, and persons responsible for
3 orders of publication described in sections 443.310 and 443.320,
4 shall be subject to the prohibitions in sections 493.130 and
5 493.140.

6 511.580. 1. Satisfaction may be entered by the plaintiff
7 in person, by his attorney of record, or by his agent duly
8 authorized, in writing, under the hand of the plaintiff.

9 2. When a judgment from any other state or territory of the
10 United States is paid or presumed to be paid and satisfied by
11 operation of law in that state or territory, it shall have the
12 same effect in this state.

13 3. When a judgment under subsection 2 of this section is
14 deemed satisfied, the judgment debtor may file a verified motion
15 in any action seeking to enforce such satisfied judgment to
16 acknowledge that the judgment is satisfied. The verified motion
17 shall set forth a copy of the judgment and the date of its entry
18 all authenticated in the manner authorized by the laws of the
19 United States or of this state, and either proof of payment or a
20 copy of the applicable statute from the other state or territory
21 demonstrating that the judgment is presumed to be paid and
22 satisfied by operation of law in that state or territory. The
23 judgment debtor shall serve such motion upon the judgment
24 creditor or assignee. This acknowledgment of satisfaction shall
25 be entered by the court unless the judgment creditor, or
26 assignee, objects within thirty days after service. In the event
27 a judgment creditor objects within the thirty days after service,
28 the court shall set a hearing to determine whether the judgment

1 debtor has complied with this section.

2 537.296. [In any action for private nuisance where the
3 amount in controversy exceeds one million dollars,] If any party
4 requests the court or jury [to] visit the property alleged to be
5 affected by the nuisance in an action for private nuisance where
6 the amount in controversy exceeds one million dollars, the court
7 or jury shall visit the property.

8 563.011. As used in this chapter the following terms shall
9 mean:

10 (1) "Deadly force", physical force which the actor uses
11 with the purpose of causing or which he or she knows to create a
12 substantial risk of causing death or serious physical injury;

13 (2) "Dwelling", any building, inhabitable structure, or
14 conveyance of any kind, whether the building, inhabitable
15 structure, or conveyance is temporary or permanent, mobile or
16 immobile, which has a roof over it, including a tent, and is
17 designed to be occupied by people lodging therein at night;

18 (3) "Forcible felony", any felony involving the use or
19 threat of physical force or violence against any individual,
20 including but not limited to murder, robbery, burglary, arson,
21 kidnapping, assault, and any forcible sexual offense;

22 (4) "Premises", includes any building, inhabitable
23 structure and any real property;

24 (5) "Private person", any person other than a law
25 enforcement officer;

26 (6) "Private property", any real property in this state
27 that is privately owned or leased;

28 (7) "Remain after unlawfully entering", to remain in or

1 upon premises after unlawfully entering as defined in this
2 section;

3 [(7)] (8) "Residence", a dwelling in which a person resides
4 either temporarily or permanently or is visiting as an invited
5 guest;

6 [(8)] (9) "Unlawfully enter", a person unlawfully enters in
7 or upon premises or private property when he or she enters such
8 premises or private property and is not licensed or privileged to
9 do so. A person who, regardless of his or her purpose, enters in
10 or upon private property or premises that are at the time open to
11 the public does so with license unless he or she defies a lawful
12 order not to enter, personally communicated to him or her by the
13 owner of such premises or by another authorized person. A
14 license to enter in a building that is only partly open to the
15 public is not a license to enter in that part of the building
16 that is not open to the public.

17 563.031. 1. A person may, subject to the provisions of
18 subsection 2 of this section, use physical force upon another
19 person when and to the extent he or she reasonably believes such
20 force to be necessary to defend himself or herself or a third
21 person from what he or she reasonably believes to be the use or
22 imminent use of unlawful force by such other person, unless:

23 (1) The actor was the initial aggressor; except that in
24 such case his or her use of force is nevertheless justifiable
25 provided:

26 (a) He or she has withdrawn from the encounter and
27 effectively communicated such withdrawal to such other person but
28 the latter persists in continuing the incident by the use or

1 threatened use of unlawful force; or

2 (b) He or she is a law enforcement officer and as such is
3 an aggressor pursuant to section 563.046; or

4 (c) The aggressor is justified under some other provision
5 of this chapter or other provision of law;

6 (2) Under the circumstances as the actor reasonably
7 believes them to be, the person whom he or she seeks to protect
8 would not be justified in using such protective force;

9 (3) The actor was attempting to commit, committing, or
10 escaping after the commission of a forcible felony.

11 2. A person may not use deadly force upon another person
12 under the circumstances specified in subsection 1 of this section
13 unless:

14 (1) He or she reasonably believes that such deadly force is
15 necessary to protect himself or herself or another against death,
16 serious physical injury, or any forcible felony; [or]

17 (2) Such force is used against a person who unlawfully
18 enters, remains after unlawfully entering, or attempts to
19 unlawfully enter a dwelling, residence, or vehicle lawfully
20 occupied by such person; or

21 (3) Such force is used against a person who unlawfully
22 enters, remains after unlawfully entering, or attempts to
23 unlawfully enter private property that is owned or leased by an
24 individual claiming a justification of using protective force
25 under this section.

26 3. A person does not have a duty to retreat from a
27 dwelling, residence, or vehicle where the person is not
28 unlawfully entering or unlawfully remaining. A person does not

1 have a duty to retreat from private property that is owned or
2 leased by such individual.

3 4. The justification afforded by this section extends to
4 the use of physical restraint as protective force provided that
5 the actor takes all reasonable measures to terminate the
6 restraint as soon as it is reasonable to do so.

7 5. The defendant shall have the burden of injecting the
8 issue of justification under this section. If a defendant
9 asserts that his or her use of force is described under
10 subdivision (2) of subsection 2 of this section, the burden shall
11 then be on the state to prove beyond a reasonable doubt that the
12 defendant did not reasonably believe that the use of such force
13 was necessary to defend against what he or she reasonably
14 believed was the use or imminent use of unlawful force.

15 571.030. 1. A person commits the crime of unlawful use of
16 weapons if he or she knowingly:

17 (1) Carries concealed upon or about his or her person a
18 knife, a firearm, a blackjack or any other weapon readily capable
19 of lethal use; or

20 (2) Sets a spring gun; or

21 (3) Discharges or shoots a firearm into a dwelling house, a
22 railroad train, boat, aircraft, or motor vehicle as defined in
23 section 302.010, RSMo, or any building or structure used for the
24 assembling of people; or

25 (4) Exhibits, in the presence of one or more persons, any
26 weapon readily capable of lethal use in an angry or threatening
27 manner; or

28 (5) Possesses or discharges a firearm or projectile weapon

1 while intoxicated; or

2 (6) Discharges a firearm within one hundred yards of any
3 occupied schoolhouse, courthouse, or church building; or

4 (7) Discharges or shoots a firearm at a mark, at any
5 object, or at random, on, along or across a public highway or
6 discharges or shoots a firearm into any outbuilding; or

7 (8) Carries a firearm or any other weapon readily capable
8 of lethal use into any church or place where people have
9 assembled for worship, or into any election precinct on any
10 election day, or into any building owned or occupied by any
11 agency of the federal government, state government, or political
12 subdivision thereof; or

13 (9) Discharges or shoots a firearm at or from a motor
14 vehicle, as defined in section 301.010, RSMo, discharges or
15 shoots a firearm at any person, or at any other motor vehicle, or
16 at any building or habitable structure, unless the person was
17 lawfully acting in self-defense; or

18 (10) Carries a firearm, whether loaded or unloaded, or any
19 other weapon readily capable of lethal use into any school, onto
20 any school bus, or onto the premises of any function or activity
21 sponsored or sanctioned by school officials or the district
22 school board.

23 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10)
24 of subsection 1 of this section shall not apply to or affect any
25 of the following when such uses are reasonably associated with or
26 are necessary to the fulfillment of such person's official
27 duties:

28 (1) All state, county and municipal peace officers who have

1 completed the training required by the police officer standards
2 and training commission pursuant to sections 590.030 to 590.050,
3 RSMo, and [possessing] who possess the duty and power of arrest
4 for violation of the general criminal laws of the state or for
5 violation of ordinances of counties or municipalities of the
6 state, whether such officers are on or off duty, and whether such
7 officers are within or outside of the law enforcement agency's
8 jurisdiction, or all qualified retired peace officers, as defined
9 in subsection 10 of this section, and who carry the
10 identification defined in subsection 11 of this section, or any
11 person summoned by such officers to assist in making arrests or
12 preserving the peace while actually engaged in assisting such
13 officer;

14 (2) Wardens, superintendents and keepers of prisons,
15 penitentiaries, jails and other institutions for the detention of
16 persons accused or convicted of crime;

17 (3) Members of the armed forces or national guard while
18 performing their official duty;

19 (4) Those persons vested by article V, section 1 of the
20 Constitution of Missouri with the judicial power of the state and
21 those persons vested by Article III of the Constitution of the
22 United States with the judicial power of the United States, the
23 members of the federal judiciary;

24 (5) Any person whose bona fide duty is to execute process,
25 civil or criminal;

26 (6) Any federal probation officer or federal flight deck
27 officer as defined under the federal flight deck officer program,
28 49 U.S.C. Section 44921;

1 (7) Any state probation or parole officer, including
2 supervisors and members of the board of probation and parole;

3 (8) Any corporate security advisor meeting the definition
4 and fulfilling the requirements of the regulations established by
5 the board of police commissioners under section 84.340, RSMo;
6 **[and]**

7 (9) Any coroner, deputy coroner, medical examiner, or
8 assistant medical examiner; and

9 (10) Any prosecuting attorney or assistant prosecuting
10 attorney or any circuit attorney or assistant circuit attorney
11 who has completed the firearms safety training course required
12 under subsection 2 of section 571.111.

13 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of
14 this section do not apply when the actor is transporting such
15 weapons in a nonfunctioning state or in an unloaded state when
16 ammunition is not readily accessible or when such weapons are not
17 readily accessible. Subdivision (1) of subsection 1 of this
18 section does not apply to any person twenty-one years of age or
19 older transporting a concealable firearm in the passenger
20 compartment of a motor vehicle, so long as such concealable
21 firearm is otherwise lawfully possessed, nor when the actor is
22 also in possession of an exposed firearm or projectile weapon for
23 the lawful pursuit of game, or is in his or her dwelling unit or
24 upon premises over which the actor has possession, authority or
25 control, or is traveling in a continuous journey peaceably
26 through this state. Subdivision (10) of subsection 1 of this
27 section does not apply if the firearm is otherwise lawfully
28 possessed by a person while traversing school premises for the

1 purposes of transporting a student to or from school, or
2 possessed by an adult for the purposes of facilitation of a
3 school-sanctioned firearm-related event.

4 4. Subdivisions (1), (8), and (10) of subsection 1 of this
5 section shall not apply to any person who has a valid concealed
6 carry endorsement issued pursuant to sections 571.101 to 571.121
7 or a valid permit or endorsement to carry concealed firearms
8 issued by another state or political subdivision of another
9 state.

10 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10)
11 of subsection 1 of this section shall not apply to persons who
12 are engaged in a lawful act of defense pursuant to section
13 563.031, RSMo.

14 6. Nothing in this section shall make it unlawful for a
15 student to actually participate in school-sanctioned gun safety
16 courses, student military or ROTC courses, or other
17 school-sponsored firearm-related events, provided the student
18 does not carry a firearm or other weapon readily capable of
19 lethal use into any school, onto any school bus, or onto the
20 premises of any other function or activity sponsored or
21 sanctioned by school officials or the district school board.

22 7. Unlawful use of weapons is a class D felony unless
23 committed pursuant to subdivision (6), (7), or (8) of subsection
24 1 of this section, in which cases it is a class B misdemeanor, or
25 subdivision (5) or (10) of subsection 1 of this section, in which
26 case it is a class A misdemeanor if the firearm is unloaded and a
27 class D felony if the firearm is loaded, or subdivision (9) of
28 subsection 1 of this section, in which case it is a class B

1 felony, except that if the violation of subdivision (9) of
2 subsection 1 of this section results in injury or death to
3 another person, it is a class A felony.

4 8. Violations of subdivision (9) of subsection 1 of this
5 section shall be punished as follows:

6 (1) For the first violation a person shall be sentenced to
7 the maximum authorized term of imprisonment for a class B felony;

8 (2) For any violation by a prior offender as defined in
9 section 558.016, RSMo, a person shall be sentenced to the maximum
10 authorized term of imprisonment for a class B felony without the
11 possibility of parole, probation or conditional release for a
12 term of ten years;

13 (3) For any violation by a persistent offender as defined
14 in section 558.016, RSMo, a person shall be sentenced to the
15 maximum authorized term of imprisonment for a class B felony
16 without the possibility of parole, probation, or conditional
17 release;

18 (4) For any violation which results in injury or death to
19 another person, a person shall be sentenced to an authorized
20 disposition for a class A felony.

21 9. Any person knowingly aiding or abetting any other person
22 in the violation of subdivision (9) of subsection 1 of this
23 section shall be subject to the same penalty as that prescribed
24 by this section for violations by other persons.

25 10. As used in this section "qualified retired peace
26 officer" means an individual who:

27 (1) Retired in good standing from service with a public
28 agency as a peace officer, other than for reasons of mental

1 instability;

2 (2) Before such retirement, was authorized by law to engage
3 in or supervise the prevention, detection, investigation, or
4 prosecution of, or the incarceration of any person for, any
5 violation of law, and had statutory powers of arrest;

6 (3) Before such retirement, was regularly employed as a
7 peace officer for an aggregate of fifteen years or more, or
8 retired from service with such agency, after completing any
9 applicable probationary period of such service, due to a
10 service-connected disability, as determined by such agency;

11 (4) Has a nonforfeitable right to benefits under the
12 retirement plan of the agency if such a plan is available;

13 (5) During the most recent twelve-month period, has met, at
14 the expense of the individual, the standards for training and
15 qualification for active peace officers to carry firearms;

16 (6) Is not under the influence of alcohol or another
17 intoxicating or hallucinatory drug or substance; and

18 (7) Is not prohibited by federal law from receiving a
19 firearm.

20 11. The identification required by subdivision (1) of
21 subsection 2 of this section is:

22 (1) A photographic identification issued by the agency from
23 which the individual retired from service as a peace officer that
24 indicates that the individual has, not less recently than one
25 year before the date the individual is carrying the concealed
26 firearm, been tested or otherwise found by the agency to meet the
27 standards established by the agency for training and
28 qualification for active peace officers to carry a firearm of the

1 same type as the concealed firearm; or

2 (2) A photographic identification issued by the agency from
3 which the individual retired from service as a peace officer; and

4 (3) A certification issued by the state in which the
5 individual resides that indicates that the individual has, not
6 less recently than one year before the date the individual is
7 carrying the concealed firearm, been tested or otherwise found by
8 the state to meet the standards established by the state for
9 training and qualification for active peace officers to carry a
10 firearm of the same type as the concealed firearm.

11 571.070. 1. A person commits the crime of unlawful
12 possession of a firearm if such person knowingly has any firearm
13 in his or her possession and:

14 (1) Such person has been convicted of a felony under the
15 laws of this state, or of a crime under the laws of any state or
16 of the United States which, if committed within this state, would
17 be a felony; or

18 (2) Such person is a fugitive from justice, is habitually
19 in an intoxicated or drugged condition, or is currently adjudged
20 mentally incompetent.

21 2. Unlawful possession of a firearm is a class C felony.

22 3. The provisions of subdivision (1) of subsection 1 of
23 this section shall not apply to the possession of an antique
24 firearm.

25 571.104. 1. (1) A concealed carry endorsement issued
26 pursuant to sections 571.101 to 571.121 shall be suspended or
27 revoked if the concealed carry endorsement holder becomes
28 ineligible for such concealed carry endorsement under the

1 criteria established in subdivisions (2), (3), (4), (5), and (7)
2 of subsection 2 of section 571.101 or upon the issuance of a
3 valid full order of protection.

4 (2) When a valid full order of protection, or any arrest
5 warrant, discharge, or commitment for the reasons listed in
6 subdivision (2), (3), (4), (5), or (7) of subsection 2 of section
7 571.101, is issued against a person holding a concealed carry
8 endorsement issued pursuant to sections 571.101 to 571.121 upon
9 notification of said order, warrant, discharge or commitment or
10 upon an order of a court of competent jurisdiction in a criminal
11 proceeding, a commitment proceeding or a full order of protection
12 proceeding ruling that a person holding a concealed carry
13 endorsement presents a risk of harm to themselves or others, then
14 upon notification of such order, the holder of the concealed
15 carry endorsement shall surrender the driver's license or
16 nondriver's license containing the concealed carry endorsement to
17 the court, to the officer, or other official serving the order,
18 warrant, discharge, or commitment.

19 (3) The official to whom the driver's license or
20 nondriver's license containing the concealed carry endorsement is
21 surrendered shall issue a receipt to the licensee for the license
22 upon a form, approved by the director of revenue, that serves as
23 a driver's license or a nondriver's license and clearly states
24 the concealed carry endorsement has been suspended. The official
25 shall then transmit the driver's license or a nondriver's license
26 containing the concealed carry endorsement to the circuit court
27 of the county issuing the order, warrant, discharge, or
28 commitment. The concealed carry endorsement issued pursuant to

1 sections 571.101 to 571.121 shall be suspended until the order is
2 terminated or until the arrest results in a dismissal of all
3 charges. Upon dismissal, the court holding the driver's license
4 or nondriver's license containing the concealed carry endorsement
5 shall return it to the individual.

6 (4) Any conviction, discharge, or commitment specified in
7 sections 571.101 to 571.121 shall result in a revocation. Upon
8 conviction, the court shall forward a notice of conviction or
9 action and the driver's license or nondriver's license with the
10 concealed carry endorsement to the department of revenue. The
11 department of revenue shall notify the sheriff of the county
12 which issued the certificate of qualification for a concealed
13 carry endorsement and shall report the change in status of the
14 concealed carry endorsement to the Missouri uniform law
15 enforcement system. The director of revenue shall immediately
16 remove the endorsement issued pursuant to sections 571.101 to
17 571.121 from the individual's driving record within three days of
18 the receipt of the notice from the court. The director of
19 revenue shall notify the licensee that he or she must apply for a
20 new license pursuant to chapter 302, RSMo, which does not contain
21 such endorsement. This requirement does not affect the driving
22 privileges of the licensee. The notice issued by the department
23 of revenue shall be mailed to the last known address shown on the
24 individual's driving record. The notice is deemed received three
25 days after mailing.

26 2. A concealed carry endorsement shall be renewed for a
27 qualified applicant upon receipt of the properly completed
28 renewal application and the required renewal fee by the sheriff

1 of the county of the applicant's residence. The renewal
2 application shall contain the same required information as set
3 forth in subsection 3 of section 571.101, except that in lieu of
4 the fingerprint requirement of subsection 5 of section 571.101
5 and the firearms safety training, the applicant need only display
6 his or her current driver's license or nondriver's license
7 containing a concealed carry endorsement. Upon successful
8 completion of all renewal requirements, the sheriff shall issue a
9 certificate of qualification which contains the date such
10 certificate was renewed.

11 3. A person who has been issued a certificate of
12 qualification for a concealed carry endorsement who fails to file
13 a renewal application on or before its expiration date must pay
14 an additional late fee of ten dollars per month for each month it
15 is expired for up to six months. After six months, the sheriff
16 who issued the expired certificate shall notify the director of
17 revenue that such certificate is expired. The director of
18 revenue shall immediately cancel the concealed carry endorsement
19 and remove such endorsement from the individual's driving record
20 and notify the individual of such cancellation. The notice of
21 cancellation of the endorsement shall be conducted in the same
22 manner as described in subsection 1 of this section. Any person
23 who has been issued a certificate of qualification for a
24 concealed carry endorsement pursuant to sections 571.101 to
25 571.121 who fails to renew his or her application within the
26 six-month period must reapply for a new certificate of
27 qualification for a concealed carry endorsement and pay the fee
28 for a new application. The director of revenue shall not issue

1 an endorsement on a renewed driver's license or renewed
2 nondriver's license unless the applicant for such license
3 provides evidence that he or she has renewed the certification of
4 qualification for a concealed carry endorsement in the manner
5 provided for such renewal pursuant to sections 571.101 to
6 571.121. If an applicant for renewal of a driver's license or
7 nondriver's license containing a concealed carry endorsement does
8 not want to maintain the concealed carry endorsement, the
9 applicant shall inform the director at the time of license
10 renewal of his or her desire to remove the endorsement. When a
11 driver's or nondriver's license applicant informs the director of
12 his or her desire to remove the concealed carry endorsement, the
13 director shall renew the driver's license or nondriver's license
14 without the endorsement appearing on the license if the applicant
15 is otherwise qualified for such renewal.

16 4. Any person issued a concealed carry endorsement pursuant
17 to sections 571.101 to 571.121 shall notify the department of
18 revenue and the sheriffs of both the old and new jurisdictions of
19 the endorsement holder's change of residence within thirty days
20 after the changing of a permanent residence. The endorsement
21 holder shall furnish proof to the department of revenue and the
22 sheriff in the new jurisdiction that the endorsement holder has
23 changed his or her residence. The sheriff of the new
24 jurisdiction may charge a processing fee of not more than ten
25 dollars for any costs associated with notification of a change in
26 residence. The change of residence shall be made by the
27 department of revenue onto the individual's driving record and
28 the new address shall be accessible by the Missouri uniform law

1 enforcement system within three days of receipt of the
2 information.

3 5. Any person issued a driver's license or nondriver's
4 license containing a concealed carry endorsement pursuant to
5 sections 571.101 to 571.121 shall notify the sheriff or his or
6 her designee of the endorsement holder's county or city of
7 residence within seven days after actual knowledge of the loss or
8 destruction of his or her driver's license or nondriver's license
9 containing a concealed carry endorsement. The endorsement holder
10 shall furnish a statement to the sheriff that the driver's
11 license or nondriver's license containing the concealed carry
12 endorsement has been lost or destroyed. After notification of
13 the loss or destruction of a driver's license or nondriver's
14 license containing a concealed carry endorsement, the sheriff
15 shall reissue a new certificate of qualification within three
16 working days of being notified by the concealed carry endorsement
17 holder of its loss or destruction. The reissued certificate of
18 qualification shall contain the same personal information,
19 including expiration date, as the original certificate of
20 qualification. The applicant shall then take the certificate to
21 the department of revenue, and the department of revenue shall
22 proceed on the certificate in the same manner as provided in
23 subsection 7 section 571.101. Upon application for a license
24 pursuant to chapter 302, RSMo, the director of revenue shall
25 issue a driver's license or nondriver's license containing a
26 concealed carry endorsement if the applicant is otherwise
27 eligible to receive such license.

28 6. If a person issued a concealed carry endorsement changes

1 his or her name, the person to whom the endorsement was issued
2 shall obtain a corrected certificate of qualification for a
3 concealed carry endorsement with a change of name from the
4 sheriff who issued such certificate upon the sheriff's
5 verification of the name change. The sheriff may charge a
6 processing fee of not more than ten dollars for any costs
7 associated with obtaining a corrected certificate of
8 qualification. The endorsement holder shall furnish proof of the
9 name change to the department of revenue and the sheriff within
10 thirty days of changing his or her name and display his or her
11 current driver's license or nondriver's license containing a
12 concealed carry endorsement. The endorsement holder shall apply
13 for a new driver's license or nondriver's license containing his
14 or her new name. Such application for a driver's license or
15 nondriver's license shall be made pursuant to chapter 302, RSMo.
16 The director of revenue shall issue a driver's license or
17 nondriver's license with concealed carry endorsement with the
18 endorsement holder's new name if the applicant is otherwise
19 eligible for such license. The director of revenue shall take
20 custody of the old driver's license or nondriver's license. The
21 name change shall be made by the department of revenue onto the
22 individual's driving record and the new name shall be accessible
23 by the Missouri uniform law enforcement system within three days
24 of receipt of the information.

25 7. A concealed carry endorsement shall be automatically
26 invalid after thirty days if the endorsement holder has changed
27 his or her name or changed his or her residence and not notified
28 the department of revenue and sheriff of a change of name or

1 residence as required in subsections 4 and 6 of this section.

2 571.107. 1. A concealed carry endorsement issued pursuant
3 to sections 571.101 to 571.121 or a concealed carry endorsement
4 or permit issued by another state or political subdivision of
5 another state shall authorize the person in whose name the permit
6 or endorsement is issued to carry concealed firearms on or about
7 his or her person or vehicle throughout the state. No driver's
8 license or nondriver's license containing a concealed carry
9 endorsement issued pursuant to sections 571.101 to 571.121 or a
10 concealed carry endorsement or permit issued by another state or
11 political subdivision of another state shall authorize any person
12 to carry concealed firearms into:

13 (1) Any police, sheriff, or highway patrol office or
14 station without the consent of the chief law enforcement officer
15 in charge of that office or station. Possession of a firearm in
16 a vehicle on the premises of the office or station shall not be a
17 criminal offense so long as the firearm is not removed from the
18 vehicle or brandished while the vehicle is on the premises;

19 (2) Within twenty-five feet of any polling place on any
20 election day. Possession of a firearm in a vehicle on the
21 premises of the polling place shall not be a criminal offense so
22 long as the firearm is not removed from the vehicle or brandished
23 while the vehicle is on the premises;

24 (3) The facility of any adult or juvenile detention or
25 correctional institution, prison or jail. Possession of a
26 firearm in a vehicle on the premises of any adult, juvenile
27 detention, or correctional institution, prison or jail shall not
28 be a criminal offense so long as the firearm is not removed from

1 the vehicle or brandished while the vehicle is on the premises;

2 (4) Any courthouse solely occupied by the circuit,
3 appellate or supreme court, or any courtrooms, administrative
4 offices, libraries or other rooms of any such court whether or
5 not such court solely occupies the building in question. This
6 subdivision shall also include, but not be limited to, any
7 juvenile, family, drug, or other court offices, any room or
8 office wherein any of the courts or offices listed in this
9 subdivision are temporarily conducting any business within the
10 jurisdiction of such courts or offices, and such other locations
11 in such manner as may be specified by supreme court rule pursuant
12 to subdivision (6) of this subsection. Nothing in this
13 subdivision shall preclude those persons listed in subdivision
14 (1) of subsection 2 of section 571.030 while within their
15 jurisdiction and on duty, those persons listed in subdivisions
16 (2) [and], (4), and (10) of subsection 2 of section 571.030, or
17 such other persons who serve in a law enforcement capacity for a
18 court as may be specified by supreme court rule pursuant to
19 subdivision (6) of this subsection from carrying a concealed
20 firearm within any of the areas described in this subdivision.
21 Possession of a firearm in a vehicle on the premises of any of
22 the areas listed in this subdivision shall not be a criminal
23 offense so long as the firearm is not removed from the vehicle or
24 brandished while the vehicle is on the premises;

25 (5) Any meeting of the governing body of a unit of local
26 government; or any meeting of the general assembly or a committee
27 of the general assembly, except that nothing in this subdivision
28 shall preclude a member of the body holding a valid concealed

1 carry endorsement from carrying a concealed firearm at a meeting
2 of the body which he or she is a member. Possession of a firearm
3 in a vehicle on the premises shall not be a criminal offense so
4 long as the firearm is not removed from the vehicle or brandished
5 while the vehicle is on the premises;

6 (6) The general assembly, supreme court, county or
7 municipality may by rule, administrative regulation, or ordinance
8 prohibit or limit the carrying of concealed firearms by
9 endorsement holders in that portion of a building owned, leased
10 or controlled by that unit of government. Any portion of a
11 building in which the carrying of concealed firearms is
12 prohibited or limited shall be clearly identified by signs posted
13 at the entrance to the restricted area. The statute, rule or
14 ordinance shall exempt any building used for public housing by
15 private persons, highways or rest areas, firing ranges, and
16 private dwellings owned, leased, or controlled by that unit of
17 government from any restriction on the carrying or possession of
18 a firearm. The statute, rule or ordinance shall not specify any
19 criminal penalty for its violation but may specify that persons
20 violating the statute, rule or ordinance may be denied entrance
21 to the building, ordered to leave the building and if employees
22 of the unit of government, be subjected to disciplinary measures
23 for violation of the provisions of the statute, rule or
24 ordinance. The provisions of this subdivision shall not apply to
25 any other unit of government;

26 (7) Any establishment licensed to dispense intoxicating
27 liquor for consumption on the premises, which portion is
28 primarily devoted to that purpose, without the consent of the

1 owner or manager. The provisions of this subdivision shall not
2 apply to the licensee of said establishment. The provisions of
3 this subdivision shall not apply to any bona fide restaurant open
4 to the general public having dining facilities for not less than
5 fifty persons and that receives at least fifty-one percent of its
6 gross annual income from the dining facilities by the sale of
7 food. This subdivision does not prohibit the possession of a
8 firearm in a vehicle on the premises of the establishment and
9 shall not be a criminal offense so long as the firearm is not
10 removed from the vehicle or brandished while the vehicle is on
11 the premises. Nothing in this subdivision authorizes any
12 individual who has been issued a concealed carry endorsement to
13 possess any firearm while intoxicated;

14 (8) Any area of an airport to which access is controlled by
15 the inspection of persons and property. Possession of a firearm
16 in a vehicle on the premises of the airport shall not be a
17 criminal offense so long as the firearm is not removed from the
18 vehicle or brandished while the vehicle is on the premises;

19 (9) Any place where the carrying of a firearm is prohibited
20 by federal law;

21 (10) Any higher education institution or elementary or
22 secondary school facility without the consent of the governing
23 body of the higher education institution or a school official or
24 the district school board. Possession of a firearm in a vehicle
25 on the premises of any higher education institution or elementary
26 or secondary school facility shall not be a criminal offense so
27 long as the firearm is not removed from the vehicle or brandished
28 while the vehicle is on the premises;

1 (11) Any portion of a building used as a child-care
2 facility without the consent of the manager. Nothing in this
3 subdivision shall prevent the operator of a child-care facility
4 in a family home from owning or possessing a firearm or a
5 driver's license or nondriver's license containing a concealed
6 carry endorsement;

7 (12) Any riverboat gambling operation accessible by the
8 public without the consent of the owner or manager pursuant to
9 rules promulgated by the gaming commission. Possession of a
10 firearm in a vehicle on the premises of a riverboat gambling
11 operation shall not be a criminal offense so long as the firearm
12 is not removed from the vehicle or brandished while the vehicle
13 is on the premises;

14 (13) Any gated area of an amusement park. Possession of a
15 firearm in a vehicle on the premises of the amusement park shall
16 not be a criminal offense so long as the firearm is not removed
17 from the vehicle or brandished while the vehicle is on the
18 premises;

19 (14) Any church or other place of religious worship without
20 the consent of the minister or person or persons representing the
21 religious organization that exercises control over the place of
22 religious worship. Possession of a firearm in a vehicle on the
23 premises shall not be a criminal offense so long as the firearm
24 is not removed from the vehicle or brandished while the vehicle
25 is on the premises;

26 (15) Any private property whose owner has posted the
27 premises as being off-limits to concealed firearms by means of
28 one or more signs displayed in a conspicuous place of a minimum

1 size of eleven inches by fourteen inches with the writing thereon
2 in letters of not less than one inch. The owner, business or
3 commercial lessee, manager of a private business enterprise, or
4 any other organization, entity, or person may prohibit persons
5 holding a concealed carry endorsement from carrying concealed
6 firearms on the premises and may prohibit employees, not
7 authorized by the employer, holding a concealed carry endorsement
8 from carrying concealed firearms on the property of the employer.

9 If the building or the premises are open to the public, the
10 employer of the business enterprise shall post signs on or about
11 the premises if carrying a concealed firearm is prohibited.

12 Possession of a firearm in a vehicle on the premises shall not be
13 a criminal offense so long as the firearm is not removed from the
14 vehicle or brandished while the vehicle is on the premises. An
15 employer may prohibit employees or other persons holding a
16 concealed carry endorsement from carrying a concealed firearm in
17 vehicles owned by the employer;

18 (16) Any sports arena or stadium with a seating capacity of
19 five thousand or more. Possession of a firearm in a vehicle on
20 the premises shall not be a criminal offense so long as the
21 firearm is not removed from the vehicle or brandished while the
22 vehicle is on the premises;

23 (17) Any hospital accessible by the public. Possession of
24 a firearm in a vehicle on the premises of a hospital shall not be
25 a criminal offense so long as the firearm is not removed from the
26 vehicle or brandished while the vehicle is on the premises.

27 2. Carrying of a concealed firearm in a location specified
28 in subdivisions (1) to (17) of subsection 1 of this section by

1 any individual who holds a concealed carry endorsement issued
2 pursuant to sections 571.101 to 571.121 shall not be a criminal
3 act but may subject the person to denial to the premises or
4 removal from the premises. If such person refuses to leave the
5 premises and a peace officer is summoned, such person may be
6 issued a citation for an amount not to exceed one hundred dollars
7 for the first offense. If a second citation for a similar
8 violation occurs within a six-month period, such person shall be
9 fined an amount not to exceed two hundred dollars and his or her
10 endorsement to carry concealed firearms shall be suspended for a
11 period of one year. If a third citation for a similar violation
12 is issued within one year of the first citation, such person
13 shall be fined an amount not to exceed five hundred dollars and
14 shall have his or her concealed carry endorsement revoked and
15 such person shall not be eligible for a concealed carry
16 endorsement for a period of three years. Upon conviction of
17 charges arising from a citation issued pursuant to this
18 subsection, the court shall notify the sheriff of the county
19 which issued the certificate of qualification for a concealed
20 carry endorsement and the department of revenue. The sheriff
21 shall suspend or revoke the certificate of qualification for a
22 concealed carry endorsement and the department of revenue shall
23 issue a notice of such suspension or revocation of the concealed
24 carry endorsement and take action to remove the concealed carry
25 endorsement from the individual's driving record. The director
26 of revenue shall notify the licensee that he or she must apply
27 for a new license pursuant to chapter 302, RSMo, which does not
28 contain such endorsement. A concealed carry endorsement

1 suspension pursuant to sections 571.101 to 571.121 shall be
2 reinstated at the time of the renewal of his or her driver's
3 license. The notice issued by the department of revenue shall be
4 mailed to the last known address shown on the individual's
5 driving record. The notice is deemed received three days after
6 mailing.

7 [214.290. Any cemetery operator who within ninety
8 days from the effective date of sections 214.270 to
9 214.410 elects to operate a cemetery which exists on
10 the effective date of sections 214.270 to 214.410 as an
11 endowed care cemetery or who represents to the public
12 that perpetual, permanent, endowed, continual, eternal
13 care, care of duration or similar care will be
14 furnished cemetery property sold, shall before selling
15 or disposing of any interment space or lots in said
16 cemetery after the date of such election, establish a
17 minimum endowed care and maintenance fund in cash in
18 the amount required by section 214.300 unless an
19 endowed care fund is already in existence to which
20 regular deposits have been made (whether or not the
21 fund then existing shall be in the minimum amount
22 required under section 214.300).]
23