

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1736

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PLOCHER.

3111H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 30.260, 30.753, 30.758, 385.015, 409.605, 409.610, 409.615, 409.620, 409.625, 409.630, 409.3-302, 409.4-412, 409.6-604, 443.717, 443.825, 443.855, 443.857, 565.184, and 570.145, RSMo, and to enact in lieu thereof twenty new sections relating to financial institutions, with penalty provisions.

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

Section A. Sections 30.260, 30.753, 30.758, 385.015, 409.605, 409.610, 409.615, 2 409.620, 409.625, 409.630, 409.3-302, 409.4-412, 409.6-604, 443.717, 443.825, 443.855, 3 443.857, 565.184, and 570.145, RSMo, are repealed and twenty new sections enacted in lieu 4 thereof, to be known as sections 30.260, 30.753, 30.758, 385.015, 409.605, 409.610, 409.615, 5 409.620, 409.625, 409.630, 409.3-302, 409.4-412, 409.6-604, 443.717, 443.825, 443.855, 6 443.857, 476.419, 565.184, and 570.145, to read as follows:

30.260. 1. The state treasurer shall prepare, maintain and adhere to a written investment 2 policy which shall include an asset allocation plan which limits the total amount of state moneys 3 which may be invested in any particular investment authorized by Section 15, Article IV of the 4 Missouri Constitution. Such asset allocation plan shall also set diversification limits, as 5 applicable, which shall include a restriction limiting the total amount of time deposits of state 6 moneys, not including linked deposits, placed with any one single banking institution to be no 7 greater than ~~ten~~ **fifteen** percent of all time deposits of state moneys **authorized under the asset** 8 **allocation plan**. The state treasurer shall present a copy of such policy to the governor, 9 commissioner of administration, state auditor and general assembly at the commencement of

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

10 each regular session of the general assembly or at any time the written investment policy is
11 amended.

12 2. The state treasurer shall determine by the exercise of the treasurer's best judgment the
13 amount of state moneys that are not needed for current operating expenses of the state
14 government and shall keep on demand deposit in banking institutions in this state selected by the
15 treasurer and approved by the governor and state auditor the amount of state moneys which the
16 treasurer has so determined are needed for current operating expenses of the state government
17 and disburse the same as authorized by law.

18 3. Within the parameters of the state treasurer's written investment policy, the state
19 treasurer shall place the state moneys which the treasurer has determined are not needed for
20 current operations of the state government on time deposit drawing interest in banking
21 institutions in this state selected by the treasurer and approved by the governor and the state
22 auditor, or place them outright or, if applicable, by repurchase agreement in obligations described
23 in Section 15, Article IV, Constitution of Missouri, as the treasurer in the exercise of the
24 treasurer's best judgment determines to be in the best overall interest of the people of the state
25 of Missouri, giving due consideration to:

26 (1) The preservation of such state moneys;

27 (2) The benefits to the economy and welfare of the people of Missouri when such state
28 money is invested in banking institutions in this state that, in turn, provide additional loans and
29 investments in the Missouri economy and generate state taxes from such initial investments and
30 the loans and investments created by the banking institutions, compared to the removal or
31 withholding from banking institutions in the state of all or some such state moneys and investing
32 same in obligations authorized in Section 15, Article IV of the Missouri Constitution;

33 (3) The liquidity needs of the state;

34 (4) The aggregate return in earnings and taxes on the deposits and the investment to be
35 derived therefrom; and

36 (5) All other factors which to the treasurer as a prudent state treasurer seem to be
37 relevant to the general public welfare in the light of the circumstances at the time prevailing. The
38 state treasurer may also place state moneys which are determined not needed for current
39 operations of the state government in linked deposits as provided in sections 30.750 to 30.765.

40 4. Except for state moneys deposited in linked deposits as provided in sections 30.750
41 to 30.860, the rate of interest payable by all banking institutions on time deposits of state moneys
42 shall be set under subdivisions (1) to (5) of this subsection and subsections 6 and 7 of this
43 section. The rate shall never exceed the maximum rate of interest which by federal law or
44 regulation a bank which is a member of the Federal Reserve System may from time to time pay

45 on a time deposit of the same size and maturity. The rate of interest payable by all banking
46 institutions on time deposits of state moneys is as follows:

47 (1) Beginning January 1, 2010, the rate of interest payable by a banking institution on
48 up to seven million dollars of time deposits of state moneys shall be the same as the average rate
49 paid during the week next preceding the week in which the deposit was made for United States
50 of America treasury securities maturing and becoming payable closest to the time of termination
51 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
52 In the case of a banking institution that holds more than seven million dollars of time deposits
53 of state moneys, the rate of interest payable on deposits in excess of seven million dollars of time
54 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
55 section;

56 (2) Beginning January 1, 2011, the rate of interest payable by a banking institution on
57 up to five million dollars of time deposits of state moneys shall be the same as the average rate
58 paid during the week next preceding the week in which the deposit was made for United States
59 of America treasury securities maturing and becoming payable closest to the time of termination
60 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
61 In the case of a banking institution that holds more than five million dollars of time deposits of
62 state moneys, the rate of interest payable on deposits in excess of five million dollars of time
63 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
64 section;

65 (3) Beginning January 1, 2012, the rate of interest payable by a banking institution on
66 up to three million dollars of time deposits of state moneys shall be the same as the average rate
67 paid during the week next preceding the week in which the deposit was made for United States
68 of America treasury securities maturing and becoming payable closest to the time of termination
69 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
70 In the case of a banking institution that holds more than three million dollars of time deposits of
71 state moneys, the rate of interest payable on deposits in excess of three million dollars of time
72 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
73 section;

74 (4) Beginning January 1, 2013, the rate of interest payable by a banking institution on
75 up to one million dollars of time deposits of state moneys shall be the same as the average rate
76 paid during the week next preceding the week in which the deposit was made for United States
77 of America treasury securities maturing and becoming payable closest to the time of termination
78 of the deposit, as determined by the state treasurer, adjusted to the nearest one-tenth of a percent.
79 In the case of a banking institution that holds more than one million dollars of time deposits of
80 state moneys, the rate of interest payable on deposits in excess of one million dollars of time

81 deposits of state moneys shall be set at the market rate as determined in subsection 6 of this
82 section;

83 (5) Beginning January 1, 2014, the rate of interest payable by a banking institution on
84 all time deposits of state moneys shall be set at the market rate as determined in subsection 6 of
85 this section.

86 5. Notwithstanding subdivisions (1) to (5) of subsection 4 of this section, for any new
87 time deposits of state moneys placed after January 1, 2010, with a term longer than eighteen
88 months, the rate of interest payable by a banking institution shall be set at the market rate as
89 determined in subsection 6 of this section.

90 6. Market rate shall be determined no less frequently than once a month by the director
91 of investments in the office of state treasurer. The process for determining a market rate shall
92 include due consideration of prevailing rates offered for certificates of deposit by well-
93 capitalized Missouri financial institutions, the advance rate established by the Federal Home
94 Loan Bank of Des Moines for member institutions and the costs of collateralization, as well as
95 an evaluation of the credit risk associated with other authorized securities under Section 15,
96 Article IV, of the Missouri Constitution, **or any other calculation determined by the state**
97 **treasurer based on current market investment indicators.** Banking institutions may also
98 offer a higher rate than the market rate for any time deposit placed with the state treasurer in
99 excess of the total amount of state moneys set at the United States of America treasury securities
100 maturing and becoming payable closest to the time of termination of the deposit indicated in
101 subdivisions (1) to (5) of subsection 4 of this section.

102 7. Within the parameters of the state treasurer's written investment policy, the state
103 treasurer may subscribe for or purchase outright or by repurchase agreement investments of the
104 character described in subsection 3 of this section which the treasurer, in the exercise of the
105 treasurer's best judgment, believes to be the best for investment of state moneys at the time and
106 in payment therefor may withdraw moneys from any bank account, demand or time, maintained
107 by the treasurer without having any supporting warrant of the commissioner of administration.
108 The state treasurer may bid on subscriptions for such obligations in accordance with the
109 treasurer's best judgment. The state treasurer shall provide for the safekeeping of all such
110 obligations so acquired in the same manner that securities pledged to secure the repayment of
111 state moneys deposited in banking institutions are kept by the treasurer pursuant to law. The
112 state treasurer may hold any such obligation so acquired by the treasurer until its maturity or
113 prior thereto may sell the same outright or by reverse repurchase agreement provided the state's
114 security interest in the underlying security is perfected or temporarily exchange such obligation
115 for cash or other authorized securities of at least equal market value with no maturity more than
116 one year beyond the maturity of any of the traded obligations, for a negotiated fee as the

117 treasurer, in the exercise of the treasurer's best judgment, deems necessary or advisable for the
118 best interest of the people of the state of Missouri in the light of the circumstances at the time
119 prevailing. The state treasurer may pay all costs and expenses reasonably incurred by the
120 treasurer in connection with the subscription, purchase, sale, collection, safekeeping or delivery
121 of all such obligations at any time acquired by the treasurer.

122 8. As used in this chapter, except as more particularly specified in section 30.270,
123 obligations of the United States shall include securities of the United States Treasury, and United
124 States agencies or instrumentalities as described in Section 15, Article IV, Constitution of
125 Missouri. The word "temporarily" as used in this section shall mean no more than six months.

30.753. 1. The state treasurer may invest in linked deposits; however, the total amount
2 so deposited at any one time shall not exceed, in the aggregate, ~~[seven hundred twenty]~~ **eight**
3 **hundred** million dollars. No more than three hundred thirty million dollars of the aggregate
4 deposit shall be used for linked deposits to eligible farming operations, eligible locally owned
5 businesses, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, and
6 eligible facility borrowers, no more than one hundred ~~[ten]~~ **ninety** million of the aggregate
7 deposit shall be used for linked deposits to small businesses, no more than twenty million dollars
8 shall be used for linked deposits to eligible multitenant development enterprises, and no more
9 than twenty million dollars of the aggregate deposit shall be used for linked deposits to eligible
10 residential property developers and eligible residential property owners, no more than two
11 hundred twenty million dollars of the aggregate deposit shall be used for linked deposits to
12 eligible job enhancement businesses and no more than twenty million dollars of the aggregate
13 deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans
14 may be made to eligible student borrowers, eligible alternative energy operations, eligible
15 alternative energy consumers, and eligible governmental entities from the aggregate deposit. If
16 demand for a particular type of linked deposit exceeds the initial allocation, and funds initially
17 allocated to another type are available and not in demand, the state treasurer may commingle
18 allocations among the types of linked deposits.

19 2. The minimum deposit to be made by the state treasurer to an eligible lending
20 institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked
21 deposit loans for eligible job enhancement businesses may be made for the purposes of assisting
22 with relocation expenses, working capital, interim construction, inventory, site development,
23 machinery and equipment, or other expenses necessary to create or retain jobs in the recipient
24 firm.

30.758. 1. The state treasurer may accept or reject a linked deposit loan package or any
2 portion thereof.

3 2. The state treasurer shall make a good faith effort to ensure that the linked deposits are
4 placed with eligible lending institutions to make linked deposit loans to minority- or female-
5 owned eligible multitenant enterprises, eligible farming operations, eligible alternative energy
6 operations, eligible alternative energy consumers, eligible locally owned businesses, eligible
7 small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible
8 residential property developers, eligible residential property owners, eligible governmental
9 entities, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible
10 student borrowers, eligible facility borrowers, or eligible water supply systems. Results of such
11 effort shall be included in the linked deposit review committee's annual report to the governor.

12 3. Upon acceptance of the linked deposit loan package or any portion thereof, the state
13 treasurer may place linked deposits with the eligible lending institution as follows: when market
14 rates are five percent or above, the state treasurer shall reduce the market rate by up to three
15 percentage points to obtain the linked deposit rate; when market rates are less than five percent,
16 the state treasurer shall reduce the market rate by up to sixty percent to obtain the linked deposit
17 rate. All linked deposit rates are determined and calculated by the state treasurer. When
18 necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan
19 package.

20 4. The eligible lending institution shall enter into a deposit agreement with the state
21 treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750
22 to 30.765. The deposit agreement shall specify the length of time for which the lending
23 institution will lend funds upon receiving a linked deposit, and the original deposit plus renewals
24 shall not exceed five years, except as otherwise provided in this chapter. The agreement shall
25 also include provisions for the linked deposit of a linked deposit for an eligible facility borrower,
26 eligible multitenant enterprise, eligible farming operation, eligible alternative energy operation,
27 eligible alternative energy consumer, eligible locally owned business, eligible small business,
28 eligible marketing enterprise, eligible residential property developer, eligible residential property
29 owner, eligible governmental entity, eligible agribusiness, eligible beginning farmer, eligible
30 livestock operation, eligible student borrower or job enhancement business. Interest shall be paid
31 at the times determined by the state treasurer.

32 5. The period of time for which such linked deposit is placed with an eligible lending
33 institution shall be neither longer nor shorter than the period of time for which the linked deposit
34 is used to provide loans at reduced interest rates. The agreement shall further provide that the
35 state shall receive market interest rates on any linked deposit or any portion thereof for any
36 period of time for which there is no corresponding linked deposit loan outstanding to an eligible
37 multitenant enterprise, eligible farming operation, eligible alternative energy operation, eligible
38 alternative energy consumer, eligible locally owned business, eligible small business, eligible

39 job enhancement business, eligible marketing enterprise, eligible residential property developer,
40 eligible residential property owner, eligible governmental entity, eligible agribusiness, eligible
41 beginning farmer, eligible livestock operation, eligible student borrower, eligible facility
42 borrower, or eligible water supply system, except as otherwise provided in this subsection.
43 Within thirty days after the annual anniversary date of the linked deposit, the eligible lending
44 institution shall repay the state treasurer any linked deposit principal received from borrowers
45 in the previous yearly period and thereafter repay such principal within thirty days of the yearly
46 anniversary date calculated separately for each linked deposit loan, and repaid at the linked
47 deposit rate. Such principal payment shall be accelerated when more than thirty percent of the
48 linked deposit loan is repaid within a single monthly period. Any principal received and not
49 repaid, up to the point of the thirty percent or more payment, shall be repaid within thirty days
50 of that payment at the linked deposit rate. Finally, when the linked deposit is tied to a revolving
51 line of credit agreement between the banking institution and its borrower, the full amount of the
52 line of credit shall be excluded from the repayment provisions of this subsection.

53 **6. The state treasurer shall give priority to maintaining linked deposit agreement**
54 **renewals over funding new linked deposit applications.**

385.015. All life insurance, accident and sickness insurance, involuntary unemployment
2 insurance, credit casualty insurance, and property insurance written in connection with loans or
3 other credit transactions shall be subject to the provisions of sections 385.010 to 385.080, except
4 insurance for which no identifiable charge is made to the debtor and insurance written in
5 connection with a loan or other credit transaction of more than ~~ten~~ **fifteen** years duration; nor
6 shall insurance be subject to the provisions of sections 385.010 to 385.080 if the issuance of the
7 insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan
8 for insuring debtors of the creditor or where the issuance of such insurance is in connection with
9 a residential real estate secured credit transaction commitment exceeding twenty-five thousand
10 dollars, which may be accessed on a discretionary basis by the debtor.

409.605. As used in sections 409.600 to 409.630, the following terms shall mean:

- 2 (1) "Agencies", the department of health and senior services and the commissioner of
3 securities;
- 4 (2) "Agent", shall have the same meaning as in section 409.1-102;
- 5 (3) "Broker-dealer", shall have the same meaning as in section 409.1-102;
- 6 (4) "Financial exploitation", the wrongful or unauthorized taking, withholding,
7 appropriation, or use of money, real property, or personal property of a qualified adult;
- 8 (5) "Immediate family member", a spouse, child, parent, or sibling of a qualified adult;
- 9 (6) **"Investment adviser", the same meaning as under section 409.1-102;**

10 (7) "Investment adviser representative", shall have the same meaning as under
11 section 409.1-102;

12 (8) "Qualified adult":

13 (a) A person sixty years of age or older; or

14 (b) A person who:

15 a. Has a disability as defined in section 192.2005; and

16 b. Is between the ages of eighteen and fifty-nine;

17 ~~[(7)]~~ (9) "Qualified individual"~~[-]~~ :

18 (a) A broker-dealer;

19 (b) An investment adviser; or

20 (c) A person associated with a broker-dealer or investment adviser who serves in a
21 supervisory, compliance, or legal capacity as part of his or her job.

409.610. If a qualified individual reasonably believes that financial exploitation of a
2 qualified adult has occurred, has been attempted, or is being attempted, the qualified individual
3 may notify the agencies. Subsequent to notifying the agencies, an agent, **investment adviser**
4 **representative**, or qualified individual may notify an immediate family member, legal guardian,
5 conservator, co-trustee, successor trustee, or agent under a power of attorney of the qualified
6 adult **or other individual reasonably associated with the qualified adult** of such belief. **The**
7 **agencies may provide information regarding a qualified adult to the reporting qualified**
8 **individual, agent, or investment adviser representative upon request.**

409.615. 1. A qualified individual may refuse a request for disbursement **or transaction**
2 from the account of a qualified adult, or an account on which a qualified adult is a beneficiary
3 or beneficial owner, if:

4 (1) The qualified individual reasonably believes that the requested disbursement **or**
5 **transaction** will result in financial exploitation of the qualified adult; and

6 (2) The ~~[broker-dealer or]~~ qualified individual~~[-]~~:

7 ~~——(a)]~~, within two business days:

8 (a) Makes a reasonable effort to notify all parties authorized to transact business on the
9 account orally or in writing, unless such parties are reasonably believed to have engaged in
10 suspected or attempted financial exploitation of the qualified adult; ~~[and]~~

11 (b) ~~[Within three business days]~~ Notifies the agencies; **and**

12 (c) **Sends written notice to the qualified adult. Such notice shall include the name**
13 **and contact information for the qualified individual who refused the disbursement or**
14 **transaction and for the Investor Protection Hotline administered by the securities division**
15 **of the secretary of state.**

16 2. Any refusal of a disbursement **or transaction** as authorized by this section shall expire
17 upon the sooner of:

18 (1) The time when the ~~[broker-dealer or]~~ qualified individual reasonably believes that
19 the disbursement **or transaction** will not result in financial exploitation of the qualified adult;
20 or

21 (2) Ten business days after the initial refusal of disbursement **or transaction** by the
22 qualified individual.

23 3. **Notwithstanding subsection 2 of this section to the contrary, following the refusal**
24 **by a qualified individual of an initial request for disbursement or transaction from the**
25 **account of a qualified adult:**

26 (1) A court of competent jurisdiction may enter an order extending the refusal of a
27 disbursement **or transaction** or any other protective relief;

28 (2) **The commissioner of securities may enter an order extending the refusal of a**
29 **disbursement or transaction for the time necessary to protect the qualified adult; or**

30 (3) **The director of the department of health and senior services, after notifying the**
31 **commissioner of securities, may enter an order to extend the refusal of a disbursement or**
32 **transaction for the time necessary to protect the qualified adult.**

33
34 **Subsequent to the issuance of an order under subdivision (2) or (3) of this subsection, the**
35 **agency that issued the order shall conduct a review of the circumstances every thirty days**
36 **to determine if the order extension should remain in effect.**

 409.620. Notwithstanding any other provision of law to the contrary, ~~[a broker-dealer]~~
2 **an investment adviser representative**, agent, or qualified individual who, in good faith and
3 exercising reasonable care, complies with section 409.610 or 409.615 shall be immune from any
4 civil liability under those sections.

 409.625. A ~~[broker-dealer may]~~ **qualified individual shall, upon request**, provide
2 access to or copies of records that are relevant to the suspected financial exploitation of a
3 qualified adult to the agencies or law enforcement. The records may include historical records
4 or records relating to the most recent disbursement as well as disbursements that comprise the
5 suspected financial exploitation of a qualified adult. All records made available to the agencies
6 under this section shall not be considered a public record as defined under chapter 610.

 409.630. No later than September 1, ~~[2016]~~ **2021**, the commissioner of securities shall
2 develop and make available a website that includes training resources to assist broker-dealers
3 ~~[and]~~ **, investment advisers, agents, and investment adviser representatives** in the prevention
4 and detection of financial exploitation of qualified adults. Such resources shall include, at a
5 minimum, indicators of financial exploitation of qualified adults and potential steps

6 broker-dealers ~~[and]~~ , **investment advisers**, agents, and **investment adviser representatives**
7 may take to prevent suspected financial exploitation of qualified adults as authorized by law.

2 409.3-302. (a) With respect to a federal covered security, as defined in Section 18(b)(2)
3 of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), that is not otherwise exempt under
4 sections 409.2-201 to 409.2-203, a rule adopted or order issued under this act may require the
5 filing of any or all of the following records:

6 (1) Before the initial offer of a federal covered security in this state, all records that are
7 part of a federal registration statement filed with the Securities and Exchange Commission under
8 the Securities Act of 1933 and a consent to service of process complying with section 409.6-611
9 signed by the issuer and the payment of a fee of one hundred dollars;

10 (2) After the initial offer of the federal covered security in this state, all records that are
11 part of an amendment to a federal registration statement filed with the Securities and Exchange
12 Commission under the Securities Act of 1933; and

13 (3) To the extent necessary or appropriate to compute fees, a report of the value of the
14 federal covered securities sold or offered to persons present in this state, if the sales data are not
15 included in records filed with the Securities and Exchange Commission and payment of a fee of
16 one-twentieth of one percent of the amount of securities sold in this state during that previous
17 fiscal year. In no case shall this fee exceed three thousand dollars.

18 (b) A notice filing under subsection (a) is effective for one year commencing on the later
19 of the notice filing or the effectiveness of the offering filed with the Securities and Exchange
20 Commission. On or before expiration, the issuer may renew a notice filing by filing a copy of
21 those records filed by the issuer with the Securities and Exchange Commission that are required
22 by rule or order under this act to be filed and by paying a renewal fee of one hundred dollars.
23 A previously filed consent to service of process complying with section 409.6-611 may be
24 incorporated by reference in a renewal. A renewed notice filing becomes effective upon the
25 expiration of the filing being renewed.

26 (c) With respect to a security that is a federal covered security under Section 18(b)(4)(D)
27 of the Securities Act of 1933(15 U.S.C. Section 77r(b)(4)(D)), a rule under this act may require
28 a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix,
29 as promulgated by the Securities and Exchange Commission, and a consent to service of process
30 complying with section 409.6-611 signed by the issuer not later than fifteen days after the first
31 sale of the federal covered security in this state and the payment of a fee of one hundred dollars;
32 and the payment of a fee of fifty dollars for any late filing.

33 (d) Except with respect to a federal security under Section 18(b)(1) of the Securities Act
34 of 1933 (15 U.S.C. Section 77r(b)(1)), if the commissioner finds that there is a failure to comply
with a notice or fee requirement of this section, the commissioner may issue a stop order

35 suspending the offer and sale of a federal covered security in this state. If the deficiency is
36 corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by
37 the commissioner.

38 **(e) With respect to a security that is a federal covered security under Section**
39 **18(b)(3) or 18(b)(4) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(3) or 77r(b)(4)),**
40 **a rule under this act may require a notice filing by or on behalf of an issuer to include:**

41 **(1) A copy of Form 1-A, Parts I through III, as well as all other forms and**
42 **appendices required and promulgated by the Securities and Exchange Commission;**

43 **(2) A consent to service of process complying with section 409.6-611 signed by the**
44 **issuer no later than the fifteenth day after the first sale of the federal covered security in**
45 **this state and the payment of a fee of one hundred dollars; and**

46 **(3) The payment of a fee of fifty dollars for any late filing.**

409.4-412. (a) If the commissioner finds that the order is in the public interest and
2 subsection (d) authorizes the action, an order issued under this act may deny an application, or
3 may condition or limit registration: (1) of an applicant to be a broker-dealer, agent, investment
4 adviser, or investment adviser representative, and (2) if the applicant is a broker-dealer or
5 investment adviser, of any partner, officer, director, person having a similar status or performing
6 similar functions, or person directly or indirectly controlling the broker-dealer or investment
7 adviser.

8 (b) If the commissioner finds that the order is in the public interest and subsection (d)
9 authorizes the action an order issued under this act may revoke, suspend, condition, or limit the
10 registration of a registrant and if the registrant is a broker-dealer or investment adviser, any
11 partner, officer, or director, any person having a similar status or performing similar functions,
12 or any person directly or indirectly controlling the broker-dealer or investment adviser.
13 However, the commissioner:

14 (1) May not institute a revocation or suspension proceeding under this subsection based
15 on an order issued by another state that is reported to the commissioner or designee later than one
16 year after the date of the order on which it is based; and

17 (2) Under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order
18 under the state securities act of another state unless the other order was based on conduct for
19 which subsection (d) would authorize the action had the conduct occurred in this state.

20 (c) If the commissioner finds that the order is in the public interest and subsection (d)(1)
21 to (6), (8), (9), (10), or (12) and (13) authorizes the action, an order under this act may censure,
22 impose a bar, or impose a civil penalty in an amount not to exceed ~~[a maximum of five]~~ **twenty-**
23 **five** thousand dollars for ~~[a single]~~ **each** violation ~~[or fifty thousand dollars for several~~
24 ~~violations]~~ on a registrant and, if the registrant is a broker-dealer or investment adviser, **on any**

25 partner, officer, or director, any person having similar functions, or any person directly or
26 indirectly controlling the broker-dealer or investment adviser.

27 (d) A person may be disciplined under subsections (a) to (c) if the person:

28 (1) Has filed an application for registration in this state under this act or the predecessor
29 act within the previous ten years, which, as of the effective date of registration or as of any date
30 after filing in the case of an order denying effectiveness, was incomplete in any material respect
31 or contained a statement that, in light of the circumstances under which it was made, was false
32 or misleading with respect to a material fact;

33 (2) Willfully violated or willfully failed to comply with this act or the predecessor act
34 or a rule adopted or order issued under this act or the predecessor act within the previous ten
35 years;

36 (3) Has been convicted of a felony or within the previous ten years has been convicted
37 of a misdemeanor involving a security, a commodity future or option contract, or an aspect of
38 a business involving securities, commodities, investments, franchises, insurance, banking, or
39 finance;

40 (4) Is enjoined or restrained by a court of competent jurisdiction in an action instituted
41 by the commissioner under this act or the predecessor act, a state, the Securities and Exchange
42 Commission, or the United States from engaging in or continuing an act, practice, or course of
43 business involving an aspect of a business involving securities, commodities, investments,
44 franchises, insurance, banking, or finance;

45 (5) Is the subject of an order, issued after notice and opportunity for hearing by:

46 (A) The securities, depository institution, insurance, or other financial services regulator
47 of a state or by the Securities and Exchange Commission or other federal agency denying,
48 revoking, barring, or suspending registration as a broker-dealer, agent, investment adviser,
49 federal covered investment adviser, or investment adviser representative;

50 (B) The securities regulator of a state or by the Securities and Exchange Commission
51 against a broker-dealer, agent, investment adviser, investment adviser representative, or federal
52 covered investment adviser;

53 (C) The Securities and Exchange Commission or by a self-regulatory organization
54 suspending or expelling the registrant from membership in the self-regulatory organization;

55 (D) A court adjudicating a United States Postal Service fraud order;

56 (E) The insurance regulator of a state denying, suspending, or revoking the registration
57 of an insurance agent; or

58 (F) A depository institution regulator suspending or barring a person from the depository
59 institution business;

60 (6) Is the subject of an adjudication or determination, after notice and opportunity for
61 hearing, by the Securities and Exchange Commission, the Commodity Futures Trading
62 Commission; the Federal Trade Commission; a federal depository institution regulator, or a
63 depository institution, insurance, or other financial services regulator of a state that the person
64 willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the
65 Investment Advisers Act of 1940, the Investment Company Act of 1940, or the Commodity
66 Exchange Act, the securities or commodities law of a state, or a federal or state law under which
67 a business involving investments, franchises, insurance, banking, or finance is regulated;

68 (7) Is insolvent, either because the person's liabilities exceed the person's assets or
69 because the person cannot meet the person's obligations as they mature, but the commissioner
70 may not enter an order against an applicant or registrant under this paragraph without a finding
71 of insolvency as to the applicant or registrant;

72 (8) Refuses to allow or otherwise impedes the commissioner from conducting an audit
73 or inspection under section 409.4-411(d) or refuses access to a registrant's office to conduct an
74 audit or inspection under section 409.4-411(d);

75 (9) Has failed to reasonably supervise an agent, investment adviser representative, or
76 other individual, if the agent, investment adviser representative, or other individual was subject
77 to the person's supervision and committed a violation of this act or the predecessor act or a rule
78 adopted or order issued under this act or the predecessor act within the previous ten years;

79 (10) Has not paid the proper filing fee within thirty days after having been notified by
80 the commissioner of a deficiency, but the commissioner shall vacate an order under this
81 paragraph when the deficiency is corrected;

82 (11) After notice and opportunity for a hearing, has been found within the previous ten
83 years:

84 (A) By a court of competent jurisdiction to have willfully violated the laws of a foreign
85 jurisdiction under which the business of securities, commodities, investment, franchises,
86 insurance, banking, or finance is regulated;

87 (B) To have been the subject of an order of a securities regulator of a foreign jurisdiction
88 denying, revoking, or suspending the right to engage in the business of securities as a
89 broker-dealer, agent, investment adviser, investment adviser representative, or similar person;
90 or

91 (C) To have been suspended or expelled from membership by or participation in a
92 securities exchange or securities association operating under the securities laws of a foreign
93 jurisdiction;

94 (12) Is the subject of a cease and desist order issued by the Securities and Exchange
95 Commission or issued under the securities, commodities, investment, franchise, banking,
96 finance, or insurance laws of a state;

97 (13) Has engaged in dishonest or unethical practices in the securities, commodities,
98 investment, franchise, banking, finance, or insurance business within the previous ten years; or

99 (14) Is not qualified on the basis of factors such as training, experience, and knowledge
100 of the securities business. However, in the case of an application by an agent for a broker-dealer
101 that is a member of a self-regulatory organization or by an individual for registration as an
102 investment adviser representative, a denial order may not be based on this paragraph if the
103 individual has successfully completed all examinations required by subsection (e). The
104 commissioner may require an applicant for registration under section 409.4-402 or 409.4-404
105 who has not been registered in a state within the two years preceding the filing of an application
106 in this state to successfully complete an examination.

107 (e) A rule adopted or order issued under this act may require that an examination,
108 including an examination developed or approved by an organization of securities regulators, be
109 successfully completed by a class of individuals or all individuals. An order issued under this
110 act may waive, in whole or in part, an examination as to an individual and a rule adopted under
111 this act may waive, in whole or in part, an examination as to a class of individuals if the
112 commissioner determines that the examination is not necessary or appropriate in the public
113 interest and for the protection of investors.

114 (f) The commissioner may suspend or deny an application summarily; restrict, condition,
115 limit, or suspend a registration; or censure, bar, or impose a civil penalty on a registrant before
116 final determination of an administrative proceeding. Upon the issuance of an order, the
117 commissioner shall promptly notify each person subject to the order that the order has been
118 issued, the reasons for the action, and that within fifteen days after the receipt of a request in a
119 record from the person the matter will be scheduled for a hearing. If a hearing is not requested
120 and none is ordered by the commissioner within thirty days after the date of service of the order,
121 the order becomes final by operation of law. If a hearing is requested or ordered, the
122 commissioner, after notice of and opportunity for hearing to each person subject to the order,
123 may modify or vacate the order or extend the order until final determination.

124 (g) An order issued may not be issued under this section, except under subsection (f),
125 without:

- 126 (1) Appropriate notice to the applicant or registrant;
127 (2) Opportunity for hearing; and
128 (3) Findings of fact and conclusions of law in a record.

129 (h) A person that controls, directly or indirectly, a person not in compliance with this
130 section may be disciplined by order of the commissioner under subsections (a) to (c) to the same
131 extent as the noncomplying person, unless the controlling person did not know, and in the
132 exercise of reasonable care could not have known, of the existence of conduct that is a ground
133 for discipline under this section.

134 (i) The commissioner may not institute a proceeding under subsection (a), (b), or (c)
135 based solely on material facts actually known by the commissioner unless an investigation or the
136 proceeding is instituted within one year after the commissioner actually acquires knowledge of
137 the material facts.

138 (j) Any applicant denied an agent, broker-dealer, investment adviser or investment
139 adviser representative registration by order of the commissioner pursuant to subsection (a) may
140 file a petition with the administrative hearing commission alleging that the commissioner has
141 denied the registration. The administrative hearing commission shall conduct hearings and make
142 findings of fact and conclusions of law. The commissioner shall have the burden of proving a
143 ground for denial pursuant to this act.

144 (k) If a proceeding is instituted to revoke or suspend a registration of any agent,
145 broker-dealer, investment adviser, or investment adviser representative pursuant to subsection
146 (b), the commissioner shall refer the matter to the administrative hearing commission. The
147 administrative hearing commission shall conduct hearings and make findings of fact and
148 conclusions of law in such cases. The commissioner shall have the burden of proving a ground
149 for suspension or revocation pursuant to this act. The administrative hearing commission shall
150 submit its findings of fact and conclusions of law to the commissioner for final disposition.

151 (l) Hearing procedures before the commissioner or the administrative hearing
152 commission and judicial review of the decisions and orders of the commissioner and of the
153 administrative hearing commission, and all other procedural matters pursuant to this act shall be
154 governed by the provisions of chapter 536. Hearings before the administrative hearing
155 commission shall also be governed by the provisions of chapter 621.

409.6-604. (a) If the commissioner determines that a person has engaged, is engaging,
2 or is about to engage in an act, practice, or course of business constituting a violation of this act
3 or a rule adopted or order issued under this act or that a person has materially aided, is materially
4 aiding, or is about to materially aid an act, practice, or course of business constituting a violation
5 of this act or a rule adopted or order issued under this act, the commissioner may:

6 (1) Issue an order directing the person to cease and desist from engaging in the act,
7 practice, or course of business or to take other action necessary or appropriate to comply with
8 this act;

9 (2) Issue an order denying, suspending, revoking, or conditioning the exemptions for a
10 broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment adviser under section
11 409.4-403(b)(1)(C); or

12 (3) Issue an order under section 409.2-204.

13 (b) An order under subsection (a) is effective on the date of issuance. Upon issuance of
14 the order, the commissioner shall promptly serve each person subject to the order with a copy
15 of the order and a notice that the order has been entered. The order must include a statement
16 whether the commissioner will seek a civil penalty or costs of the investigation, a statement of
17 the reasons for the order, and notice that, within fifteen days after receipt of a request in a record
18 from the person, the matter will be scheduled for a hearing. If a person subject to the order does
19 not request a hearing and none is ordered by the commissioner within thirty days after the date
20 of service of the order, the order becomes final as to that person by operation of law. If a hearing
21 is requested or ordered, the commissioner, after notice of and opportunity for hearing to each
22 person subject to the order, may modify or vacate the order or extend it until final determination.

23 (c) If a hearing is requested or ordered pursuant to subsection (b), a hearing before the
24 commissioner must be provided. A final order may not be issued unless the commissioner
25 makes findings of fact and conclusions of law in a record in accordance with the provisions of
26 chapter 536 and procedural rules promulgated by the commissioner. The final order may make
27 final, vacate, or modify the order issued under subsection (a).

28 (d) In a final order under subsection (c), the commissioner may:

29 (1) Impose a civil penalty up to ~~[one]~~ **twenty-five** thousand dollars for ~~[a single]~~ **each**
30 violation ~~[or up to ten thousand dollars for more than one violation];~~

31 (2) Order a person subject to the order to pay restitution for any loss, including the
32 amount of any actual damages that may have been caused by the conduct and interest at the rate
33 of eight percent per year from the date of the violation causing the loss or disgorge any profits
34 arising from the violation;

35 (3) In addition to any civil penalty otherwise provided by law, impose an additional civil
36 penalty not to exceed ~~[five]~~ **fifteen** thousand dollars for each such violation if the commissioner
37 finds that a person subject to the order has violated any provision of this act and that such
38 violation was committed against an elderly or disabled person. For purposes of this section, the
39 following terms mean:

40 (A) "Disabled person", a person with a physical or mental impairment that substantially
41 limits one or more of the major life activities of such individual, a record of such impairment,
42 or being regarded as having such an impairment;

43 (B) "Elderly person", a person sixty years of age or older.

44 (e) In a final order, the commissioner may charge the actual cost of an investigation or
45 proceeding for a violation of this act or a rule adopted or order issued under this act. These funds
46 may be paid into the investor education and protection fund.

47 (f) If a petition for judicial review of a final order is not filed in accordance with section
48 409.6-609, the commissioner may file a certified copy of the final order with the clerk of a court
49 of competent jurisdiction. The order so filed has the same effect as a judgment of the court and
50 may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

51 (g) If a person does not comply with an order under this section, the commissioner may
52 petition a court of competent jurisdiction to enforce the order. The court may not require the
53 commissioner to post a bond in an action or proceeding under this section. If the court finds,
54 after service and opportunity for hearing, that the person was not in compliance with the order,
55 the court may adjudge the person in civil contempt of the order. The court may impose a further
56 civil penalty against the person for contempt in an amount not less than five thousand dollars but
57 not greater than one hundred thousand dollars for each violation and may grant any other relief
58 the court determines is just and proper in the circumstances.

59 (h) The commissioner is authorized to issue administrative consent orders in the
60 settlement of any proceeding in the public interest under this act.

61 (i) **Subject to the provisions of sections 409.107 to 409.7-703, the commissioner shall**
62 **file an action under 409.6-603 or issue an order under section 409.6-604 within five years**
63 **of the date on which the commissioner receives actual knowledge of the material facts of**
64 **a possible violation but in no event more than fifteen years from the date of the alleged**
65 **violation.**

443.717. 1. Mortgage loan originators shall satisfy a prelicensing education requirement
2 through approved education courses of at least twenty hours approved in accordance with
3 subsection 2 of this section, which shall include at least:

4 (1) Three hours of federal law and regulations;

5 (2) Three hours of ethics, which shall include instruction on fraud, consumer protection,
6 and fair lending issues; and

7 (3) Two hours of training related to lending standards for the nontraditional mortgage
8 product marketplace.

9 2. For purposes of subsection 1 of this section, prelicensing approved education courses
10 include courses reviewed and approved by the NMLSR based upon reasonable standards.
11 Review and approval of a prelicensing education course shall include review and approval of the
12 course provider.

13 3. Nothing in this section shall preclude any prelicensing education course, as approved
14 by the NMLSR, that is provided by the employer of the applicant or person who is affiliated with
15 the applicant by an agency contract, or any subsidiary or affiliate of such employer or person.

16 4. Prelicensing education may be offered in a classroom, online, or by any other means
17 approved by the NMLSR.

18 5. The prelicensing education requirements approved by the NMLSR in subdivisions (1)
19 to (3) of subsection 1 of this section for any state shall be accepted as credit towards completion
20 of prelicensing education requirements in Missouri.

21 6. A person previously licensed under sections 443.701 to 443.893 applying to be
22 licensed again shall prove that they have completed all of the continuing education requirements,
23 if any, for the year in which the license was last held.

24 **7. A prelicensing education course completed by an individual shall not satisfy the**
25 **prelicensing education requirement if the course precedes an application by a certain**
26 **period as established by the NMLSR.**

 443.825. 1. Application for a residential mortgage loan broker license shall be made as
2 provided in sections 443.833 and 443.835. The application shall be in writing, made under oath,
3 and on a form provided by the director.

4 2. The director may, by rule, revise and conform the residential mortgage loan broker
5 license application and renewal process, and the licensing dates and periods under sections
6 443.701 to 443.893 to a system of licensing residential mortgage loan brokers administered in
7 cooperation with the NMLSR.

8 3. The application shall contain the name and complete business and residential address
9 or addresses of the applicant. If the applicant is a form of business organization, the application
10 shall contain the names and complete business and residential addresses of each member,
11 director and principal officer of such person. Such application shall also include a description
12 of the activities of the applicant, in such detail and for such periods as the director may require,
13 including all of the following:

14 (1) An affirmation of financial solvency noting such capitalization requirements as may
15 be required by the director, and access to such credit as may be required by the director;

16 (2) An affirmation that the applicant or the applicant's members, directors or principals,
17 as may be appropriate, are at least eighteen years of age;

18 (3) Information that would support findings under subdivision (4) of section 443.821 as
19 to the character, fitness, financial and business responsibility, background, experience and
20 criminal records of any:

21 (a) Person or ultimate equitable owner that owns or controls, directly or indirectly, ten
22 percent or more of any class of stock of the applicant;

23 (b) Person or ultimate equitable owner that is not a depository institution that lends,
24 provides or infuses, directly or indirectly, in any way, funds to or into an applicant, in an amount
25 equal to, or more than, ten percent of the applicant's net worth;

26 (c) Person or ultimate equitable owner that controls, directly or indirectly, the election
27 of twenty-five percent or more of the members of the board of directors of the applicant; and

28 (d) Person or ultimate equitable owner that the director finds influences management of
29 the applicant.

30 **4. All persons listed under subdivision (3) of subsection 3 of this section shall**
31 **furnish fingerprints to the NMLSR for submission to the Federal Bureau of Investigation**
32 **and any governmental agency or person authorized to receive such information for a state,**
33 **national, and international criminal history background check.**

34 **5. For the purposes of this chapter and in order to reduce the points of contact**
35 **which the Federal Bureau of Investigation may have to maintain, the director may use the**
36 **NMLSR as an agent for requesting information from and distributing information to the**
37 **Department of Justice or any other governmental agency.**

443.855. The director may prescribe rules governing the advertising of mortgage loans,
2 including, without limitation, ~~[the following requirements:~~

3 ~~——(1)]~~ **rules that** advertising pursuant to sections 443.701 to 443.893 may not be false,
4 misleading or deceptive. No person whose activities are regulated pursuant to the provisions of
5 sections 443.701 to 443.893 may advertise in any manner so as to indicate or imply that the
6 person's interest rates or charges for loans are in any way recommended, approved, set or
7 established by the state or federal government or by the provisions of sections 443.701 to
8 443.893];

9 ~~——(2) All advertisements by a licensee shall contain the name and an office address of such~~
10 ~~person, which shall conform to a name and address on record with the director].~~

443.857. Each residential mortgage loan broker shall maintain, in the state of Missouri,
2 at least one full-service office with staff reasonably adequate to efficiently handle all matters
3 relating to any proposed or existing home mortgage with respect to which such residential
4 mortgage loan broker is performing services; except that, this provision may be waived by the
5 director for persons providing mortgage loan servicing ~~[under section 443.812]~~ **or exclusively**
6 **engaged in the business of loan processing or underwriting as defined in this chapter.**

476.419. 1. Notwithstanding any provision of law to the contrary, a court shall not
2 **divide securities among multiple recipients in such a way that negotiable securities become**
3 **nonnegotiable securities.**

4 **2. A court may divide securities into increments equal to a multiple of an allowable**
5 **tradeable amount. For purposes of this section, an "allowable tradeable amount" is the**

6 **minimum amount or denomination accepted by the industry, as defined in the official**
7 **statement or offering document of the original security. If the provisions of this section**
8 **prevent the distribution of property in the proportion that other law requires, a court may:**

9 **(1) Distribute different values of securities to different recipients and distribute**
10 **other property in a way so that the total value of property each recipient receives is as close**
11 **to the proper proportion as practicable;**

12 **(2) Liquidate the securities and distribute the resulting moneys among recipients;**
13 **or**

14 **(3) Take other action within its power, including a combination of subdivisions (1)**
15 **and (2) of this subsection.**

565.184. 1. A person commits the offense of abuse of an elderly person, a person with
2 a disability, or a vulnerable person if he or she:

3 (1) Purposely engages in conduct involving more than one incident that causes emotional
4 distress to an elderly person, a person with a disability, or a vulnerable person. The course of
5 conduct shall be such as would cause a reasonable elderly person, person with a disability, or
6 vulnerable person to suffer substantial emotional distress; or

7 (2) Intentionally fails to provide care, goods or services to an elderly person, a person
8 with a disability, or a vulnerable person. The result of the conduct shall be such as would cause
9 a reasonable elderly person, person with a disability, or vulnerable person to suffer physical or
10 emotional distress; or

11 (3) ~~Knowingly~~ **Recklessly** acts or ~~knowingly~~ **recklessly** fails to act in a manner which
12 results in a substantial risk **of serious harm** to the life, body or health of an elderly person, a
13 person with a disability, or a vulnerable person.

14 2. The offense of abuse of an elderly person, a person with a disability, or a vulnerable
15 person is a class ~~A misdemeanor~~ **E felony**. Nothing in this section shall be construed to mean
16 that an elderly person, a person with a disability, or a vulnerable person is abused solely because
17 such person chooses to rely on spiritual means through prayer, in lieu of medical care, for his or
18 her health care, as evidence by such person's explicit consent, advance directive for health care,
19 or practice.

570.145. 1. A person commits the offense of financial exploitation of an elderly person
2 or a person with a disability if such person knowingly obtains control over the property of the
3 elderly person or person with a disability with the intent to permanently deprive the person of
4 the use, benefit or possession of his or her property thereby benefitting the offender or
5 detrimentally affecting the elderly person or person with a disability by:

6 (1) Deceit;

7 (2) Coercion;

8 (3) Creating or confirming another person's impression which is false and which the
9 offender does not believe to be true;

10 (4) Failing to correct a false impression which the offender previously has created or
11 confirmed;

12 (5) Preventing another person from acquiring information pertinent to the disposition of
13 the property involved;

14 (6) Selling or otherwise transferring or encumbering property, failing to disclose a lien,
15 adverse claim or other legal impediment to the enjoyment of the property, whether such
16 impediment is or is not valid, or is or is not a matter of official record;

17 (7) Promising performance which the offender does not intend to perform or knows will
18 not be performed. Failure to perform standing alone is not sufficient evidence to prove that the
19 offender did not intend to perform; or

20 (8) Undue influence, which means the use of influence by someone who exercises
21 authority over an elderly person or person with a disability in order to take unfair advantage of
22 that person's vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but
23 is not limited to, the improper or fraudulent use of a power of attorney, guardianship,
24 conservatorship, or other fiduciary authority.

25 2. The offense of financial exploitation of an elderly person or person with a disability
26 is a class ~~[A misdemeanor]~~ **E felony** unless:

27 (1) ~~[The value of the property is fifty dollars or more, in which case it is a class E felony;~~

28 ~~—(2)]~~ The value of the property is ~~[seven hundred fifty]~~ **five hundred** dollars or more, in
29 which case it is a class D felony;

30 ~~[(3)]~~ (2) The value of the property is ~~[five]~~ **two thousand five hundred** dollars or more,
31 in which case it is a class C felony;

32 ~~[(4)]~~ (3) The value of the property is twenty-five thousand dollars or more, in which case
33 it is a class B felony; or

34 ~~[(5)]~~ (4) The value of the property is seventy-five thousand dollars or more, in which
35 case it is a class A felony.

36 3. Nothing in this section shall be construed to limit the remedies available to the victim
37 pursuant to any state law relating to domestic violence.

38 4. Nothing in this section shall be construed to impose criminal liability on a person who
39 has made a good faith effort to assist the elderly person or person with a disability in the
40 management of his or her property, but through no fault of his or her own has been unable to
41 provide such assistance.

42 5. Nothing in this section shall limit the ability to engage in bona fide estate planning,
43 to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that

44 such actions do not adversely impact the standard of living to which the elderly person or person
45 with a disability has become accustomed at the time of such actions.

46 6. It shall not be a defense to financial exploitation of an elderly person or person with
47 a disability that the accused reasonably believed that the victim was not an elderly person or
48 person with a disability.

49 7. (1) It shall be unlawful in violation of this section for any person receiving or in the
50 possession of funds of a Medicaid-eligible elderly person or person with a disability residing in
51 a facility licensed under chapter 198 to fail to remit to the facility in which the Medicaid-eligible
52 person resides all money owing the facility resident from any source, including, but not limited
53 to, Social Security, railroad retirement, or payments from any other source disclosed as resident
54 income contained in the records of the department of social services, family support division or
55 its successor. The department of social services, family support division or its successor is
56 authorized to release information from its records containing the resident's income or assets to
57 any prosecuting or circuit attorney in the state of Missouri for purposes of investigating or
58 prosecuting any suspected violation of this section.

59 (2) The prosecuting or circuit attorney of any county containing a facility licensed under
60 chapter 198, who successfully prosecutes a violation of the provisions of this subsection, may
61 request the circuit court of the county in which the offender admits to or is found guilty of a
62 violation, as a condition of sentence and/or probation, to order restitution of all amounts
63 unlawfully withheld from a facility in his or her county. Any order of restitution entered by the
64 court or by agreement shall provide that ten percent of any restitution installment or payment
65 paid by or on behalf of the defendant or defendants shall be paid to the prosecuting or circuit
66 attorney of the county successfully prosecuting the violation to compensate for the cost of
67 prosecution with the remaining amount to be paid to the facility.

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