

FIRST REGULAR SESSION

SENATE BILL NO. 196

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time January 23, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0214S.02I

AN ACT

To repeal section 361.160, RSMo, and to enact in lieu thereof two new sections relating to the examination of private trust companies and alternative dispute resolution for trust agreements.

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

Section A. Section 361.160, RSMo, is repealed and two new section
2 enacted in lieu thereof, to be known as sections 361.160 and 456.2-205, to read
3 as follows:

361.160. 1. The director of finance at least once each year, either
2 personally or by a deputy or examiner appointed by the director, shall visit and
3 examine every bank and trust company organized and doing business under the
4 laws of this state, and every other corporation which is by law required to report
5 to the director; except, for banks or trust companies receiving a Camel/MOECA
6 1 or Camel/MOECA 2 rating from the division of finance, the director of finance
7 at least once each eighteen calendar months, **or for a private trust company**
8 **at least once each thirty-six months**, either personally or by a deputy or
9 examiner appointed by the director, shall visit and examine such bank or trust
10 company, and the director of finance, at the director's discretion, may conduct the
11 director's examination, or any part thereof, on the basis of information contained
12 in examination reports of other states, the Federal Deposit Insurance Corporation
13 or the Federal Reserve Board or in audits performed by certified public
14 accountants. **For purposes of this subsection, a private trust company is**
15 **one that does not engage in trust company business with the general**
16 **public or otherwise hold itself out as a trustee or fiduciary for hire by**
17 **advertising, solicitation, or other means and instead operates for the**
18 **primary benefit of a family, relative of same family, or single family**

19 **lineage, regardless of whether compensation is received or**
20 **anticipated.** The director shall be afforded prompt and free access to any
21 workpapers upon which a certified public accountant bases an audit. A certified
22 public accountant shall retain workpapers for a minimum of three years after the
23 date of issuance of the certified public accountant's report to the bank or trust
24 company. The director or the director's agent may concentrate the examinations
25 on institutions which the director believes have safety or soundness concerns.

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

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

38 4. On every such examination inquiry shall be made as to the condition
39 and resources of such corporation, the mode of conducting and managing its
40 affairs, the actions of its directors or trustees, the investment of its funds, the
41 safety and prudence of its management, the security afforded to its creditors, and
42 whether the requirements of its charter and of law have been complied with in
43 the administration of its affairs, and as to such other matters as the director may
44 prescribe.

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

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

53 7. The result of each examination shall be certified by the director or the
54 examiner upon the records of the corporation examined and the result of all

55 examinations during the biennial period shall be embodied in the report to be
56 made by the director of the department of insurance, financial institutions and
57 professional registration to the legislature.

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

**456.2-205. A provision in a trust instrument requiring the
2 mediation or arbitration of disputes, other than disputes relating to the
3 validity of the trust instrument, between or among the beneficiaries, a
4 fiduciary, a person granted nonfiduciary powers under the trust
5 instrument, or any combination of such persons, is enforceable.**

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Bill

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